



SISTERS-IN-LAW

NEW YORK CHAPTER

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PRESIDENT'S MESSAGE

HON. SHIRLEY TROUTMAN

It is indeed an honor to address you in the first edition of our newly established "Sisters In Law" news letter. I commend the newsletter committee, chaired by NAWJ-NY Chapter President Elect Marcia Hirsch, for making this publication a reality. It is the hope of the Board and the Newsletter Committee that going forward this will be a venue to celebrate our "sisters in law" all over the state of New York, as members achieve personal and career milestones in their lives. In addition we will share information with you regarding past and upcoming programs and updates in various areas of the law. NAWJ-NY has a membership that includes many talented and exceptional women and it is my hope that you will share your talents with your fellow "sisters in law" by volunteering to help with chapter programs.

We began 2021 with an ambitious agenda for NAWJ-NY and due to the very capable Board Members of our Chapter we are achieving those goals. We have spoken out against racial bias, hate crimes and laws enacted that adversely affect the civil and constitutional rights of minority groups. Moreover, to highlight the importance of being informed with respect to such issues we held a program to address the inhuman practice of the sterilization of incarcerated women without their consent and we have also co-sponsored many other programs.

NATIONAL ASSOCIATION
OF WOMEN JUDGES
NY CHAPTER
NEWSLETTER

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With your assistance we will continue to lend our voice to improve the legal system and the law to ensure that those who may feel marginalized are heard.

I am optimistic that with the advancements in science that have been developed to combat the COVID19 pandemic, brighter days lie ahead for all of us. However, I am appreciative of the fact that during such a difficult time we have learned to communicate in more expansive ways, which has resulted in us being able to come together as a statewide group more often. Therefore, going forward we will continue to use virtual platforms, regional and statewide gatherings to pursue our mission and grow as an organization.

In closing I urge you to continue supporting our events and to share your ideas on how we can better serve you, the legal community and our communities at large.

NOTES FROM THE EDITOR

HON. MARCIA P. HIRSCH

When our president, Hon. Shirley Troutman, asked me to begin the Sisters In Law newsletter project for our New York State chapter, I was honored, overwhelmed and curious. How did she know that I was the co-editor of my high school newspaper, The Arrowhead, in the 1970's??? I never included that highlight in any of my court or professional resumes! In any event, I guess she saw some potential here, and with the help of our fabulous vice-presidents and Ciara Langan, my former intern from St. John's University School of Law, here is our inaugural issue!

As you peruse this issue, you will read about events our chapter has held or co-sponsored; a report from our NAWJ-NY committee that successfully completed its first year; a reprint of a journal article on Intimate Partner Sexual Abuse by Lynn Hecht Schafran; and member news from around the state.

Please read the article written by The Hon. Marcy Kahn (ret.), "Where We Stand", concerning the resolution proposed by the NAWJ-LGBTQ Committee precluding NAWJ from holding future conferences in any of the twelve states which have enacted discriminatory laws on the basis of sexual orientation, gender identity or gender expression. Marcy is asking for our support on this important resolution. Please watch your email this summer for a link, requesting your signature in support of the special meeting of NAWJ national on this resolution. In the words of Hon. Betty Weinberg Ellerin, in her email to Judge Karen Donohue, President of NAWJ, "I would also note that many of our members are also members of the group against whom the noxious legislation is directed. To even consider holding an NAWJ meeting or conference in a state or jurisdiction where ANY of our members is discriminated against would not only be a breach of faith with such members but would undermine and irreparably blemish the lofty principles that led to the creation of the Association."

Lastly, enjoy the Noteworthy News section and the personal notes. Please email me (mhirschenycourts.gov) news of events, awards, honors, and items of interest that you would like included in this section. We live in a large state, and thanks to the pandemic, we have not had the opportunity to see each other and socialize. It is our hope that you will feel free to reach out to members mentioned here, connect, say hello, and catch up. Our next issue will be published in late September. Deadline for submissions is September 10th.

Have a wonderful summer.

With warmest regards,
Marcia

"WHERE WE STAND"

BY MARCY L. KAHN

ASSOCIATE JUSTICE, APPELLATE DIVISION, 1ST DEPT. (RETIRED)
MEMBER, NAWJ LGBTQ COMMITTEE

Background

In a message to our Chapter members earlier this spring, I discussed the resolution proposed by the NAWJ LGBTQ Committee to preclude our national organization from holding its annual and mid-year conferences in any of 12 states which have enacted discriminatory laws on the basis of sexual orientation, gender identity or gender expression. As I explained in that March 23 email which was forwarded to you by our Chapter President, Justice Shirley Troutman, the LGBTQ Committee believes that NAWJ must hold firm to its founding mission of fighting bias against traditionally excluded groups by taking the strongest possible stand against those states which have either repealed previously enacted state or local protections against anti-LGBTQ discrimination or affirmatively permit such discrimination. We secured the agreement of the NAWJ leadership to treat our proposed resolution as emergency in nature and to place it on the agenda for the Mid-year Meeting held virtually on April 16, 2021. The Board of the New York Chapter had approved our resolution, and I asked for the members to show their support for it at the meeting on April 16. I explained that the NAWJ Resolutions Committee, whose approval we were required to secure in order for our proposal to be considered at that meeting, had granted us the opportunity to present our resolution, but had also drafted a competing resolution which would merely make the existence of anti-LGBT laws one factor in the organization's site selection process instead of entirely banning the offending jurisdiction from consideration. Their doing so came as a surprise to us, as they had assured us that they would not be offering any substantive changes to our proposed resolution. Many members of the New York Chapter responded to our call and either attended that meeting or sent messages of support to the NAWJ leadership. The LGBTQ Committee was greatly heartened by the response from the New York Chapter. Thank you all very much!

As our District Director, Justice Kathy King, has reported, despite our preparations and many of you showing up for the vote on our resolution on April 16, none was taken. I write now to provide an update on the status of the resolution, including more detail on the treatment of the resolution at the Mid-year Meeting, for those who were not able to attend, as well as the plan of the LGBTQ Committee going forward and how you can help.

The April 16 Mid-year Meeting

For weeks prior to the April 16 meeting, our LGBTQ Committee Chair, Judge Kristin Rosi, had made several unsuccessful requests of NAWJ leadership for information on the voting procedures to be used for consideration of our resolution, including how much time would be allotted to discussion of our resolution and how much to the Resolution Committee's competing proposal. Instead, the NAWJ leadership asked Chairperson Rosi whether the Committee would withdraw its request that a vote be taken at the April 16 meeting. Upon our committee's declining to do that, the leadership sent out a blast email notice to the entire membership four days before the meeting, including a copy of the Resolution Committee's competing resolution and that committee's report on the LGBTQ Committee's resolution. Although announcing that its competing measure would not be placed on the agenda on April 16, the Resolution Committee--to our surprise--stated in its report that it did not approve of our resolution as written, but instead preferred its own competing version.

