



PROTOCOL FOR LAW ENFORCEMENT & PROSECUTORS

Responding to Victims of Domestic Violence



OVERVIEW:

Responding to Victims of Domestic Violence

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Chapter 1:

INTRODUCTION

Responding to Victims of Domestic Violence

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Chapter 1: Introduction

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Background

The epidemic of domestic violence across Illinois has required the state to create safety for victims and accountability for abusers. It is the belief of all involved in creating this protocol that a coordinated and consistent approach can bring about a reduction in family violence. Over the past two decades, Illinois has made remarkable strides in addressing this crisis. Model legislation has been passed and updated, policies and protocols have been created, and unsurpassable coordination efforts have been organized. This updated protocol follows three previous versions (1996, 2008 & 2012) and was made possible through a U.S. Office on Violence Against Women Grant to Encourage Arrest and Enforcement of Orders of Protection (#2011-WE-AX-0055) and a renewal U.S. Office on Violence Against Women Grant to Encourage Arrest and Enforcement of Orders of Protection (#2014-WE-AX-0025).

In 1993, the legislature created the Task Force on Domestic Violence Training and Curricula to develop model protocols and training curricula for law enforcement, prosecutors, and judges, recognizing that coordinated intervention by the justice system is a significant factor in reducing domestic violence.

Task force appointees represented a variety of agencies with an interest in the justice system's response to domestic violence. They met monthly to conduct research and create the protocols and training curricula. Some meetings featured guest presentations specific to particular issues. Task force committees and individual members drafted materials, attended law enforcement trainings, consulted specialists in various parts of the criminal justice system, and presented drafts to statewide criminal justice associations. Drafts of the protocol were circulated to more than 1,000 police chiefs, sheriffs, prosecutors, chief judges, victim advocates, and service providers. Comments were reviewed and incorporated into the final document.

The first Illinois Model Domestic Violence Protocol for Law Enforcement, Prosecution and Judiciary was published in 1996. With new legislation and a growing body of research and other information on the criminal justice response to domestic violence, it became pertinent to the fulfillment of ICJIA's mission, as well as to the functioning of law enforcement, prosecution, and the judiciary, that the protocol be fully updated to include the latest research findings, knowledge in the field, and related Illinois legislation.

In September 2004, ICJIA convened a group of law enforcement, prosecutors, judges and service providers from across Illinois to update the Illinois Model Domestic Violence Protocol for Law Enforcement, Prosecution and Judiciary. Again, meetings were held, suggestions for updates were made, and new research was gathered. A consultant was brought on to coordinate the accumulation of updated research findings and best practice information and streamline the drafting of a new protocol. Drafts of the newly revised protocol were circulated around the state to law enforcement professionals, prosecutors, judges and victim advocates whose suggestions and feedback were incorporated into the final document.

In 2011, the Illinois Family Violence Coordinating Council (IFVCC) received a U.S. Department of Justice Office on Violence Against Women Arrest grant to develop an Integrated Protocol Initiative (IPI). This initiative included updating the domestic violence and elder abuse protocols for law enforcement and prosecutors and creating protocols to address violence against people with disabilities. Upon completion in 2013, IFVCC and its partners trained protocol trainers across the state to facilitate local implementation.

In 2014, IFVCC was awarded another Office on Violence Against Women Grant to Encourage Arrest and Enforcement of Orders of Protection, which allowed for additional training, implementation, and follow-up with local jurisdictions on the protocols. Additionally in late 2017, the IFVCC Arrest Advisory Committee created a workgroup to again review and update the domestic violence protocol. The revised Responding to Victims of Domestic Violence protocol incorporates lessons learned in the trainings and feedback from law enforcement, older adults, and people with disabilities.

This protocol is intended to serve as a solid foundation of best practices upon which communities can build individualized protocols that consider their unique local needs, resources, and systems.

Goals and Intentions

The intentions of this protocol are to:

- A. Promote model policies and procedures for responding to domestic violence.
 - 1. The Illinois Domestic Violence Act requires all law enforcement agencies to develop and implement written policies regarding domestic violence incident arrest procedures. Written policies also aid prosecution and the judiciary.
 - 2. When developing these policies, law enforcement agencies, prosecutor's offices and the judiciary should consult with community organizations and other law enforcement agencies, prosecutor offices and judiciary branches with expertise in recognizing and handling domestic violence incidents.
- B. Ensure that law enforcement and the courts recognize domestic violence as a serious violent crime that hurts both individuals and society, and respond in a manner consistent with other violent crimes.
- C. Deter and prevent future domestic violence.
- D. Promote victim safety.
- E. Hold offenders accountable.
- F. Ensure that law enforcement and the courts are both sensitive and responsive to all victims.

When creating and implementing policies, the courts and law enforcement should utilize a trauma-informed approach to all victims of domestic violence and the needs of their families. However, these systems should also be aware that not all victims have the same level of access to community, familial, or state safety nets when dealing with the impact of violence. While there may be commitments within victim assistance to address the needs of all, gaps in services have been documented. Further, due to social inequities, abusers have an array of different types of tactics that also require knowledge and sensitivity. Such a trauma-informed approach will allow the courts and law enforcement to provide relevant and appropriate support to domestic violence cases involving lesbian, gay, bisexual and transgender partners, older adults or adults with disabilities and their caregivers, parents and children, siblings, other relatives, roommates, men battered by women and teenage dating partners. The system should also be appropriately responsive to immigrant victims and offenders, to those with a primary language other than English and to victims and offenders of all races, ethnicities and religions.

