

Family Violence Appellate Project

Hello everyone, and welcome to Family Violence Appellate Project's webinar.

Before we get started, a few logistical notes:

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Orientation to Domestic Violence

By Nancy K. D. Lemon, Legal Director, Family
Violence Appellate Project

Nancy K. D. Lemon

- John & Elizabeth Boalt Lecturer, Berkeley School of Law, UC Berkeley
- Legal Director, Family Violence Appellate Project
- Domestic Violence Expert Witness
- Consultant
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- Author

Why is DV relevant?

Prevalent

Frequent
Intersection
of Housing,
Immigration
& DV Issues

Impacts
Legal Advice
& Case
Strategy

Can Affect
Attorney-
Client
Relationship

What is Domestic Violence?

Domestic violence is an *escalating pattern* of abusive and violent behavior, used to exert and maintain *power and control* over another person, within an *intimate relationship*.

Domestic violence is not...

Only physical abuse

A private, family matter

Committed against children

Limited to certain groups of people

An anger management problem

A substance abuse problem

Something the victim can control

Who experiences DV?

1 in 3

Women and 1 in 4 men in the United States have experienced some form of physical violence by an intimate partner.¹

162,302

Domestic violence related calls made to law enforcement in California during 2015.²

15

Average calls per minute received by domestic violence hotlines in a 24 hour period.³

Domestic violence affects people of **all races**, nationalities, socio-economic statuses, education levels, sexual orientations, gender identities, and immigration statuses.

¹ Black, M.C., Basile, K.C., Breiding, M.J., Smith, S.G., Walters, M.L., Merrick, M.T., Chen, J., & Stevens, M. (2011). The national intimate partner and sexual violence survey: 2010 summary report. Available at http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf

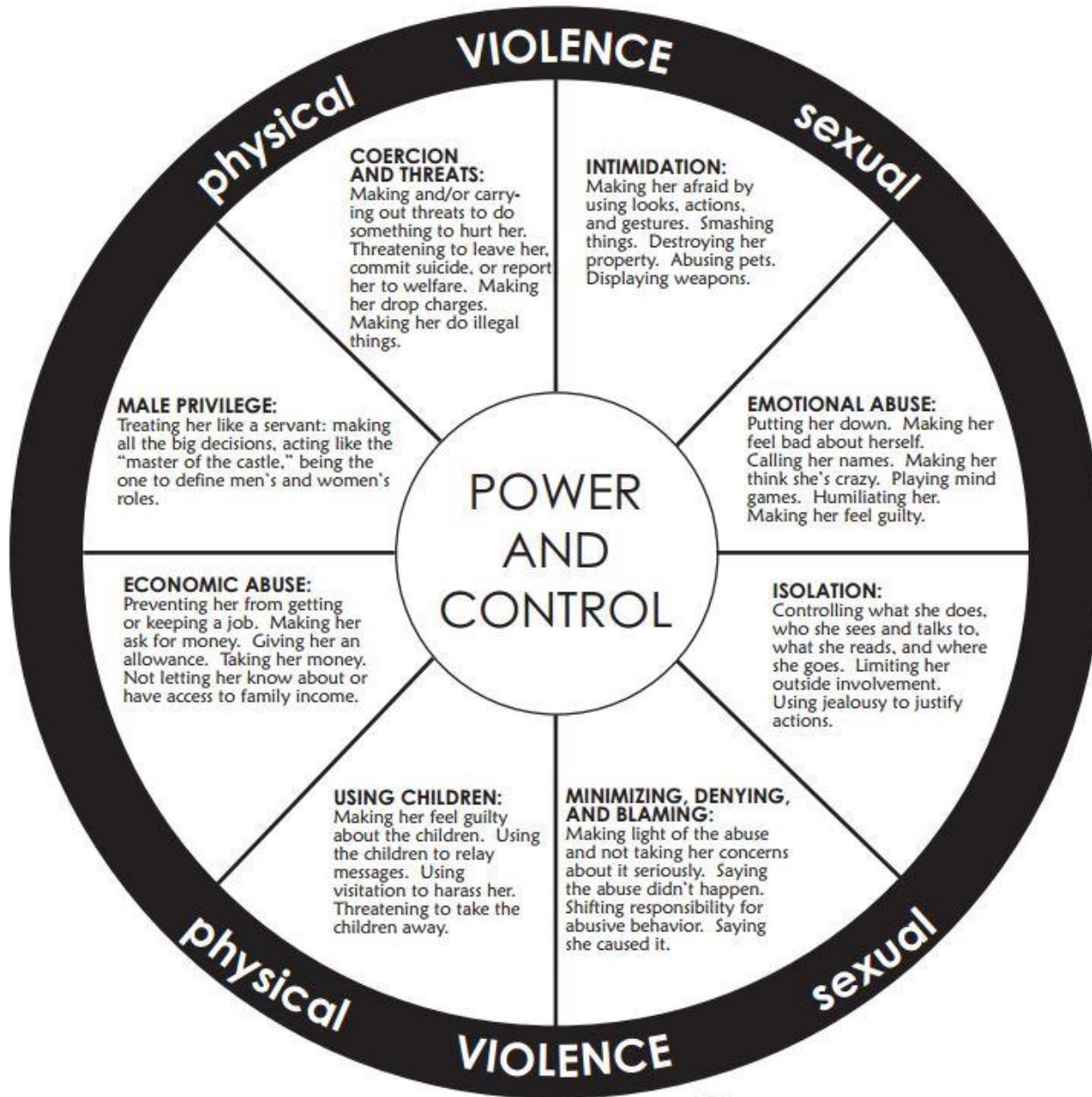
² State of California Department of Justice, Open Justice Website. Available at <https://openjustice.doj.ca.gov/crime-statistics/domestic-violence>