We, on the LGBTQ Committee, were not given the opportunity to send an opposing message to the NAWJ membership in advance of the April 16 meeting. We instead lined up several speakers from the NAWJ membership to speak in support of the resolution on April 16, including lifetime members Justice Betty Weinberg Ellerin and myself, Chair Rosi, District Director Ann Breen-Greco and other LGBTQ Committee members and allies.

When the time came at the business meeting on April 16 for consideration of our resolution, the Chair of the Resolutions Committee announced that her Committee's earlier decision to deem the matter an emergency eligible for consideration at the Mid-year Meeting was of questionable validity. She then reiterated the Resolutions Committee's preference for its competing resolution, noting again that their measure was not to be voted on that day. Many of us had understood that the by-laws precluded advocacy, one way or the other, by the Resolutions Committee when reporting on resolutions eligible for consideration at a business meeting of the organization. Again, Chair Rosi and I had been told by members of that committee that they would not be weighing in substantively, merely following the procedure set out in the by-laws for reporting proposed resolutions which had cleared the notice and other procedural hurdles, which they acknowledged that ours had.

Chairperson Rosi then spoke for two minutes on behalf of our resolution. Before our next speaker could be called upon, the President recognized another judge who moved initially to table our resolution indefinitely, and then upon being informed that such a motion was improper under Robert's Rules of Order, amended her motion to postpone its consideration until the Annual Meeting in Nashville in October, saying that more time was needed for consideration and discussion of such an important measure. This motion, too, was violative of Robert's Rules, which preclude any postponement of consideration of a motion beyond the third month after the present month (Robert's Rules of Order, Newly Revised, In Brief (2020) (RONRIB), at 54). Many members of the LGBTQ Committee "raised their hands" virtually seeking the opportunity to speak, but most were never accorded that opportunity, including our transgender member and past President of the International Association of LGBTQ+ Judges, Judge Vicki Kolakowski. The few of us who were recognized to speak noted that the vote had been duly scheduled for that day as an appropriate emergency resolution, affording both proponents and opponents ample time to prepare for the discussion; that a large number of members (approximately 180) were then on the call, expecting to discuss the measure and vote on it; that no additional factual or legal information stood to be acquired during the intervening six months, so postponement served no practical purpose; that no greater amount of time was available for its consideration at the meticulously scheduled annual meeting in Nashville in October; that many of the LGBTQ Committee members would not be attending the meeting in Nashville, due to the anti-LGBTQ laws in effect there, prompting safety concerns, which facts were known to NAWJ leadership prior to the meeting and among the grounds for granting emergency consideration to the resolution in April; and that even affording the non-present members participation by Zoom would put their advocacy on a weaker footing than that of the members present and opposing us. Speakers supporting the motion to postpone claimed to support LGBTQ rights, but argued that our position had a divisive effect on the organization. One member suggested that it might violate her local judicial ethics rules for judges in her state to remain members of the organization should our resolution pass. These arguments were offered notwithstanding the fact that Robert's Rules prohibit discussion of the merits of the underlying motion when a motion to postpone its consideration is on the table (RONRIB, at 53). The remainder of the business meeting was consumed by discussion of the propriety and merits/lack thereof of this procedural maneuver, followed by a vote on the motion to postpone, which carried. Our resolution was not discussed further.

Current Status of Our Resolution

Currently, our travel ban resolution, which is so strongly supported by our New York Chapter, is scheduled to be considered along with other business at the membership meeting in October. Given the detailed plans and tight schedule for that meeting, which was first set for October 2020 and then postponed due to the coronavirus pandemic to October 2021, there is virtually no possibility that any more time will be devoted to its discussion than was available at the April 16 Mid-year Meeting. Although NAWJ President Karen Donohue has promised to appoint an ad hoc committee to address the issues raised by our resolution, she has not yet announced that she has done so. Neither has she answered our question as to whether NAWJ members not traveling to Nashville would have to pay the full registration fee in order to vote at the business meeting there. Finally, we have not been informed whether or not the competing resolution of the Resolutions Committee will also be placed on the agenda for that meeting.

Our Strategy Going Forward

The members of the LGBTQ Committee found the developments at the Mid-year Meeting extremely disappointing. We have been gratified that NAWJ members, including district directors, have approached us since the meeting to express their disillusionment with the way the organization has chosen to handle this matter, in light of NAWJ's founding mission to eliminate bias and support groups which have long been marginalized. Some have told us that they intend to change their votes and support our resolution when the measure is put forward.

In the meantime, however, as we had feared, more anti-LGBTQ laws have been proposed and enacted. As of May 19, the Human Rights Campaign reports that 22 anti-LGBTQ bills have been enacted across the country this year, more than in the last three years combined ([NYTimes.com/2021/05/20/us/tennessee-transgender-hormone-treatment.html](https://www.nytimes.com/2021/05/20/us/tennessee-transgender-hormone-treatment.html)). Included among them is additional discriminatory legislation just signed into law this spring in Tennessee, including a bill which aims to prevent transgender people from using restrooms at work consistent with their gender identity by requiring businesses which allow them to do so to post offensive and humiliating signage (HB 1182/SB 1224); a bill restricting bathroom use at school by transgender youth (HB 1233); an anti-transgender youth sports ban (SB 228); and an anti-LGBTQ education bill, which prohibits even discussing LGBTQ issues in the classroom (SB 1229).

Notwithstanding these developments, our travel ban resolution, if adopted, would not take effect until after the Nashville conference this October. Indeed, we know very well how much planning and work has gone into the Nashville conference by the NAWJ judges there, and we do not want to detract from their good efforts by forcing our resolution onto their already full agenda. Here is what we are planning, and how you can help.

The NAWJ bylaws permit the calling of "special meetings," either by the Board of Directors or upon written request to the Board signed by 100 voting (i.e., paid-up) members of the organization (NAWJ Bylaws, Art. V, §2). Our committee plans to seek a special meeting solely for the purpose of considering our travel resolution, either in July or August. We will inform the Board that it is for the purpose of correcting its parliamentarian's error in setting the postponed date more than three months beyond our April 16 meeting; that it would allow all members to participate remotely, on an equal footing; that there would be sufficient time to discuss the resolution fully; that it would allow the Nashville conference to proceed without this issue hanging over it. While Chair Rosi is drafting a letter requesting the Board to agree to schedule such a special meeting, the LGBTQ Committee plans to be prepared to offer a letter signed by 100 NAWJ members, which would trigger the setting of the meeting, even over opposition by the Board.

How You Can Help

Here is where you come in. Through the magic of information technology, you can read and sign this letter, which we will be sending to you soon in a separate blast email. The letter is simultaneously being circulated all over the country, and we are optimistic that we will exceed the 100-signature threshold for convening a special meeting. Of course, we will make sure that you are informed of the date and time of any special meeting well in advance. Please look out for the blast email.

