*Chance*, Vol. 8, No. 3, 1995

Should evidence of spousal abuse be excluded in the Simpson trial? The authors demonstrate a close relationship between such abuse and murder.

# Propensity to Abuse ⎯

**Propensity to Murder?**

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Alan Dershowitz, a consultant for the O.J. Simpson defense, wrote recently in the *Los Angeles Times* (Jan. 15, 1995) about the tenuous relationship between spousal “abuse” and spousal murder, arguing that evidence of abuse of Nicole should be excluded. Judge Ito subsequently decided to admit some of this evidence. His decision was correct.

Dershowitz notes that about 1500 women are murdered by a current or former mate and 2−4 million spousal assaults occur annually. He infers from this that a woman in an abusive relationship has about a 1 in 1000 risk of being murdered each year. Because of this low risk and the inability to predict which abusers will kill, Dershowitz concludes that evidence of past abuse should be inadmissible, stating, “The issue is whether a histor of abuse is necessarily a prelude to murder.” He’s wrong. In a murder trial we have another crucial piece of information: A woman is dead. The issue is not whether abuse leads to murder but whether a history of abuse helps identify the murderer.

Of the 4936 women who were murdered in 1992, about 1430 were killed by their current or former husband or boyfriend. Thus, if it known simply that a woman has been killed, there is a 29% prior probability that she was killed by a current or former mate. It’s no wonder spouses are considered suspects in murder cases.

Dershowitz further states that of men who murdered a mate a “considerable number” first assaulted them, but only “some” had no prior history of assault. We don’t have access to his data. Nonetheless, we can guess what a “considerable number” means. Given that a woman has been murdered, we can estimate the value of information regarding a history of known abuse (A) to the probability that a current or former mate killed the woman (M) using the odds form of Bayes’s rule:



Let us assume that women killed by someone other than a present or former lover are no more likely to have been abused than women generally (believed to be about 5%). Now, suppose that a “considerable number” is one out of two. This yields a likelihood ratio of 10 (0.5/0.05) and posterior odds ratio of 4.1. If three out of four killers abused, the likelihood ratio is 15, the posterior odds ratio 6.1, and the probability that the abuser “did it,” absent any other individuating information, is 84%! Although not enough to convict, this knowledge of past abuse is highly diagnostic of whether the abuser committed the murder.

It would be a travesty for such important information to withheld from a jury. The existence of abuse increases the likelihood that the defendant committed the murder ⎯ which is precisely what these trials are all about. Dershowitz worries that jurors may “ believe that there is a closer relationship than there actually is between the defendant’s past history and the act for which he is standing trial.” The fact is, there is a close relationship.