³ National Network to End Domestic Violence (2015). 2014 domestic violence counts: A 24-hour census of domestic violence shelters and services. Retrieved from http://nnedv.org/downloads/Census/DVCounts2014/DVCounts14_NatlSummary_Color-2.pdf.

How can we recognize DV?

Power

Control



The original *Power and Control Wheel* and *Equality Wheel* were developed by the Domestic Abuse Intervention Programs in Duluth, MN. The majority of other wheels were adapted from the original DAIP model, unless otherwise specified. Most of the wheels are NOT copyrighted and MAY be used in public education efforts as long as they are presented EXACTLY as they are posted on this site, with the appropriate credits.

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 202 East Superior Street
 Duluth, MN 55802
 218.722.4134

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 on Domestic and Sexual Violence
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Move away from requiring physical violence in DVPA actions

Sabato v. Brooks (2015) 242 Cal.App.4th 715

Unilateral, unwanted and harassing contacts are sufficient to support the issuance of a DVRO

In re Marriage of Evilsizor and Sweeney (2015) 237 Cal.App.4th 1416

Disclosure of intimate details of a person's life may be abuse, even if the information was legally obtained

Burquet v. Brumbaugh (2014) 223 Cal.App.4th 1140

Contact by phone, email and text, arriving at residence unannounced and refusing to leave/making a scene sufficient to find abuse under DVPA