In addition, our committee is planning a series of educational webinars this summer on LGBTQ issues. We are working on panels on topics such as: (1) Trans Stories, from transgender community members sharing their experiences; (2) Trailblazing LGBT Judges in NAWJ; (3) Anti-Trans Legislation and its impact; (4) LGBTQ issues in Family Law; and (5) Issues in Gender Non-Conformity. Please stay tuned to hear more about them. We are in the process of seeking funding sources among law firms and corporations for these programs, as NAWJ has told us that we must underwrite the cost of its staff's time to work on these virtual webinars.

We thank the members of the New York Chapter for your continuing support and for your enduring commitment to the principles of diversity and inclusion for which NAWJ has always stood.

NAWJ-NY INTERNSHIP COMMITTEE

SOME OF NAWJ-NY'S INTERNS DURING A VIDEO CONFERENCE



NAWJ-NY recently completed its' first internship program and to say it was a success would be an understatement. In the midst of a global pandemic, this internship afforded eleven 2L and 3L law students the opportunity to complete their 50-hour pro bono requirement for bar admission while working virtually for judges throughout New York State. According to the participants, this internship provided them with invaluable experience working with a judge and learning about the inner workings of the state court system. The virtual nature of the internship provided many benefits, including but not limited to, allowing students to work with judges in different locales and observe court proceedings, while accommodating students' rigorous schedules. The weekly "Chamber Chats," lunchtime discussions led by a judge every Friday, were another highlight of the program. Topics of Chamber Chats varied from the importance of networking to domestic violence and provided information to the participants while encouraging thought provoking discussions. The feedback from the interns, participating judges and NAWJ-NY internship team was extremely positive. We are excited for the future of this program and have already begun the application process for this upcoming fall.

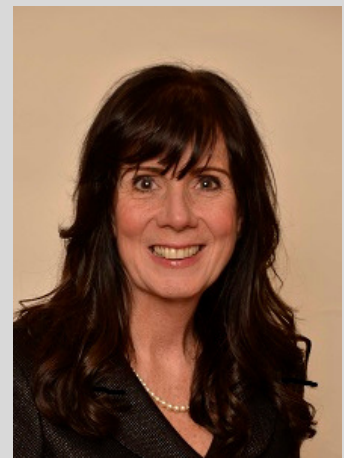
CO-CHAIRS OF THE NAWJ-NY'S INTERNSHIP COMMITTEE



HON. LENORA FOOTE-BEAVERS



HON. HILARY GINGOLD



HON. LINDA KEVINS

WOMEN'S HISTORY MONTH CELEBRATION

On March 25, 2021, the New York Chapter celebrated Women's History Month with a virtual program entitled "The Role of Women's Organizations in Shattering Glass Ceilings" - from Associate Justice of the United States Supreme Court Ruth Bader Ginsburg to Vice President of the United States Kamala Harris. The audience was treated to an amazing photo montage of notable women in the law and judiciary throughout the years. Our President, Hon. Shirley Troutman, and her staff made every effort to include photos of our members in the video presentation. A panel discussion moderated by Justice Troutman followed with Hon. Betty Weinberg Ellerin, Hon. Elizabeth A. Garry, Hon. Juanita Bing Newton, and Joy Thomson, Esq., WBASNY President. Topics included law school years when women students were few and far between; the difficulty in obtaining employment; the experiences of the rural lawyers; LGBTQ+ diversity, equity and inclusion; the role of the sorority in networking and professional development; and the challenges that women face today in the courtroom and on the bench. The program was co-sponsored by the Franklin H. Williams Judicial Commission, WBASNY, and the NYS Judicial Committee on Women in the Courts. Several hundred viewers enjoyed the presentation and many commented that it was over too quickly - the mark of an excellent program! Kudos, Justice Troutman, to you, your speakers, your staff, and tech support.

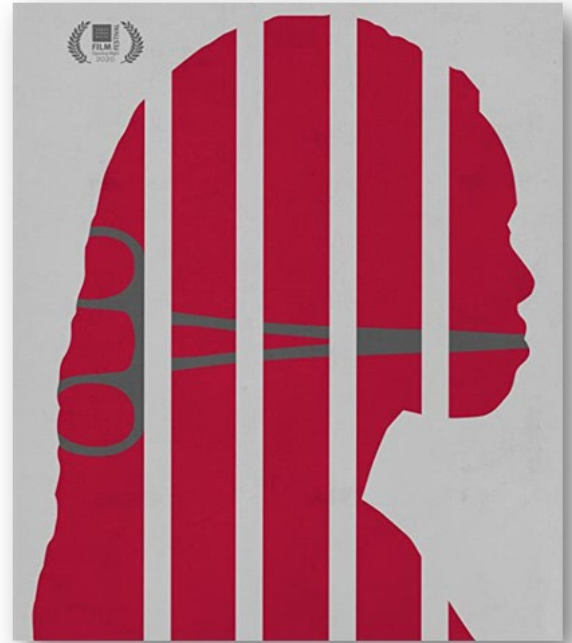


SOME OF OUR NAWJ MEMBERS

"BELLY OF THE BEAST"

BY HON. SALLY UNGER

On May 20th, NAWJ - NY Chapter held a dynamic program concerning the issue of forced sterilizations on female inmates in prisons. The event centered around the screening of the documentary film, "Belly of the Beast", a film by Erika Cohn. The film was produced as the result of a 7-year investigation into the prison system in California. The subject was of such concern that numerous judicial and bar groups co-sponsored the event. The screening of the film was followed by a panel discussion of experts in reproductive health and prisoners' rights. The panelists focused on the topics of services provided to women in prison and those in transition after serving their prison term. The panel also talked about the passage of New York's Anti-Shackling Law, which prohibits the use of restraints on pregnant women during pregnancy, through childbirth and up to 8 weeks afterwards. The panel included Dr. Carolyn Sufrin, Director, Advocacy and Research on Reproductive Wellness of Incarcerated People, Johns Hopkins, Miyhosi Benton, Associate Director of Advocacy & Strategy Women & Justice Project and Rev. Sharon White-Harrigan, Executive Director of The Women's Community Justice Association. The program was organized by Acting Justice Sally E. Unger, past Co-Chair of NAWJ's Law School Outreach Committee and past Downstate Chair of NAWJ - New York Chapter, Retired Justice Betty J. Williams, past Co-Chair of the NAWJ Women in Prison Committee and past Chair Emeritus of the NAWJ - New York Chapter's Women in Prison Committee, past District Director of NAWJ, District 2 & Judge Cheryl Gonzales, NAWJ Women in Prison Co-Chair and NAWJ - NY Chapter Women in Prison Chair.