- G. Enhance investigation and evidence collection.
- H. Reduce the barriers to victim participation in prosecution.
- I. Provide a structured framework for the response to domestic violence by law enforcement and the courts across Illinois, while still allowing for each community to approach the issue from the perspective of their own unique needs and resources.
- J. Provide implementation directions that are flexible.
- K. This protocol is a foundation, a tool that each community can use to develop its own implementation strategies, policies and trauma-informed response based upon victim safety, abuser accountability and its own unique set of needs and resources.

Guiding Principles

These guiding principles are the universal benchmarks upon which this protocol is based. When a situation arises for which a policy has not been established, the guiding principles provide a philosophical foundation upon which to base judgments and actions. They include:

- A. Domestic violence is a serious crime against the individual and society.
- B. Domestic violence is about power and control wrongfully exercised by an abuser against a victim.
- C. Abusers must be held accountable and assume responsibility for their violence.
- D. The priority in responding to domestic violence is the safety and empowerment of the victim.
- E. All victims deserve to be treated with respect and dignity and given support appropriate for their own individual needs and situations.
- F. Domestic violence abusers and victims come from all ethnic, economic, age and social categories and do not fit a specific personality profile. Their primary commonality is that they abuse as a means of maintaining power and control over a victim.
- G. Domestic violence is a learned behavior used to gain and maintain control. It is used because it works and because society is not consistent in naming this abuse as wrong.
- H. Alcohol, drugs, stress and anger are aggravating factors rather than causes of domestic violence. They cannot be accepted as excuses for abusing others.
- I. Arrest, prosecution, incarceration and education of abusers can reduce further violence.
- J. An effective system for addressing domestic violence must entail a proactive, consistent and coordinated community response. Developing and implementing a coordinated community response must include law enforcement, prosecutors, judges, domestic violence advocates, abuser treatment services and probation officers, as well as other community agencies including healthcare providers, child welfare agencies and substance abuse treatment services, etc.

Language and Messaging

How we choose to use our words matters. The way we describe something influences our perceptions of it. We internalize the messages that we receive and it subconsciously influences how we communicate and interact with others. Word selection throughout the protocol is designed to create messages that underscore the value of individuals who experience violence and to clearly communicate that violence in any form (emotional, physical, sexual, financial) is a serious matter (and often criminal) with long lasting impact.

Domestic violence and domestic abuse are terms that are often used interchangeably. Leaving behind the complex legal definitions, it may be helpful to view domestic violence as a term that covers all family and caretaker related abuses. It is often considered a 'blanket definition' that includes acts of violence in addition to other types of abuse that take place within a family, caretaking or close relationship setting. Wherever possible, the word violence is used in the protocol to emphasize the impact and intentionality of a perpetrator's actions. Some professionals prefer to avoid the term abuse as it may be interpreted as a lesser or watered-down choice of behavior.

The criminal justice system refers to a person who has experienced violence as a victim. Many groups that work to advocate for people who have experienced violence prefer the term survivor. Some people identify as a victim, while others prefer the term survivor. The best way to be respectful is to ask for their preference.

People First Language is used to denote that the person is more important than the diagnosis or label. For example, "a person who uses a wheelchair" or "a woman with cerebral palsy" is preferred over "a wheelchair user" or "the cerebral palsied woman." Wherever possible in this protocol, the term "older adult" is used. Older adult mirrors the term "younger adult" and both terms refer to the lifespan of a person rather than being considered a label.

Rape, sexual assault, sexual abuse and sexual violence are terms that are often used interchangeably. Often, the use of these terms depends on whether a particular criminal act is described, or speaking generally about the issue. When referring to a particular criminal act, using the specific legal description that best fits is preferred. When speaking about these crimes generally, this protocol uses "sexual violence" as an all-encompassing, non-legal term that refers to crimes like sexual assault, rape, and sexual abuse.

Similarly, perpetrator and abuser are terms that are often used interchangeably. An abuser must have a victim on with to perpetrate. An abuser is predatory, just like a sexual predator, murderer, and other predatory individuals. They intentionally plot and plan their abuses up to and including how they are going to end an event of abuse/perpetration.

Statement of the Problem

A. Scope of domestic violence

Domestic violence, also referred to as spouse abuse, woman battering, intimate partner violence (IPV), domestic violence, and family violence, is a problem of epidemic proportions. According to *the National Intimate Partner and Sexual Violence Survey 2010 Summary Report*, a report by the National Center for Injury Prevention and Control Division of Violence Prevention, more than 1 in 3 women (35.6%) and more than 1 in 4 men (28.5%) in the United States have experienced rape, physical violence and/or stalking by an intimate partner in their lifetime. Nearly 1 in 10 women in the United States (9.4%) has been raped by an intimate partner in her lifetime and an estimated 16.9% of women and 8.0% of men have experienced sexual violence other than rape by an intimate partner at some point in their lifetime. About 1 in 4 women (24.3%) and 1 in 7 men (13.8%) have experienced severe physical violence by an intimate partner (e.g., hit with a fist or something hard, beaten, slammed against something) at some point in their lifetime. In 2005, there was IPV in about 1 in every 320 U. S. households. (Klaus, P. (2007). *Crime and the Nation's Households, 2005*. Bureau of Justice Statistics, NCJ 217198, <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=752>. On average, only 70% of nonfatal partner violence is reported to law enforcement. Of those not reporting, 41% of male and 27% of female victims (34% average) stated victimization being a private/personal matter as reason for not reporting, 15% of women feared reprisal, 12% of all victims wished to protect the offender and 6% of all victims believed police would do nothing. (Bureau of Justice Statistics, Intimate partner Violence in the U.S. 1993-2004, 2006) For 2008, the U.S. Bureau of Justice Statistics estimates that: IPV (Intimate Partner Violence) constituted 3% of all violence against males and 23% of all violence against females in the U.S. 72% of IPV against males and 49% of IPV against females was reported to police. (Rand, M.R. (2009). *Criminal Victimization, 2008*. (National Crime Victimization Survey). BJS. <http://bjs.ojp.usdoj.gov/content/pub/pdf/cv08.pdf>. From 1998 until 2002, 11 percent of all violent crimes reported to law enforcement were violent crimes against a family member (U.S. Bureau of Justice Statistics, 2005). Intimate partner crimes were committed much more frequently against women, at a rate of 19 percent, than against men, at a rate of 3 percent (Catalano, 2004). In a report released in 2001, the U.S. Bureau of Justice Statistics found that 85 percent of 790,000 victims of intimate partner violence were women.