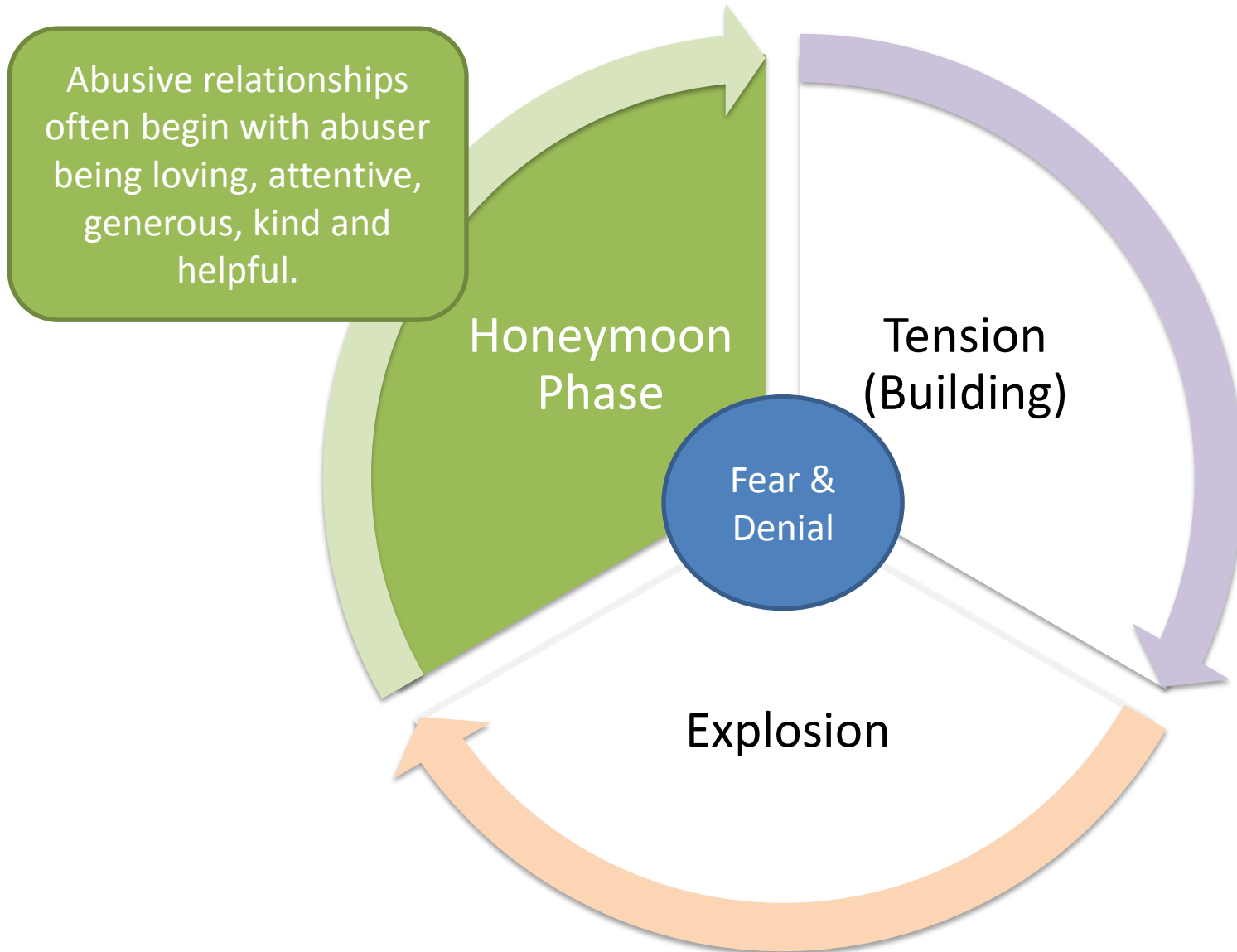
In re Marriage of Nadkarni (2009) 173 Cal.App.4th 1483

Conduct that destroys the mental or emotional calm of the other party is abuse under the DVPA