EXPANSION OF SERVICES FOR TRAFFICKING SURVIVORS IN QUEENS COUNTY

BY JUDGE TOKO SERITA

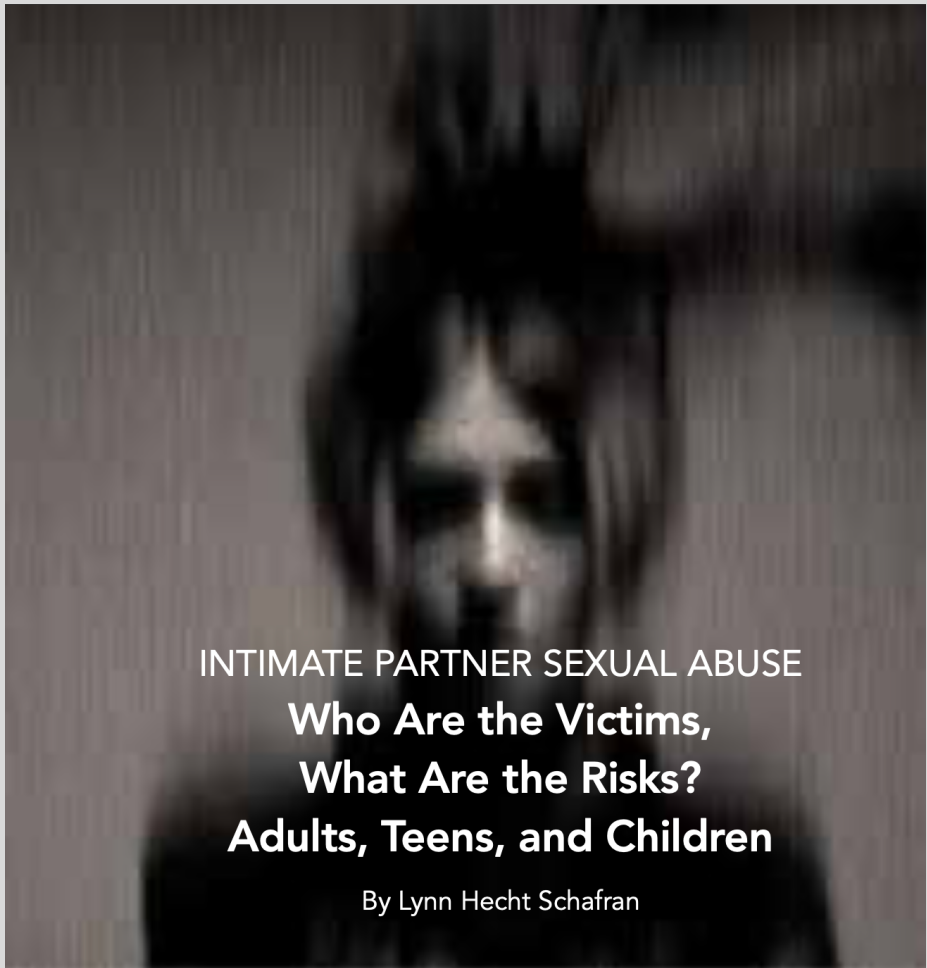
The Hidden Victims Project (HVP) is a federally-funded collaboration between the Queens Criminal Court and different organizations which has provided services for several years to victims of sex trafficking, sexual assault, intimate partner violence and other forms of gender-based violence. The HVP has worked primarily in the Queens Human Trafficking Intervention Court (QHTIC) to provide trauma-informed services for trafficking survivors and other justice-involved women. This year we are expanding the reach of the HVP to both Family Court and Supreme Court in Queens County with our new collaborative partners, the Women's Prison Association, to provide counseling, case management, screenings, trainings and referrals with the aim of increasing awareness around and identifying victims of trafficking and others who remain 'hidden victims.' This project, in the context of a larger statewide effort to improve the identification of trafficking victims in the courts, will be detailed in our next newsletter.



NAWJ CONFERENCE AT THE INNS OF AURORA IN MARCH, 2019.
PICTURED: JUDGE RENEE MINARIK, JUDGE DEBRA MARTIN, WITH
JUDGE MARCIA HIRSCH PRESENTING ON MENTAL HEALTH ISSUES.



NAWJ CONFERENCE AT THE INNS OF AURORA IN MARCH, 2019.



INTIMATE PARTNER SEXUAL ABUSE
**Who Are the Victims,
What Are the Risks?
Adults, Teens, and Children**

By Lynn Hecht Schafran

In 2009, the National Judicial Education Program (NJEP), of which I am director, began publishing and updating an extensive web course titled *Intimate Partner Sexual Abuse: Adjudicating This Hidden Dimension of Domestic Violence Cases*. [1] I chose the word “hidden” because at that time there was scant attention to this critical issue. Today, there is greater awareness but still a long way to go. In 2020, the New York State Judicial Committee on Women in the Courts—successor to the New York Task Force on Women in the Courts that reported in 1986 [2]—wrote, “Although there has been some improvement, it appears that some societal attitudes persist in considering rape occurring within marriage or when the parties know each other as less pernicious than rape involving strangers—and to some degree impact upon the prosecution of these cases,” and recommended ‘comprehensive and ongoing’ judicial education to address these issues. [3]

Intimate Partner Sexual Abuse

According to the Centers for Disease Control and Prevention (CDC), “About 1 in 5 women and 1 in 12 men have [been subjected to] contact sexual violence by an intimate partner.” [4] This statistic severely understates the extent of intimate partner sexual abuse (IPSA), which encompasses far more than “contact sexual violence.” The cases cited in NJEP’s *Intimate Partner Sexual Abuse* web course cover a staggering range of unwanted, coerced,



Lynn Hecht Schafran is director of the National Judicial Education Program at Legal Momentum, the Women’s Legal Defense and Education Fund.

and forced sexual activity, ranging from the husband who refused to drive his wife in the throes of labor to the hospital "until we have a screw" to coercing sex with animals. IPSA includes sexually degrading language and names; coercive control and possessiveness related to sex, such as inspecting a partner's underwear for signs of sexual activity with someone else; coercing a partner to have sex with someone else and then punishing them when they do; coercing pregnancy by denying or sabotaging birth control, and then coercing abortion; coercing a partner to view, imitate, or participate in pornography; "apologizing" after a battering incident by coercing sex; forced sex acts; and sexual torture. Abusers "extort" sex by refusing to pay for family necessities or threatening to sexually abuse their or their partner's children. Sex may be coerced without a word or any physical contact in the moment. One woman described the first time she declined her husband's sexual overtures. He got out of bed and put his shotgun under it—message delivered. Technology-enabled noncontact IPSA is perpetrated when an abuser shares intimate photographs and videos of a current or former partner online without consent. It is rampant.

The Harm of IPSA

The harm of intimate partner sexual abuse cannot be overstated. In the U.S. Department of Justice, Office for Victims of Crime DVD *Victim Impact: Listen and Learn*, a young white woman named Rebel appears in a segment titled "Domestic Violence." She is a victim of coercive control, physical violence, threats by her husband to have her killed, and IPSA. This is what she says about the sexual abuse:

He was sexually abusive and I think of all of it that was probably the most painful, and still probably the, the hardest to get past. [Y]ou know, when you're in a relationship with somebody that you love and they use sex forcefully, it's devastating. [5]

The most pernicious myth about intimate partner sexual abuse is that because the could is accustomed to having consensual sex, forced sex is not as traumatic as stranger rape. The reality is that rape by the person the victim should most be able to trust is profoundly damaging precisely because of the betrayal of trust.