Evidence shows that a significant portion of all homicide victims are killed by an intimate partner (Frye, 2001). In 2002, about 22 percent of all murders were of family members (Bureau of Justice Statistics, 2005). Of all murders in 2003, 9 percent were victims murdered by an intimate partner or spouse. Of these victims, 79 percent were women (Federal Bureau of Investigation, 2004). On average, more than three women each day are murdered by a spouse or intimate partner in the U.S. (Rennison, 2001). Violence frequently increases in abusive relationships when the woman is pregnant. One recent study found that pregnant

women are more likely to die as victims of homicide than from any other cause (Horon and Cheng, 2001).

One of the most dangerous times for a victim in a violent relationship is when they try to leave the relationship, as a victim's attempts to separate from an abuser can trigger an escalation of violence. A study of domestic violence homicides in Florida (1997) revealed that in 65 percent of intimate partner homicides the victim had physically separated from their partner prior to the murder. Abusers who kill their partners are a great danger to others as well. The Florida Mortality Review found that in 38 percent of murders of an intimate partner the perpetrator killed at least one other person. Other victims included children, bystanders, and those who intervened to assist the victim.

Finally, statistics show that state prisons are full of perpetrators of family violence. In 1997, 15 percent of men and women in state prisons for a violent crime were there for a crime against a family member (Bureau of Justice Statistics, 2005).

The Illinois Domestic Violence Act (IDVA) recognizes the many forms of violence as abuse. The IDVA defines abuse as physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation. 750 ILCS 60/103(1). The party that is protected by the act is any person abused by a family or household member and any child or dependent that is in the care of such person. 750 ILCS 60/201(a)(i,iii). The definition of family and household members includes spouses, former spouses, parents, grandparents, siblings, children, stepchildren and other relatives, by either blood or marriage, both former and current. 750 ILCS 60/103(6). Same-sex partners, dating relationships, roommates, and relationships between caregivers and adults with disabilities or older adults are also classes of people that are protected by IDVA. *Id.* Men are also victims of domestic violence. Men are more likely to be victimized by other men, and are rarely abused by women, (Tjaden and Thoennes, 2000).

Facts & Stats

Scope of Sexual Violence

- Every 92 seconds another American is sexually assaulted.*
- The majority of sexual assaults occur at or near the victim's home.**

For more information:

<https://www.rainn.org/statistics/scope-problem>

*Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, 2013-2017 (2018).

** Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Female Victims of Sexual Violence, 1994-2010 (2013). (Due to rounding, this statistic may not total 100%. RAINN presents this data for educational purposes only, and strongly recommends using the citations to review any and all sources for more information and detail.)

There is great diversity among both victims and abusers. Some groups of victims will have additional barriers to accessing services, reaching out to the courts, or finding safety. Victims facing more challenges in their everyday lives may require

a more individualized approach from the courts and from service providers. These victims include:

- Older adults
- Immigrants
- Youth
- People with physical, sensory, cognitive or mental disabilities
- People in rural communities
- Lesbian, gay, bisexual and transgender people
- People of color
- People who practice non-dominant religions
- Prostituted or trafficked women, children and men
- Families with economic disadvantages
- People affiliated with gang
- People with HIV/AIDS.

In addition, providing translation services (including American Sign Language and materials in Braille), access to advocates with experience with diverse groups of people and access to individualized services are imperative to assist families of these victims in obtaining safety and justice.

B. Costs to society

The impact domestic violence has upon society reaches far beyond the devastation of the lives of victims and children. The costs to society are immense. Domestic violence greatly impacts the health care system, criminal justice system, courts, child welfare system, mental health system and social service systems. Costs to the nation's workforce include poor work performance, lost productivity and lost work days. According to the Center for Disease Control and Prevention National Center for Injury Prevention and Control (2003), domestic violence costs society \$5.8 billion each year, \$4.1 billion directly for health care and medical costs. The impact of domestic violence upon communities and society at large is significant.

Pattern of Abuse

In order to understand domestic violence, one must understand the dynamics as well as the legal implications and definitions. Domestic violence is a pattern of abusive behaviors, including physical violence, emotional abuse, threats, intimidation, isolation and economic coercion, used by one person against another to exert power and control. This violence takes place in the context of a dating, family or household relationship. Societal and cultural attitudes, institutions and laws are not consistent in naming this violence as wrong and, therefore, can act to maintain and support the continuance of domestic violence (Wright, 2005). Three main points to focus upon within this definition include (Schechter and Ganley, 1995):

1. The reason for the abuse is to maintain power and control.
2. Abuse is a pattern of behaviors.
3. Abusive behavior happens within a relationship.