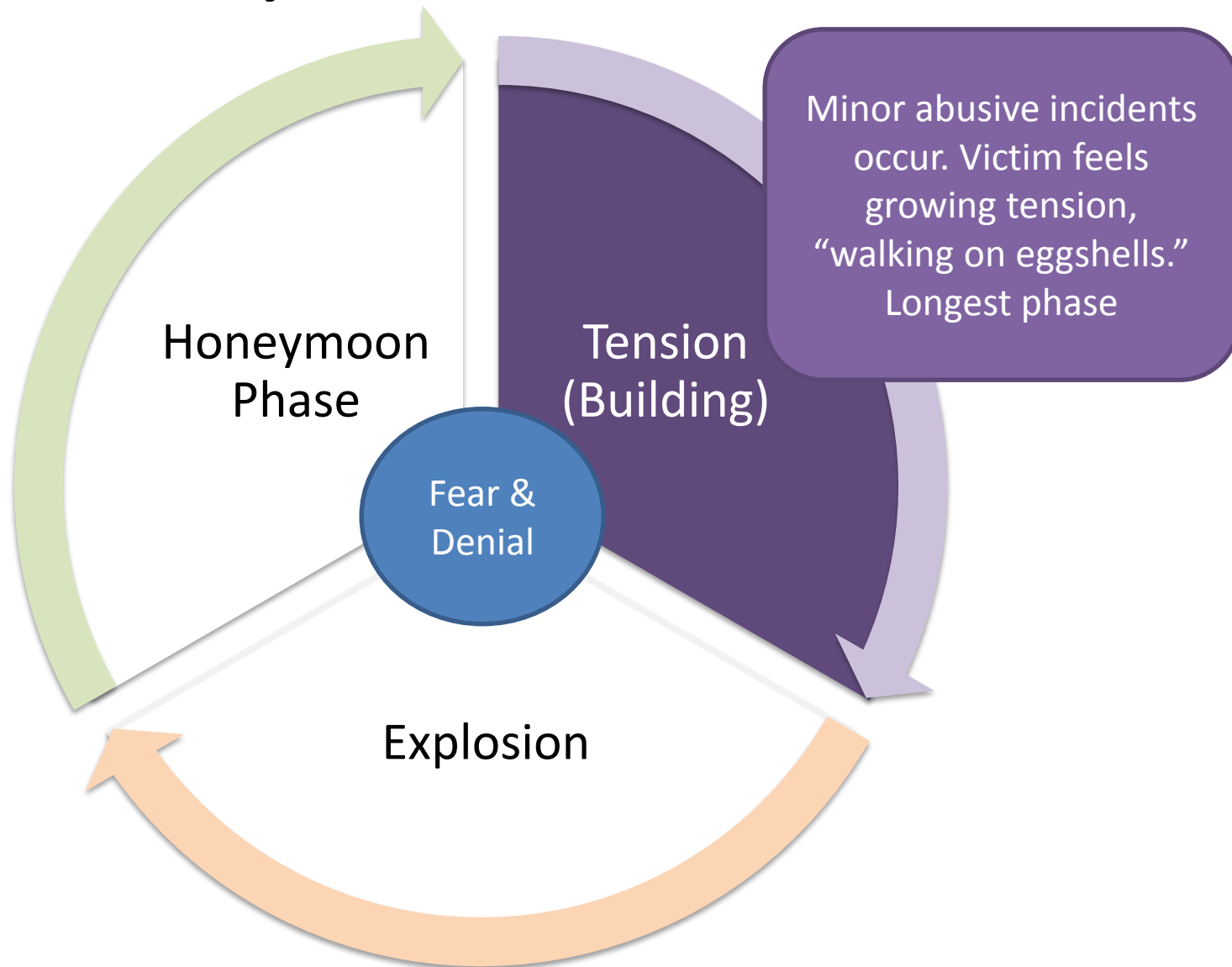
The Cycle of Violence



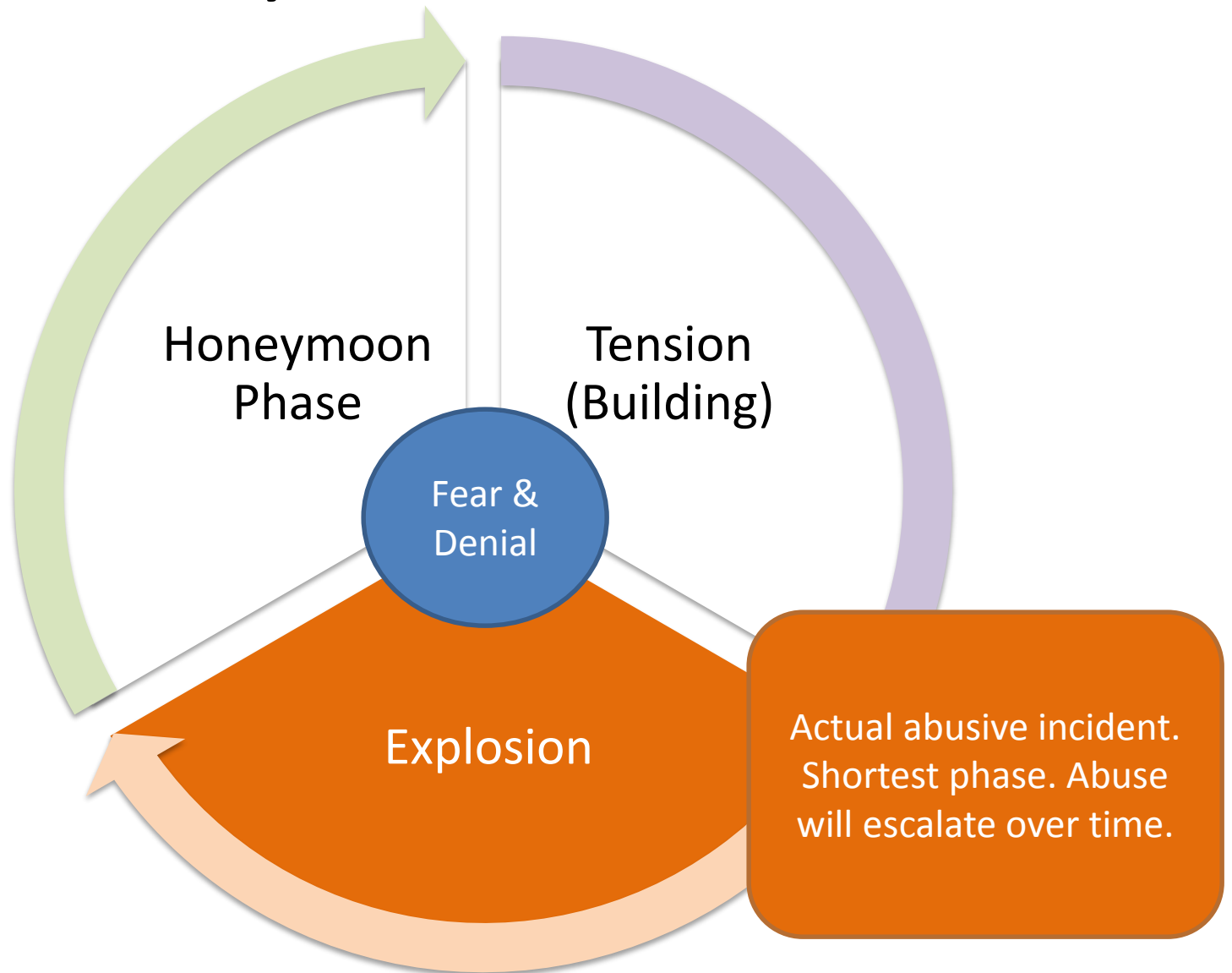
The Cycle of Violence



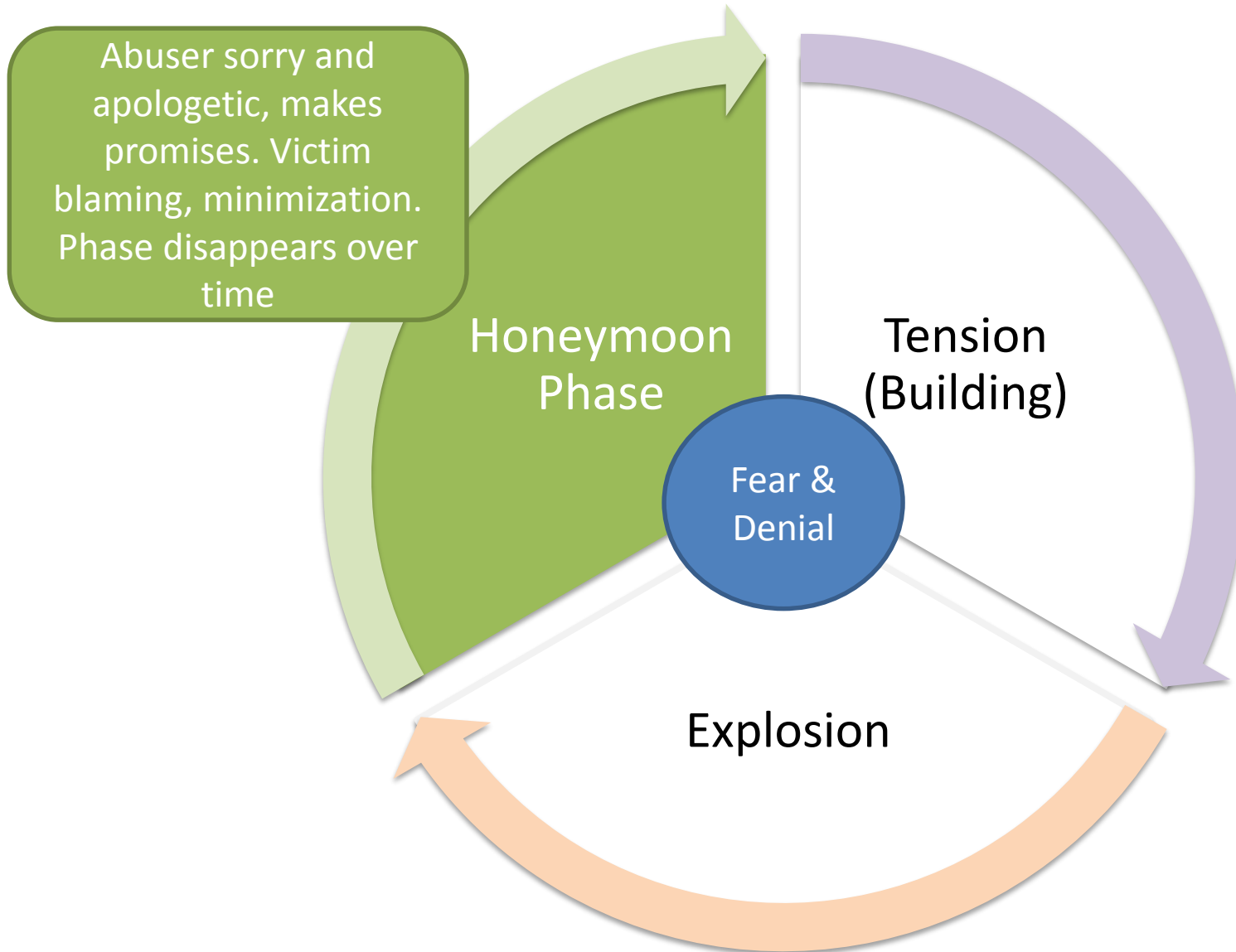
The Cycle of Violence



The Cycle of Violence



The Cycle of Violence



Why People Stay



Working with Survivors of DV

- May not self-identify abuse
- Meet clients where they are
 - Information gathering vs. readiness to act
- Recognize non-legal, emotional and economic needs and provide appropriate referrals
- Acknowledge limitations of the legal system
- Reconciliation happens and that's ok

Our Role as Attorneys

- Raise areas of exploration
- Help generate options (legal and non-legal)
- Identify sources of assistance
- Listen, believe, empower
- Respect and encourage client judgment, autonomy, and right to be free from abuse
- Emphasize parts of the process client controls
- Be a resource, stay a resource