The destruction of the ability to trust was the most common long-term effect of rape in marriage that our interviewees mentioned. Marital rape constituted for them not only a sexual assault, but a violation of trust and intimacy. The shock experienced by a woman who was sexually brutalized by the man she had loved and trusted above all others did not wane quickly. [6]

Acute, long-term depression; numbing; anxiety; and despair are more prevalent in victims of marital rape than in victims of stranger rape or physical assault alone. For years after divorcing their husbands, victims have flashbacks, nightmares, fear of men, and sexual dysfunction that interfere with social life and subsequent marriages.

Another problem with the CDC statistic about "contact sexual violence" is that it obscures the harm of cyber-facilitated sexual abuse. The law is still catching up with the harm of online IPSA—when an intimate partner posts photos or videos showing the victim nude or engaged in sexual activity, or posts advertisements with the victim's name and address, inviting strangers to come to the victim's home for sex. The range of consequences for victims of this type of abuse is severe, from extreme emotional distress to sexual assault by strangers who answer the ad. And once these posts are online, it is almost impossible to remove them.

Risk Assessment: Forced Sex Is a Red Flag for Potential Lethality

Professor Jacquelyn Campbell is the country's leading authority on domestic violence fatalities. She uses "femicide" instead of "homicide" because

the vast majority of intimate partner murder victims are women. [7] Moreover, when women kill their partners, many are acting in self-defense. [8] Professor Campbell's research revealed that forced sex in the domestic violence context is a red flag for potential lethality. Batterers who also force sex are almost twice as likely to kill their partners as batterers who use physical violence only. [9] In a study of abused women in Houston in which 68 percent were being both physically and sexually abused, the sexually abused women reported more of the risk factors for femicide, such as strangulation and threats to children, as did those reporting physical abuse only. [10]

Domestic violence femicides are often not limited to the batterer's partner. "Familicide" is murder in which the murderer kills his children and either his wife/partner or both his wife/partner and himself. Batterers often kill their or their partner's children, family, and friends; police officers who come to the victim's aid; and themselves. Victims may kill batterers or themselves.

Professor Campbell developed the 20-question Danger Assessment to assist victims, advocates, and law enforcement to better assess a victim's level of danger from her partner. Question 9 is: "Has he ever forced you to have sex when you did not want to?" Many jurisdictions include a question about forced sex in their first-responder danger assessment instruments. The Idaho instrument lists "Has Forced Partner to Have Sex" as a lethality factor and includes nine specific questions about it in its training materials.

Forced Sex

Has the offender forced the victim to:

- Have sexual contact with the offender?
- Have sexual contact with someone else?
- Perform other sexual acts?
- Frequency of forced sex?
- Is there additional physical violence during the forced sex?
- Has offender ever physically abused the victim because the victim refused to have sexual contact (at any time) with the offender? [11]

Thus, knowing whether forced sex is a factor in a domestic violence case is essential to meaningful risk assessment. Because IPSA is the last type of abuse victims want to talk about, it is essential to create a courtroom environment where they can speak about this. Assuming the case is not being tried to a jury, use behaviorally based questions like those in the Idaho risk assessment instrument to develop more information as necessary.

IPSA Case Jurors

When a case involving IPSA is being tried to a jury, a thorough voir dire is essential to determine whether any potential juror subscribes to the "societal attitudes" the New York State Judicial Committee on Women in the Courts described as "persisting in considering rape occurring within marriage or when the parties know each other as less pernicious than rape involving strangers." Researchers have found that some people don't believe a husband would ever use force to make his wife have sex, [12] and some don't believe marital rape violates the wife's rights or perceive it as psychologically damaging, given that the parties have had consensual sex in the past. [13] Respondents in one study so devalued the harm of marital rape that they ranked forcible rape of a former spouse below stealing \$25. [14]

IPSA Elevates the Harm and the Risk to Children

The vast literature from social science, medicine, and neuroscience documenting the ways exposure to domestic violence harms children is discussed in my 2014 *Judges' Journal* article "Domestic Violence, Developing Brains and the Lifespan: New Knowledge from Neuroscience." [15] The *New England Journal of Medicine* summarized the impact of embedding stress this way:

Childhood IPV [Intimate Partner Violence] exposure has been repeatedly linked to higher rates of myriad physical health problems in children. Altered neuroendocrine stress response may be one important mechanism accounting for this correlation. Highly stressful environmental exposure, such as exposure to IPV, causes children to repeatedly mount the "fight or

flight" reaction. Although this response may be adaptive in the short term, repeated activation . . . results in pathologic changes in multiple systems over time; some experts refer to this effect as the biologic embedding of stress. [16]

IPSA—The Implications for Teens

Teen Dating Abuse and Violence (TDAV) is so prevalent and so harmful that it is considered a public health issue. [17] The Department of Justice Office on Violence Against Women considers 14 to 24 the teen years. Encountering the realities of TDAV can be startling—the young age of victims, the severity of abuse, and the fatalities. TDAV is being seen in children as young as 11.

According to the CDC's 2017 Youth Risk Behavior Survey, among the students nationwide who dated someone during the prior year, "6.9 percent had been forced to do 'sexual things' (e.g., kissing, touching, or being physically forced to have sexual intercourse) they did not want to do one or more times . . . by someone they were dating." The prevalence of sexual dating violence victimization was higher among female (10.7 percent) than male (2.8 percent) students, and the numbers were higher for LGBTQ students. [18]

IPSA in teen relationships looks like adult relationships. In Barrie Levy's *In Love and in Danger: A Teen's Guide to Breaking Free of Abusive Relationships*, teens were asked: "What are some of the ways you have been sexually abused?" They answered:

- Called sexual names
- Partner wanted sex after hitting
- Made me walk home nude
- Always wanted sex, mad when I didn't want to
- Forced me to do "disgusting sex acts"
- Bit, pinched breasts
- Threatened to get a new woman
- Slapped, pinched to get his way
- Forced me to have sex without protection
- Forced sex, rape [19]

Abusers wield tremendous power and control through social media, which often includes cyber-facilitated IPSA. Abusers force victims to constantly share their location to ensure fidelity;

post embarrassing, harassing, or threatening material on social media; coerce victims to produce and share sexually explicit images; threaten to disseminate these images online; and often do so.