Domestic violence is intentional and functional behavior. It is not just a fight that goes out of control or an incident that happens when someone loses their temper. It is purposeful, with the intention of gaining and maintaining power and control within a relationship. The behavior is used to gain the victim's compliance, to force the victim to submit to fulfilling the needs and/or desires of the abuser. Some of the behaviors appear abusive, such as physical violence and name calling. Some of the behaviors may, on the surface, look like romance – constant phone calls, gifts, jealousy. But all behaviors have the same intention – to control the victim.

Domestic violence is not an individual event, but rather a series or pattern of behaviors. Together, these behaviors establish the abuser's role as the one with power and control over the victim. An instrument was developed in 1987 by the Domestic Abuse Intervention Project in Duluth, Minn., as the outcome of conversations with battered women whose partners were receiving abuser intervention services. The women reported a decrease in physical violence as a result of their partner's involvement in abuser treatment services, but reported that they still felt abused and controlled. The Power and Control Wheel defines the types of abuse described by the women in this group and has become a tool used across the world to understand the dynamics of domestic violence (Pence and Osberg, 1987; see the Appendix for a Power and Control Wheel). The following are the types of abuse referred to by the Power and Control Wheel (Wright, 2005):

A. Types of violence

1. Physical violence

Physical violence is the most commonly recognized form of domestic violence. It includes hitting, kicking, shoving, pinching, strangulation, the use of weapons, sleep deprivation, withholding food or medication,

restricting movement, forced use of drugs and alcohol and other forms of physical violence. Physical violence is generally what comes to the attention of the courts.

2. **Sexual violence**

Sexual violence includes forced and coercive sex, forcing or intimidating the partner to engage in sexual activities they find distasteful or painful, giving the partner a sexually transmitted disease (including HIV/AIDS), using sex to “make-up” after a beating, not taking “no” for an answer, making fun of the victim’s body, needs or sexuality, refusal to use a condom and/or engage in safer sex when asked, forcing the partner to watch or engage in pornography, forcing the partner to have sex with others and other coercive and forced activities. Sexual violence can have very serious and damaging effects upon a victim, yet it is one of the least talked about forms of violence.

3. **Emotional abuse**

Emotional abuse is a series of behaviors that forces victims to question their own thoughts, interpretation of events and value as a person. Emotional abuse includes making the victim think that they are crazy, causing the victim to not trust their own judgment, put downs and name calling, mind games, ignoring the victim, their needs and desires and making fun of the victim.

4. **Isolation**

Isolation is a very powerful tool of control that forces the victim to be dependent upon the abuser and removes from the victim sources of support, assistance and safety. Isolation includes keeping the victim from family and friends, turning family and friends against the victim, controlling who the victim sees, where they go and what they do and not allowing the victim privacy, personal space or independent activities.

5. **Minimizing, denying and blaming**

Another tactic used by abusers is to minimize and deny abuse and blame problems in the relationship on the victim. Abusers rarely accept responsibility for their actions and are adept at blaming others, particularly the victim, when anything goes wrong. They also minimize the violence. For example, the abuser refers to a punch as a slight push, a broken arm as a little fight, a bloody nose as a scratch. Denial is common. For example, a fall down the stairs caused by a push from the abuser is called an accident. Displacing blame is a common tactic and abusers often weave tales that may make the violence seem justified to others. Accepting responsibility for their actions is rare. They may make statements such as, “I only hit you because you ...” or “If you wouldn’t do such and such this wouldn’t happen.”

6. Using children

A tactic that produces great fear in victims with children is the abuser's use of the children as tools of control. Child abuse is frequent in homes where domestic violence takes place (Edleson, 1999; Kolbo, 1996). The abuser may also use the children as go-betweens, talk poorly about the victim to the children, abuse the victim in front of the children, criticize the victim's parenting skills and/or threaten to report the victim to the Department of Child and Family Services for abuse. The abuser may use visitation to harass or abuse the victim and many seek and receive custody as a means of maintaining control over the victim (Chesler, 1986). More seriously, the abuser may threaten to or may actually abduct the children to further abuse the victim.

7. Using privilege

Abusers will use any type of privilege they have over the victim to control the victim. This includes the use of "male privilege" or acting like the man of the castle, treating the victim like a servant, demanding traditional sex roles and exhibiting other dominant abusive behaviors. Other examples of using privilege include using heterosexual privilege, such as outing a lesbian, gay, bisexual or transgender victim, using immigration status, such as threatening to have an immigrant victim without legal status deported and using able-bodied privilege, such as restricting a victim with a disability from access to a wheel chair.

8. Economic abuse

By controlling all the money, not allowing the victim to have a job, taking the victim's paycheck, keeping the survivor's name off property, real estate and life insurance, or spending all the money while the family's needs go unmet, the abuser can keep very strict control over the victim. When the victim is forced to be dependent upon the abuser for any financial need, the victim's ability to leave the abuser is very restricted because of lack of access to resources.

9. Coercion and threats

Abusers are often adept at the ability to maintain control through the use of coercion and threats. Once violence has been used, the threat of further violence is always there, even if unspoken. Abusers frequently use threats to coerce the victim into doing whatever it is the abuser wants. These include threats to harm or kill the victim, their children or other family members; threats made with a firearm, threats to have the victim arrested and prosecuted for domestic violence, threats to harm pets, threats to report the victim to child welfare, immigration, welfare, probation or any other agency the victim fears, threats to commit suicide and threats to destroy property, especially anything of sentimental value. Abusers frequently follow through on some of the threats, making the use of any

threat more powerful and making the victim more likely to be coerced by all of the abuser's other threats.

10. Using intimidation

Abusers often use intimidating looks, gestures, actions, a loud voice, firearms, abusing pets, smashing things or destroying property to intimidate their victims and force them under control.