Getting Support for Clients



National Domestic Violence Hotline

- 1-800-799-7233

Domesticshelters.org

- Searchable shelter and hotline directory

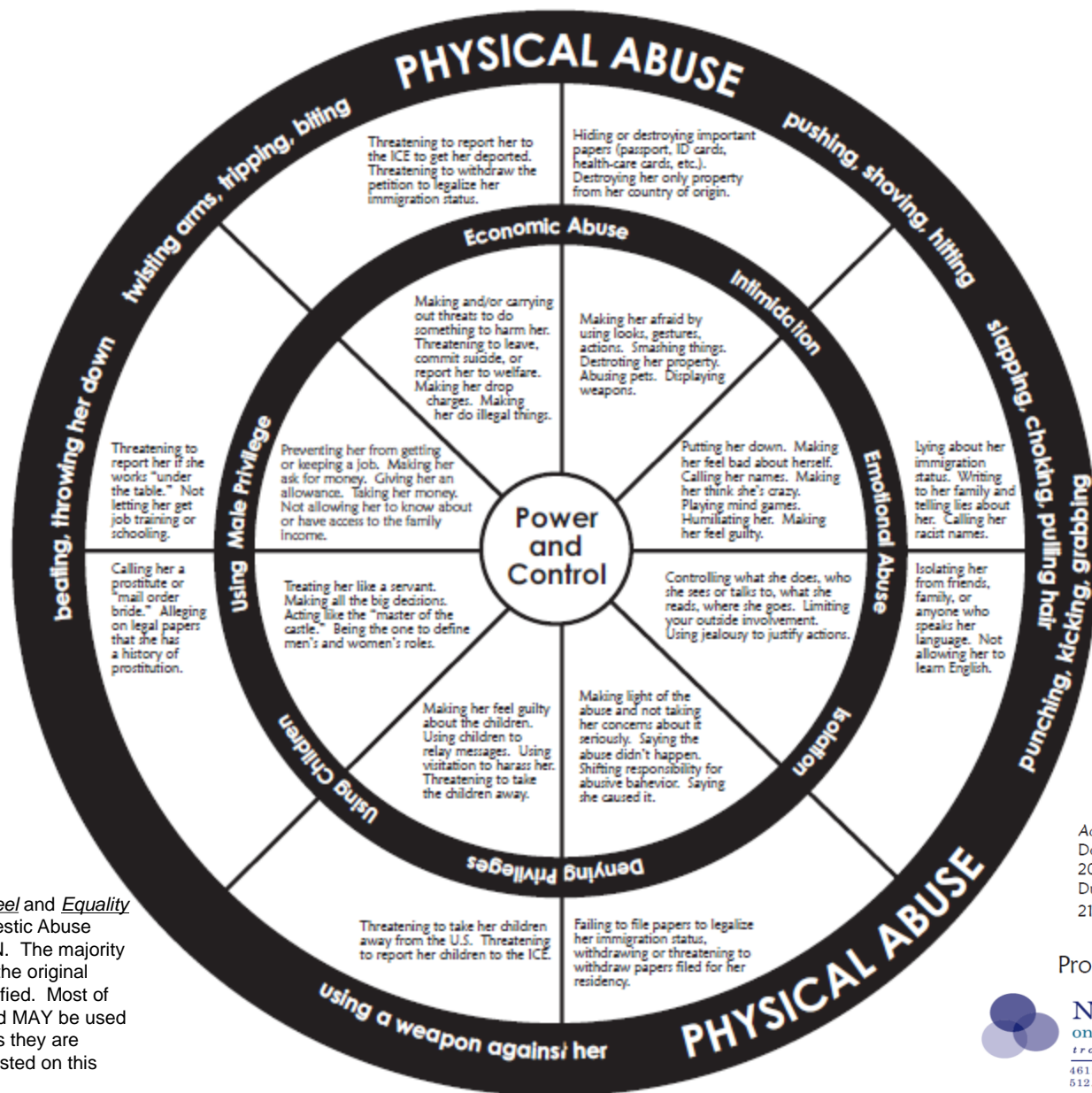
California Partnership to End Domestic Violence

- <http://www.cpedv.org/domestic-violence-organizations-california>

Local DV Resource Guides

- *How DV Affects Particular Groups:*
- Immigrant survivors of DV
- LGBT survivors of DV

IMMIGRANT POWER AND CONTROL WHEEL



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Financial Support and DV

- *Kumar v. Kumar*, 13 CalApp 5th 1072 (2017)
 - I-864 Affidavit of Support signed by spouse sponsoring immigration enforceable in family court action
 - Family courts are part of Superior Court, are courts of general jurisdiction, can hear breach of I-864 claim.
 - No duty to mitigate, as there is with spousal support request in short term marriage.

Financial Support and DV

- *Kumar v Kumar*, continued:
- First ruling of this kind in CA
- Wife brought to US after arranged marriage in Fiji
- Husband signed contract with ICE to support wife for 10 years at 125% of federal poverty level (I-864 Affidavit of Support)
- Husband abused wife and was arrested
- He filed petition for annulment or dissolution