Reproductive coercion is rife: coercing sex without condom protection against pregnancy or sexually transmitted infections, flushing birth control pills down the toilet, and lying about "pulling out" during sex. Attempts to coerce pregnancy and abortion within the same relationship are common. It is "stealthing" when a man agrees to use a condom but during sex removes or deliberately damages it without telling his partner. There are websites teaching men how to do this. [20] In a Boston study, 26 percent of sexually active teen girls in abusive relationships reported birth control sabotage or pregnancy coercion. [21] "My sister was 14 years old when she became involved with this abusive guy, and when she was 15, his mother wanted grandkids so he coerced her into getting pregnant." [22]

As with adults, the harm of IPSA in TDAV is severe. Stealthing survivors describe it as a betrayal of trust, disempowering, and demeaning. A high school girl thought her boyfriend's abuse was normal until the relationship ended:

There were a lot of after effects. . . . The rapes kept coming into my mind like a broken record. I could not function. It felt like the PTSD, anxiety, paranoia, anorexia, and suicidal thoughts had completely taken over my life. [23]

Sex Trafficking and the Juvenile Justice/Criminal Justice System

The consequences of IPSA for young people can also lead to victims' involvement in sex trafficking and the juvenile/criminal justice system. Sex traffickers often enter teens' lives as boyfriends who promise to love and care for them and offer shelter, protection, and romance. These "boyfriends" coerce and/or force victims to engage in sex with others, which often brings them into contact with the justice system for prostitution charges. [24]

IPSA victims may also find themselves in the justice system for truancy, shoplifting, selling drugs, or other criminal activity coerced by their abuser. [25] In furtherance of their power and control, abusers manipulate victims to commit crimes for them to further the power they have over the victim (e.g., I could turn you in for the crime you committed) or to miss school to isolate victims from their peers and support system within a school, such as teachers and guidance counselors.

Sexual Abuse as a Lethality Risk Factor

People think that intimate partner violence among adolescents is less serious than among adults. It's important to highlight that this can really lead to death. It's not something to brush off as "This is just an argument between kids."

—Avanti Adhia, Epidemiologist,
University of Washington, School
of Medicine, National Public
Radio, Public Health 2019

The National Violent Death recording system across 32 states reveals that adolescents encounter risks of lethality due to intimate partners similar to their adult counterparts. It documented specific police reports and lethality from 2003 to 2016. About 6.9 percent of adolescent lethality cases involved a current or former intimate partner. The mean age of female victims was 16; the mean age of male perpetrators was 20. Over 50 percent of adolescent intimate partner lethality correlated to two categories: desired relationships/breakups and jealousy or altercations. Most teen domestic violence homicides are perpetrated with firearms, demonstrating the importance of teens being able to access orders of protection and the importance of state legislatures closing the “boyfriend loophole.” Given that many teens do not have parents or guardians with whom they can share their situation, and that the “boyfriend loophole” exempts nonmarried, noncohabitating intimate partners from the firearm restrictions related to domestic violence, the barriers to teens securing protection are significant.

Resilience and Judicial Intervention

Resilience is learned behavior. What we know about the teenage brain tells us this is the optimal time for successful intervention. Because the teen brain rapidly absorbs new learning, teens are better able than many adults to learn how to respond to stress effectively. However, it is not easy for teens to take control of their lives when a dating partner is trying to assert and maintain control over them. Courts can help teen dating violence victims and offenders take control of their lives. Judges are situated to lead an effort to address TDAV and IPSA, and, by doing so, protect victims and their children, hold offenders accountable while directing them to more effective interventions, and enhance community safety.

The Unique Risks to Children in IPSA Cases

IPSA is an aspect of domestic violence exposure that exacerbates this harm but is rarely discussed. When the mother has been sexually as well as physically assaulted, the potential for harm to the children is particularly grave.

[T]he sexual abuse of a parent has been seriously neglected—despite its potentially severe traumatic impact on children and association with greater risk to the safety and well-being of children and adult victims.

[I]ntimate partner sexual assault is associated with more severe depression, anxiety, and behavior problems in the children of adult victims, as compared to those whose mothers have been physically, but not sexually, abused. As a result of their exposure to sexual assault, children might also internalize distorted and unhealthy messages about gender and sexual consent [26]

In a study of 449 abused mothers living in domestic violence shelters with children aged four to eight, the mothers completed checklists and were interviewed about IPV and IPSA during the prior year. One hundred percent reported IPV, 75

percent reported at least one act of IPVA, and 27.6 percent replied "yes" to the item "Used force to make me have sex." The researchers found that mothers subjected to IPVA were more psychologically distressed than mothers physically abused only, and the mothers' respective levels of distress correlated with the disruptive behavior levels of their children. [27]

Note particularly that 27.6 percent of the *mothers reported that their partner used force to make them have sex*. As discussed above, forced sex is a red flag for potential lethality, and when a batterer kills his partner, he often kills her or their children as well. Dr. Peter Jaffe is an internationally recognized authority on children's exposure to domestic violence. He cautions that anything that increases the lethality risk for the mother increases the lethality risk for her children.

What's often overlooked is that in about 20% of [domestic violence homicide] cases, the children are also the victims of the homicides. So there's cases where only the children are killed, and there's cases where the children and their mother are killed, and there's also cases where the whole family is killed and the perpetrator kills himself. [W]hen I talk about child homicide, I'm particularly focused on children who were killed in the context of this history, and they're often overlooked as being at risk of this violence. [28]

Dr. Jaffe notes that "many professionals are shocked when children are killed and don't even see that as a possibility." He urges awareness of the risk and taking "a very structured approach to identifying the history of the relationship and the various risk factors that are present. . . ."

Unfortunately, many judges and "experts," such as custody evaluators, don't believe domestic violence exposure harms children at all, much less see it as a lethality risk. [29] The phrase "he hit her, but he didn't hit the child" runs like a mantra through custody/visitation cases and cases under the Hague Convention on the Civil Aspects of International Child Abduction. [30] In Hague cases, children need not be returned if return would

expose the child to "grave risk of psychological or physical harm or an intolerable situation." But repeatedly, the harm of domestic violence exposure is minimized or denied, and children are returned in the mistaken belief that once the parents live apart, the violence will stop and the abuser will abide by so-called "undertakings" to renounce every aspect of his abusive behavior. [31] In one recent Hague opinion, the judge wrote that "The evidence established . . . that Mr. Saada physically, psychologically, emotionally and verbally abused Ms. Golan," but completely omitted the word "sexually," despite Ms. Golan's uncontroverted testimony about Mr. Saada sexually abusing her before, during, and after her pregnancy. [32]

In my 2003 article for *The Judges' Journal* called "Evaluating the Evaluators: Problems with 'Outside Neutrals,'" [33] and again in my 2014 *Judges' Journal* article "Domestic Violence, Developing Brains and the Lifespan: New Knowledge from Neuroscience," [34] I wrote about the many types of "experts" and others then advising the courts about custody and visitation despite their lack of knowledge about how domestic violence exposure harms children. It is clear from Dr. Jaffe's 2020 statement that "many professionals are shocked when children are killed and don't even see that as a possibility" that there is still a long way to go to address this lack of knowledge.