11. Stalking

Stalking is a behavior long utilized by abusive partners to control and terrorize their victims. Only recently has the term stalking been used. This behavior was referred to as harassment, threats, annoyance or domestic terrorism and was misunderstood for many years.

Like domestic violence, stalking is a crime of power and control. Unlike other crimes, stalking is not a single, easily identifiable crime, but a series of acts directed at a victim. The crime of stalking may consist of behaviors that in and of themselves may not be criminal, but making a phone call, sending a letter or showing up at certain places may be a threat to a stalking victim.

According to the Stalking Resource Center, 7.5 million people are stalked every year in the United States. Over 85 percent of stalking victims are stalked by someone they know; 61 percent of female and 44 percent of male victims are stalked by a current or former intimate partner; 25 percent of female and 32 percent of male victims are stalked by an acquaintance; and 11 percent of stalking victims have been stalked for 5 years or more.¹

In addition, 78 percent of stalkers use more than one method to stalk; 1 out of 5 stalking cases involve weapons to harm or threaten to harm their victims²; 76 percent of women who were murdered by their domestic abuser were stalked by that abuser prior to their death³; and 54 percent of femicide victims reported the stalking to law enforcement prior to being killed by their stalker.⁴

¹[Matthew J. Breiding et al., "Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization – National Intimate Partner and Sexual Violence Survey, United States, 2011", Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, Vol. 63, No. 8 (2014): 7]

² [Kris Mohandie et al., "The RECON Typology of Stalking: Reliability and Validity Based upon a Large Sample of North American Stalkers," *Journal of Forensic Sciences*, 51, no. 1 (2006).]

³ McFarlane, J.M., Campbell, J.C., Wilt, S., Sachs, C.J., Ulrich, Y., & Xu, X. (1999). Stalking and intimate partner femicide. *Homicide Studies*, 3(4), 300-316.

⁴ Baum, K., Catalano, S., Rand, M. & Rose, K. (2009). National crime victims survey: Talking victimization in the United States. Retrieved from <http://www.justice.gov/sites/default/files/ovw/legacy/2012/08/15/bjs-stalking-rpt.pdf>.

Youth, ages 18-24 experience the highest rate of stalking⁵. According to one study of nearly 1,600 college students, 42.5% had experienced some form of stalking victimization.⁶

Cyberstalking

Cyberstalking is a course of conduct using electronic communications which the person knows or should know would cause a reasonable person to fear for their safety or the safety of a 3rd person to suffer emotional distress. The internet allows easy access to personal information and has made this type of stalking even more accessible.

Two in four stalking victims report being stalked through some form of technology such as email or instant messaging. 10% of victims report being monitored with global position systems (GPS) and 8% report being monitored through video camera's or listening devices.

In summary, it is critical to note that domestic violence happens across demographics. Advocates should familiarize themselves with batterer tactics used against victims from marginalized populations and victim safety and survival tactics within these populations so that lethality assessments and safety planning can be as relevant and effective as possible.

The relationship between victim and abuser is particularly important because of how it influences the ways in which abuser and victim relate to the violence and how they are affected by it. While victims of domestic violence are traumatized in many of the same ways that victims of stranger violence are, this trauma does not just happen once, but is repeated over and over again. The trauma is also greatly influenced by the nature of the relationship being intimate, a relationship in which one is particularly dependent. Finally, the family, fiscal and emotional connections between the parties often act as barriers to the victim's participation in the legal process.

B. Obstacles to leaving

The most frequently asked question about domestic violence is, "Why doesn't the victim just leave?" The truth is, many victims do leave and many others leave and return. For a victim of domestic violence, leaving is not a one-time act, it is a process (Schechter and Ganley, 1995).

There are many obstacles victims face when contemplating leaving a violent relationship. For some, these obstacles can be overcome but for others, they

⁵ The National Center for Victims of Crime (2012). [Stalking fact sheet.](#)

⁶ McNamara, C. L., & Marsil, D. F. (2012). [The prevalence of stalking among college students: The disparity between researcher-and self-identified victimization.](#) *Journal of American College Health*, 60(2), 168–174.

cannot. Fear of violence is the number one reason victims give for staying in a violent relationship. Violence often escalates when a victim tries to leave, making leaving sometimes more dangerous than staying (Florida Governor's Task Force on Domestic and Sexual Violence, 1997). Some abusers will do anything to stop the victim from leaving. Victims often fear for their lives or for the lives of their children.

There are as many reasons for not leaving or for taking their time in leaving or for leaving and returning, as there are victims of domestic violence. Some of those reasons include (adapted from Wright, 2005):

1. **Fear**

Fear created by the abuser of increased violence or death.

2. **Children**

The abuser may threaten to take the children, kill the children or report the victim for child abuse or neglect if the victim leaves. Many follow through on these threats as a means of further control when a woman does leave (Chesler, 1986). Further, many victims, as many others in our society, feel that it is important for children to have two parents.

3. **Money**

Abusers are frequently in control of the finances in an abusive relationship. Without access to money or resources, it can be difficult or impossible to leave.

4. **No place to go**

One of the tactics abusers use to control victims is isolation. Many victims are left without family or friends to turn to for help. Domestic violence shelters exist, but most are frequently full and the duration a victim can stay can be too short for the victim to find the resources to start over. Further, going to a shelter often means leaving the community where the victim resides. This could mean the loss of a job, changing schools for the children and leaving any existing support system.

5. **Not violent all the time**

Many abusers are kind and loving at times and violent and controlling at other times. The victim may love the abuser and look forward to the good times. This is another way the abuser controls and manipulates the victim.