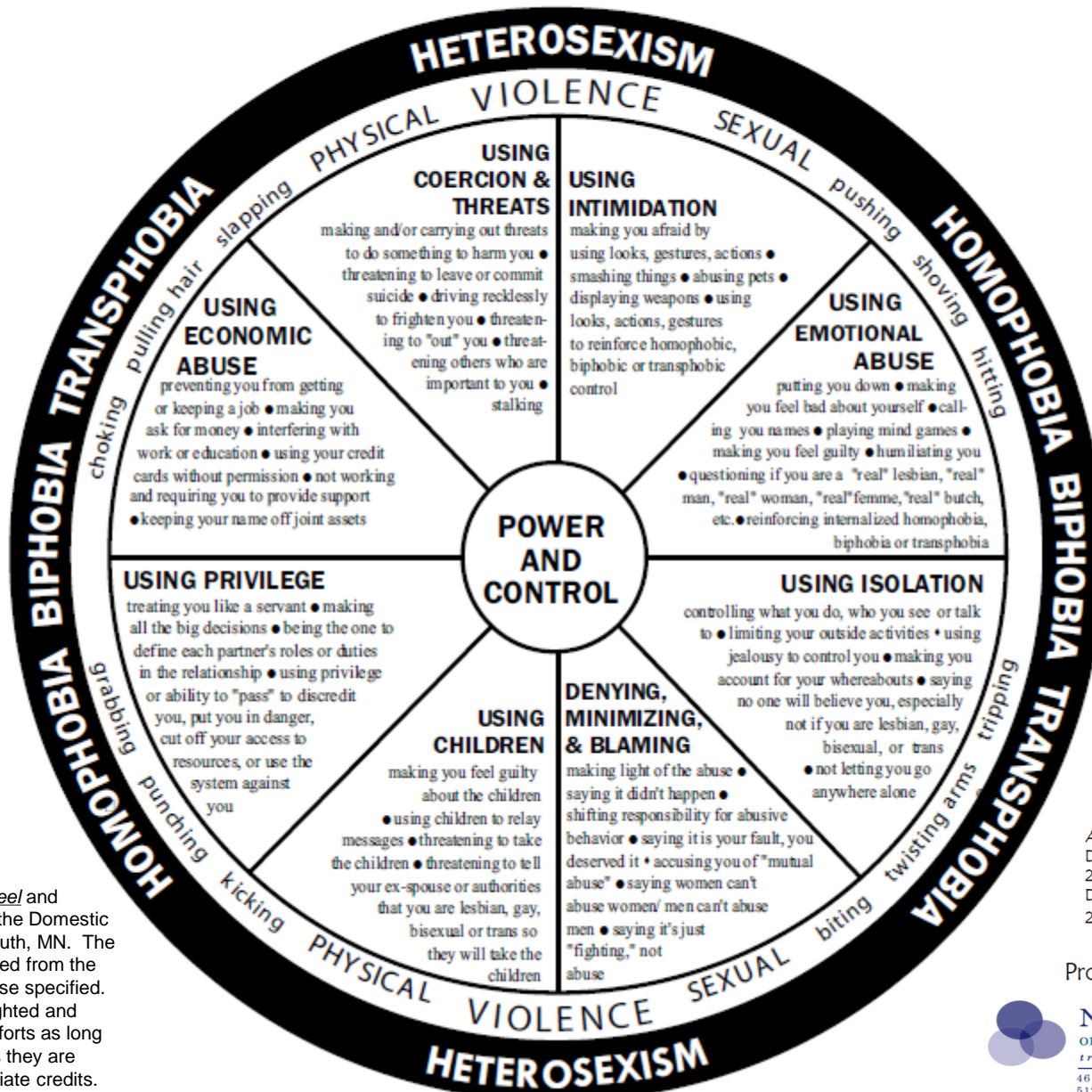
Financial Support and DV

- *Kumar v Kumar*, continued
- Wife awarded temporary support, husband sought to terminate it
- Wife raised breach of contract claim re Affidavit
- Family court refused to enforce Affidavit because wife in school and working part time, not seeking full time work
- Appellate court reversed: Affidavit did not require wife to mitigate damages by seeking full time work

Financial Support and DV

- *Kumar v Kumar*, continued:
- Court also held immigrant being sponsored via Affidavit not obligated to file separate claim for support in civil court or in federal court
- Supported spouse may raise this in family court as part of divorce action
- CA Supreme Court refused to grant husband's petition for review, so Court of Appeal decision stands
- This will benefit many immigrant survivors of abuse throughout the state

Gay, Lesbian, Bisexual and Trans Power and Control Wheel



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- If you have a family law case involving DV that needs appealing, contact us:
- www.fvapl原因.org
- info@fvapl原因.org
- 510-858-7358 (office)
- 866-920-3889 (FAX)

Thanks for helping end domestic violence.



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- Thank you again for watching. This webinar is now concluded.