Conclusion

In response to its finding that "There is less concern about rape cases where parties have a current or past relationship/acquaintance on the part of judges, prosecutors and jurors," the New York State Judicial Committee on Women in the Courts recommended "comprehensive and ongoing education" for judges, court administrators, prosecutors, law enforcement, and others. [35] Although the committee focused on rape, i.e., "contact sexual violence," this article makes clear that intimate partner sexual abuse takes many forms, contact and noncontact, and that "contact" is not the measure of how harmful and dangerous it can be. IPVA is a devastating and widespread reality with

profound implications, and potentially grave consequences, for adults, teens, and the children of those adults and teens. IPSA is not just an issue in protective order cases, but as the case in chief or a critical factor in civil, criminal, family, juvenile, and problem-solving courts. Knowing whether a case involves intimate partner sexual abuse and taking it seriously are essential for assessing risk, protecting victims, and holding offenders accountable. ■

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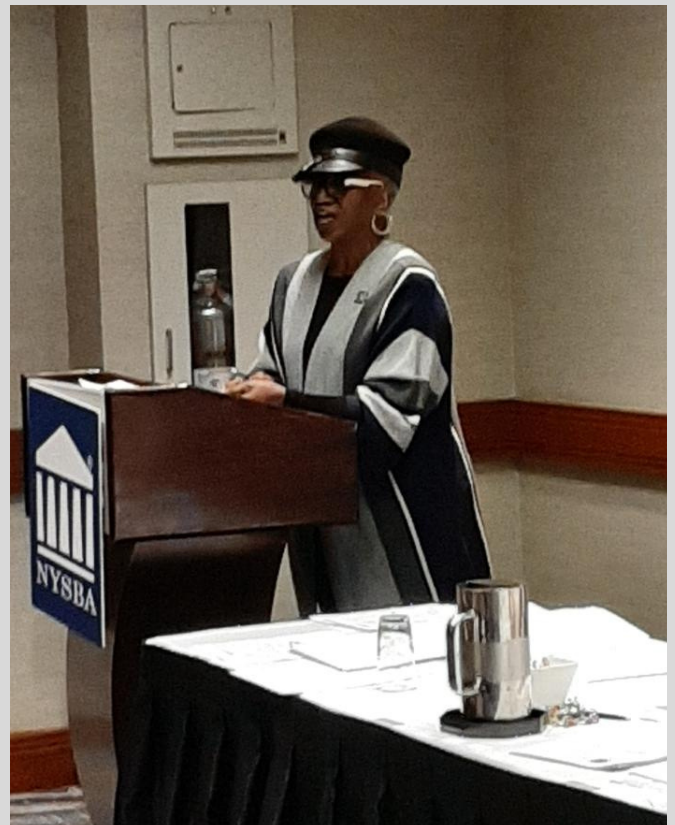
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Lynn Hecht Schafran, *Intimate Partner Sexual Abuse -- Who Are the Victims, What Are the Risks? Adults, Teens and Children*, *The Judges' Journal*, Vol. 60, No 2, Spring 2021. Reproduced with permission of the author.



HON. JOANNE QUINONES WITH
COURT OF APPEALS ASSOCIATE
JUDGE JENNY RIVERA.

HON. BETTY WILLIAMS
(RETIRED) GIVING HER
REPORT ON THE WOMEN IN
PRISON COMMITTEE AT OUR
STATE ASSOCIATION MEETING
HELD IN CONJUNCTION WITH
THE NYSBA ANNUAL MEETING
IN JAN. 2020.



NOTEWORTHY NEWS

First Department News Compiled by the Honorable Llinét Rosado:

- The New York State Judicial Committee on Women in the Courts, under the direction of its Chair, **Hon. Betty Weinberg Ellerin**, released its 2020 Gender Survey Report. For the full report click on the following link: <https://www.nycourts.gov/LegacyPDFS/ip/womeninthecourts/Gender-Survey-2020.pdf>.
- In January of 2021, **Hon. Mary Ann Brigantti** was appointed as Associate Justice of the Appellate Term, First Department.
- On January 14, 2021, **Hon. Doris M. Gonzalez**, Administrative Judge of Bronx Supreme Court, Civil Term and **Hon. Fiordaliza A. Rodriguez**, a Family Court Judge, were honored by the Bronx Times as Bronx Power Women.
- On January 29, 2021 the New York State Bar Association, Judicial Section hosted its Virtual Awards Ceremony. **Hon. Barbara Kapnick**, Associate Justice, First Department, Appellate Division, gave the welcoming remarks as presiding member of the section. The Franklin H. Williams Judicial Commission received the Advancement of Judicial Diversity Award and Hon. Rolando Acosta received the Distinguished Jurist Award. **Chief Judge Janet DiFiore** swore in the 2021-2022 Judicial Section Officers.
- On February 5, 2021, the NAWJ - NY Chapter's board was sworn in by **Chief Judge Janet DiFiore**. The officers are President - **Hon. Shirley Troutman**; President Elect - **Hon. Marcia Hirsch**; VP 1 st Dept. - **Hon. Llinét M. Rosado**; VP 2 nd Dept. - **Hon. Joanne D. Quiñones**; VP 3 rd Dept. - **Hon. Lisa Fisher**; VP 4 th Dept. - **Hon. E. Jeannette Ogden**; Secretary - **Hon. Changyong Li**; Treasurer - **Hon. Debra Silber**; and the Members at Large **Hon. Delores Brathwaite**; **Hon. Debra Givens**; **Hon. Christina Ryba**; **Hon. Carmen Velasquez**; and **Hon. Margaret Walsh**.
- On February 25, 2021, **Hon. Juanita Bing Newton** was bestowed the Honorable Harold Arnoldus Stevens Trailblazer Award, **Hon. Sylvia Hinds-Radix** was bestowed the Hon. Theodore T. Jones, Jr. Lifetime Achievement Award, and **Hon. Anne-Marie Jolly** was bestowed the Equality in Justice Award at the 31 st Annual Unified Court System Committee to Celebrate Black History Month program presented by The New York State Unified Court System's Committee to Celebrate Black History Month, The Tribune Society, Inc. of the Courts of the State of New York, and The Judicial Friends Association.
- On March 3, 2021, **Hon. Bahaati E. Pitt**, made the opening remarks as the Chair of the Gender Fairness Committee for the 12th Judicial District at the Committee's Women's History Month celebration where Bronx Courts essential workers were recognized as well as 7 students from Truman High School.