6. **Promises of change**

The abuser may promise to seek help and to never harm again. The abuser may make temporary changes; even seek help, just long enough to get the victim to return.

7. **Family, cultural, or religious pressure**

Pressure from family, friends and the community and cultural and religious beliefs may convince a victim that they have no choice other than to stay. Many cultures consider family the priority and consider it a duty to work as hard as one can to stay married. Victims from marginalized cultures may fear seeking help from the courts or community services for fear of discrimination, misunderstanding or simply because they do not wish to bring shame on their community. Religious leaders of all faiths have been slow to develop sensitivity and respond appropriately to domestic violence.

8. Guilt, shame and embarrassment

Abusers blame victims for the violence. Society blames victims for staying. Victims often internalize the blame, becoming full of guilt, shame and self-doubt. They may try harder to change their behavior so that the abuser reacts to them differently or to change the abuser. Society stigmatizes victims, whether blaming them for the violence or believing that they are forever damaged by the abuse, causing victims to not want to admit that the violence is happening to them.

9. Only life they know

The victim may be so preoccupied with daily survival that they cannot even envision any other life. They do not have the time, energy and resources to formulate an escape plan.

10. Denial

Denial is a survival strategy for the victim. Both the abuser and the victim may deny that the violence is taking place and may see it only as “fighting.”

11. Love

The victim may still love their partner. Abusers are not abusive all of the time and may be loving and kind some of the time.

12. Gaslighting

One of the tactics used by abusers is to make the victim feel that they are responsible for the violence and anything else in their lives that goes wrong. Abusers may lie, manipulate, confuse, tell the victim that their recollection of the abuse is inaccurate and do things to make the victim feel that they are crazy. The victim can become too confused to make any moves other than daily survival when dealing with the erratic behavior of an abuser.

13. Leaving is a process

It can take months or even years to leave an abusive relationship. It is a process that can involve many steps and many missteps may occur along

the way. Patience is absolutely necessary when working with victims of domestic violence.

Domestic Violence Abusers and Victims

A. The Domestic Violence Abuser

Domestic abusers come from all age, racial, economic, educational, occupational, religious and social groups. Domestic violence abusers are more likely to be male (Catalano, 2004; Tjaden and Thoennes, 2000; and Schechter and Ganley, 1995). The majority of abusers do not have personality disorders and the personality profile of an abuser is not homogeneous. Research performed by Edward Gondolf (1988) found that 65 percent of abusers who exhibited either sporadic or chronic battering did not batter outside the family, while 35 percent of abusers battered both within and outside of the family and showed signs of sociopathic or antisocial behaviors. Numerous other researcher studies, including Gondolf (2002), have supported these findings.

Though there is no simple profile that can be used to identify an abuser and predict their behavior, a number of traits are commonly seen in abusers. The hallmark trait displayed by an abuser is their staunch unwillingness to accept responsibility for their behavior, particularly for their violence. Abusers minimize the violence, deny that it happened, blame the victim, lie and attempt to justify their abusive behavior (Schechter and Ganley, 1995). Many abusers are very believable, particularly if they believe themselves and believe that they were justified in their use of violence.

Domestic violence is intentional and functional. The perpetrator's primary goal is to control and have power over their victim. Their actions are strategic, methodical and goal-oriented. Rather than a random act of violence, i.e. "I lost it," their behavior is reflective of their underlying goal (power and control). Their chosen tactics are custom fit for their target (partner); therefore, strategies may vary from partner to partner according to what works. For example, isolation from family and friends may be an effective technique to control one partner, but in a subsequent relationship, the perpetrator discovers that utilizing emotional abuse is far more effective.

Strategies, technics, actions... Common traits found in abusers include (adapted from Wright, 2005):

1. Controlling

Using controlling behavior is a trademark of abusers. This controlling behavior may appear nice on the surface, such as buying flowers, chivalrous behavior or other romantic demonstrations, but is actually helping to create a power imbalance in the relationship. It may involve more overtly abusive forms of control involving physical force or emotional abuse, such as making all of the decisions, not allowing the victim a life outside of the relationship or repeatedly checking up on the victim.

2. Violence

Abuser may use violence to reinforce their control. Examples are slapping, hair pulling, strangulation, punching. They often focus on areas of the body that are not visible such as breasts or abdomen.

3. Jealous

Another key characteristic of abusers is their extreme jealousy and insistence that this jealousy is a sign of their love. Abusers are often not only jealous of what they deem as potential affairs, but of family, friends, co-workers and children. They often use their jealousy to isolate the victim from others.

4. Isolates partner

Abusers often control who their partner sees, where they go, who they talk to, if and when they work, etc. The effect is often destroyed social supports and isolation, which force the victim to rely on the abuser.

5. Contradictory personality

Many abusers display the confusing behavior of being nice, charming and loving one moment and abusive the next. They may be viewed outside the relationship as warm and stable, while their behavior at home is just the opposite. Some have called this behavior a 'Dr. Jekyll and Mr. Hyde' personality.

6. Claims to be the victim

Abusers frequently claim to be the victim in the relationship. They blame their partner for the violence and accuse their partners of being abusive, unfaithful, mean or crazy. They claim that their use of violence was in self-defense. Abusers are increasingly becoming savvy about using the courts to assist them in their abuse, filing domestic abuse charges and/or applying for orders of protection.

7. Blames others for problems, feelings and actions

Many abusers blame others and most frequently their partner, for everything, including their problems, feelings and behaviors. They fail to take responsibility for their actions.

8. Overly sensitive

Abusers are frequently easily upset and angered, hypersensitive and quickly blame others for any discomfort they may feel.

9. Unrealistic expectations

It is common for an abuser to expect their partner to meet all their needs both emotionally and physically, which no partner can do. They may be perfectionists, expecting their partner to be perfect and sometimes expecting the same from themselves and blaming their partner when they cannot meet their own expectations.

10. Quick romantic involvement

Romance that quickly becomes serious is common in domestic violence relationships. It may be overwhelming, wonderful and exhilarating in the beginning.

11. Often believes in rigid gender roles

Heterosexual male abusers frequently believe in rigid gender roles and expect to be taken care of by their female partner. They generally see women as inferior and subservient.

12. Verbally and emotionally abusive

Violence may begin with verbal and emotional abuse, with the physical violence added later. Frequently, even when an abuser stops the physical violence, they continue the verbal and emotional abuse to control their partner.

13. Uses intimidating tactics

Abusers rely on intimidating looks, gestures and actions to instill fear and maintain control.

14. Use of *playful* force during sex

The use of force or cruelty during sex, behind the veil of playfulness, is a confusing tactic frequently used by many abusers.

15. Use of force in an argument

The use of any force in an argument, such as holding on to a wrist, not allowing the victim to leave the car or house or punching a wall, are early warning signs of an abusive relationship. Though such signs of force are abusive, they may not be interpreted as such.

16. Promises

Abusers often make promises that they do not keep. The most frequent: "I'll never do it again."

17. Stalking

Abusers frequently stalk their partners or ex-partners, following and watching them, tracking them through their cell phones, calling to check-up on them at all times and tracking their whereabouts online (cyber stalking).

18. Forced sex

Abusers may demand sex as their right or force their partner to conduct sex acts against their will.

19. Use of others

Abusers may threaten or harm pets, children, parents or friends to force the victim to submit to abuser's wishes.

Abusers believe they are entitled to the use of power and control tactics and violence against their partners and/or other family members. However, they are aware that it is not acceptable to assault bosses, friends, or acquaintances and therefore, they find alternative methods to solve problems while at work or with friends. They find the use of power and control tactics, including physical violence, to be an effective means of getting what they feel is their entitlement. The violence is reinforced when they achieve this goal without any negative sanctions for their behavior. Without sanctions for the use of violence, abusers will continue to use it as an effective means of maintaining control over the victim. They continue to use it because it works.

It is important for law enforcement to remember that when interacting with an abuser, this person may have a long history of abusing. They may be very manipulative and coercive or may use violence against law enforcement to maintain their control of the victim or the situation.

The belief that batterers, particularly the most dangerous ones, have personality disorders and will be noticeably different, allows dangerous people to fall through the cracks. Unfortunately, some of the most dangerous batterers may appear stable, even rational and charming, to law enforcement officers, prosecutors, judges, and everyone else outside the home.

Female abusers in intimate partner relationships are generally women in relationships with other women. Women are also found to be abusers in relationships with other family members, such as elderly parents or siblings. It appears that women who abuse female partners or other family members use similar tactics as male abusers.

The number of women domestic violence abusers of male partners appears to actually be very low. As stated earlier, the majority of abusers in heterosexual relationships are male (Catalano, 2004; U.S. Department of Justice, 2000; and Schechter and Ganley, 1995). Heterosexual women constitute 5 percent to 15 percent of those arrested nationally (this number is increasing in recent years), and approximately 5 percent of referrals to partner abuse intervention programs across the United States. However, intervention programs surveyed nationally found that only about 2 percent of all the women referred to partner abuse intervention services were abusers, the remaining 98 percent of women referred were victims who fought back, retaliated or were falsely accused by their abusers (U.S Department of Justice, 1998). In other words, female abusers actually only constituted about 0.1 percent of all referrals to abusers programs nationally.

An informal study in 2001 of abuser's services programs in Cook County found that the vast majority of women in court mandated services were not abusers, but

victims. Service providers stated that they were actually providing victim services to the vast majority of women mandated to these groups. According to the professionals surveyed, it appears that the only actual abusers among all the women referred to the groups were women in relationships with other women or women abusing family members other than their partner (Wright, 2005).

Women in heterosexual relationships use violence for very different reasons than do men. A study conducted in 2001 found that women use violence in response to their partner's violence and in reaction to their relative powerlessness, while men use violence in relationships to control their partners (Miller, 2001). This finding is backed by numerous other researchers (Dasgupta, 2001; Molidor and Tolman; 1998).

A. Victims of Domestic Violence

Much focus has been placed on why a victim stays in a relationship with an abusive partner which mistakenly or inadvertently places the responsibility of the continued violence on the victim instead of the perpetrator. The real question is, "Why does the partner hurt their partner? Or "What makes someone think they have the right to control their partner, i.e. tell them what they can and cannot do?"

Victims of domestic violence may or may not have been previously abused in childhood. There is not substantial evidence to suggest that people who are abused in childhood are more likely to become victims of domestic violence (Schechter and Ganley, 1995; Hotaling and Sugarman, 1986). Though it may be of use to a victim of domestic violence who was abused as a child to explore both experiences during her healing process, it is victim blaming to assume that a previous experience of abuse was a precipitating factor in the adult domestic violence experience (Schechter and Ganley, 1995). Personality and symptom characteristics of victims of domestic violence are the result of the experience of the domestic violence rather than precipitating factors (Catalano, 2004; Schechter and Ganley, 1995; Hotaling and Sugarman, 1986).

Victim responses to domestic violence are varied, with some victims experiencing extreme consequences and others surviving relatively unscathed. What may appear to be dysfunctional reactions to violence are often survival strategies and normal reactions to the abnormal situation of abuse. For example, what may appear to be submissiveness, such as doing what the abuser asks, lying to protect the abuser or refusing to leave the relationship or involve the courts, may be attempts to stop the violence that are sometimes *temporarily* successful.