- On March 10, 2021, **Hon. Wilma Guzman** and **Hon. Fiordaliza A. Rodriguez** participated in John Jay's College Trailblazers in the Judiciary: Latina Judges in New York program.
- In March of 2021, **Hon. Carmen B. Ciparick** and **Hon. District Attorney Darcel Clark** were named to City & State's 2021 Law Power 100 list of leading legal professionals in New York politics and government. Our **Chief Judge Janet DiFiore** was also named to the list.
- On March 25, 2021 National Association of Women Judges, New York Chapter celebrated Women's History Month with a panel, *"The Role of Women's Organizations in Shattering Glass Ceilings" : From Associate Justice of the United States Supreme Court Ruth Bader Ginsburg to Vice President of the United States Kamala Harris.*
- President **Hon. Shirley Troutman** gave the opening remarks and the panel included **Hon. Betty Weinberg Ellerin; Hon. Elizabeth A. Garry;** and **Hon. Juanita Bing Newton.**
- On March 31, 2021, the Unified Court System's Office of Diversity and Inclusion hosted a Lunch and Learn program to celebrate women's history month with an interactive panel discussion with the New York State Judicial Committee on Women in the Courts which included **Hon. Betty Weinberg Ellerin; Hon. Juanita Bing Newton** and **Hon. Deborah A. Kaplan.**
- On March 31, 2021, **Hon. Llinét Rosado** was bestowed with the Public Service Leadership Award by the 100 Hispanic Women National, Inc. and on April 10, 2021 she was bestowed with the Excellence in Public service Award by University at Albany Alumni Association.
- On April 9, 2021, **Hon. Ellen Biben, Hon. Valerie Bathwaite Nelson,** and **Hon. Shirley Troutman** made the short list to fill the Court of Appeals seat that will be left vacant by Judge Leslie Stein when she retires from the Court on June 4, 2021.
- On April 10, 2021, the Scales of Justice Academy, founded by **Hon. LaTia Martin,** held its virtual symposium from 10 am until 3pm and where dynamic women speakers presented to the young ladies including **Hon. Betty Weinberg Ellerin; Hon. Troy Webber; Hon. Shirley Troutman, Hon. Bahaati Pitt, Hon. Llinét Rosado,** and **Hon. District Attorney Darcel Clark.**
- On April 14, 2021, **Hon. Deborah A. Kaplan,** Administrative Judge of New York County Supreme Court, Civil Term, made the remarks and readings at the Virtual Holocaust Remembrance Program sponsored by the Jewish Lawyers Guild and the Gender Fairness Committee of New York County.
- On April 21, 2021, **Hon. District Attorney Darcel Clark, Hon. Bahaati Pitt,** and **Hon. Llinét Rosado** were elected as Board of Directors of the Bronx Women's Bar Association.
- On April 28, 2021, **Hon. Llinét Rosado** was appointed to the New York State Judicial Committee on Women in the Courts.

- On April 30, 2021, **Hon. Judith J. Gische** and **Hon. Troy Karen Webber** made the short list to fill the Court of Appeals seat left vacant by former **Judge Paul Feinman**.
- On May 25, 2021, Bronx Supreme Court **Justice Bahaati E. Pitt** was appointed to the First Department, Appellate Division

SECOND DEPARTMENT:

- On May 25, 2021 Brooklyn Supreme Court **Justice Deborah A. Dowling** was appointed to the Second Department, Appellate Division.
- The **Honorable Marguerite A. Grays**, Administrative Judge, Supreme Court, Queens County, Civil Term was installed as President of the Judges' Division of Judges and Lawyers Breast Cancer Alert (JALBCA) at a virtual reception and ceremony on May 25, 2021. Marguerite is the immediate past president of our NAWJ-NY chapter.
- **Justice Carmen R. Velasquez** of Queens County, Supreme Court was elected president of the Association of Justices of the Supreme Court of the State of New York for 2021. Carmen is very proud that the Association has grown its membership to 200 judges and was successful in advocating for the passage of recent legislation to increase the number of Supreme Court justices around the state.

PERSONAL NOTES AND KUDOS:

- **Hon. Wilma Guzman's** daughter, **Lisa Guzman**, is retiring from the United States Coast Guard after 23 years of service, both as an active member of the military branch and a reservist. She however, remains an active member of the United States Marshal Service. **Hon. Wilma Guzman's** granddaughter, **Phoenix L. Gil**, (Lisa's daughter), at age 17, is graduating magna cum laude from East Ridge High School together with an Associate Degree from Lake Sumter State College. Although she was accepted to all the 7 universities she applied to, she will be attending Florida Polytechnic University in the Fall in the engineering program.
- **Hon. Marcia Hirsch's** daughter and son-in-law welcomed a baby boy, Nolan Edmund Leary, into the world on May 29th, 2021.
- **Hon. Claudia Daniels-DePeyster's** daughter, **Suleme DePeyster**, graduated from the University of Connecticut-Storrs campus in-person, on May 09, 2020. Her Baccalaureate degree is in History.
- **Hon. Cenceria P. Edwards's** daughter, **Darrian Robinson** just finished first semester at Columbia Business School and accepted an internship with Goldman Sachs this summer. She is a distinguished Feldbergs Fellow of Columbia and a highest rated African American female chess player in the nation, Candidate Master.

IN MEMORIAM OF JUSTICE DONNA M. MILLS



WRITTEN BY HON. LLINËT M.
ROSADO

The Honorable Donna Mills, Justice of the Supreme Court, Bronx County passed away on Sunday, May 16, 2021. She was a giant of a woman, exemplary in every way. She was a friend to many; she was my beloved friend. Please permit me to share my memory of her, my sister friend.

I was blessed to begin my journey as an elected Supreme Court Justice as a neighbor to the charismatic Honorable Justice Donna Mills. After presiding for over a decade in Manhattan, she had come back home to the Bronx and our chambers were both located on the 8th floor of County Courthouse located at 851 Grand Concourse.

I got to know her as she would often call me into her exotic chambers adorned with artifacts from all the places she had traveled. I relished the time I spent with her as she “schooled” me as a younger sister judge. She did so firmly but with love.

She was no nonsense so you never had to wonder what she thought because she was quick to tell you. Those of us that had the pleasure of knowing her, knew that she was a force to be reckoned with.

She was elegant and fashionable, no matter the season. Whether she was wearing her fur coat or one of her exquisite pieces of jewelry, her presence was noticed. She exuded royalty.

She was wise beyond measure, both book smart and street smart, and would often pass on her legal and non- legal knowledge.

Then the pandemic hit and little did I know then that I would never see my sister friend again.

We talked often during the pandemic as we both acclimated ourselves to the new virtual world - her better than me, of course.

Then in February of 2021, much to my dismay, and after 42 years of service to the Unified Court System, she decided to retire and open a law practice that included alternative dispute resolution and mediation.

I last spoke to her on Thursday, May 13th. My plan was to submit a “new chapter” story and needed facts to include in this newsletter. We spoke for over an hour as she was excited about the next chapter of her life and how she could continue to serve her beloved community in a new way.

On May 17, 2021, I learned that my dear sister friend passed away. I had just buried a third aunt the week before and the news of Donna’s passing hit me in the chest like a boulder. Donna provided me with an unsolicited sisterhood when she didn’t have to, and she made me a better person, a better judge, because of it. To the most honorable Donna Mills, my sister in the law, you may be gone, but you will NEVER be forgotten.