Effects commonly experienced by some victims of domestic violence include (Wright, 2005):

1. Physical injuries.

2. Sense of hopelessness about the situation.
3. Numbness.
4. Lack of sense of self.
5. Denial of the seriousness of the violence.
6. Living in fear.
7. Self-blame and feelings of guilt.
8. Feelings of anger.
9. Depression and/or suicidal thoughts.
10. Physical problems and illnesses related to stress or other injuries;
11. Post-traumatic stress disorder (in more severe cases of violence), which includes flashbacks, nightmares, intrusive thoughts of violence, hyper-vigilance, exaggerated startle response, difficulty sleeping and/or difficulty concentrating.

Male victims are generally in relationships with other men (Tjaden and Thoennes, 2000). It is believed that domestic violence happens as frequently in relationships involving gay, bisexual and transgender men as it does in heterosexual relationships (National Coalition of Anti-Violence Programs, 2000). A very small number of men are battered by female partners, as well (Tjaden and Theonnes, 2000; U.S. Department of Justice, 1998).

Responses to domestic violence may be different, depending upon the relationship. It seems that men battered by other men experience many of the same responses as women battered by men, but have fewer resources (Island and Letellier, 1991). Research shows that most heterosexual men who experience violence from female partners do not react to abusive tactics by women with the same levels of fear, are often not as controlled and do not generally experience the same levels of serious injury or emotional upset as women do (Molidor and Tolman, 1998; Gelles, 1996).

Older men and men with disabilities are at increased risk to experience violence perpetrated by women as well as by other men. Victims who are older or have physical or intellectual disabilities may face some challenges if they require safe shelter. Shelters often are filled to capacity with small children along with their parent who has experienced violence. However, any agency that receives state and/or federal funding must provide services to all victims to the best of their

ability. After consulting with a victim seeking safe shelter, the agency and the victim may decide off –site shelter is a better alternative. As with any victim, peer counseling and advocacy are available to the extent possible based on capacity of the agency.

Older men over 60 can also access services through the Illinois Department on Aging.

Factors to Keep in Mind

The tactics of power and control used by abusers are surprisingly similar across demographic lines, age, race, ethnicity, economic status, education, employment status or occupation, religious affiliation, urban, suburban or rural residency, immigration status, sexual orientation, gender identity, physical and mental disabilities and marital status. However, the way in which a domestic violence victim experiences abuse can be greatly impacted by how the system, family and community responds, how the violence is identified, what barriers are faced by the victim and what resources are available to the victim. Chapter 4 includes discussion of various additional considerations and experiences that a victim of domestic violence may experience.

Additionally, the successful implementation of the protocol requires understanding of terms that may be unfamiliar or may be subject to more than one interpretation. Chapter 5 includes definitions of terms that often apply to domestic violence listed by their *Illinois Compiled Statutes* citations.

Chapter 2:

PROTOCOL FOR LAW ENFORCEMENT:

Responding to Victims of Domestic Violence

Produced by:
Illinois Family Violence Coordinating Council
at the
Illinois Criminal Justice Information Authority

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Chapter 2: Law Enforcement Component

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Introduction

The Illinois Domestic Violence Act of 1986 requires that:

Every law enforcement agency shall develop, adopt, and implement written policies regarding arrest procedures for domestic violence incidents consistent with the provisions of this Article. In developing these policies, each law enforcement agency is encouraged to consult with community organizations and other law enforcement agencies with expertise in recognizing and handling domestic violence incidents. 750 ILCS 60/301.1b.

This chapter provides guidelines and information to assist law enforcement agencies across the state with strengthening and updating the protocols with which they are currently working and developing new protocols as needed. These guidelines, incorporated with local knowledge of best practices, were designed to help law enforcement officers develop the skills necessary to provide a compassionate, trauma-informed, and safe response, conduct skilled investigation and evidence collection, and make informed decisions.

The *Goals and Intentions* and *Guiding Principles* found in Chapter I: Background form the basis of beliefs upon which this protocol was designed. When a situation arises for which the protocol has no answer, law enforcement officers can look to the *Guiding Principles* and make decisions that fit within that framework.

Role of Law Enforcement

The fundamental duty of any law enforcement officer is to serve and protect. This is especially critical in cases where victims of crime are less able to protect themselves. Domestic violence, because it is a relational crime utilizing tactics of power and control, is one such case.

Current statutory and case law require law enforcement officers to take an approach aimed at ending violence. Law enforcement officers may be the first or only contact with a victim of domestic violence and are thus more likely to see evidence of domestic and sexual violence.

Officers have multiple roles when responding to domestic violence cases and may find these roles sometimes conflict. First, they must protect and serve victims with a trauma-informed approach and act to prevent further violence. Additionally, they must uphold the law by holding offenders accountable for violations of criminal statutes. These roles come into conflict when the victim of a pattern of domestic violence commits a crime, such as possession of a controlled substance, an immigration violation, prostitution, or domestic battery. Officers must carefully consider the consequences of their actions when faced with such complicated circumstances. Arresting, or threatening to arrest, a domestic violence victim may have the unintended consequence of empowering the abuser and isolating the victim, perpetuating the violence. The primary mission of a law enforcement officer when responding to and investigating domestic violence is to act to break the cycle of violence.

References and Resources

The Illinois Law Enforcement Training and Standards Board is the state agency mandated to promote and maintain a high level of professional standards for law enforcement and correctional officers. <http://www.ptb.illinois.gov/>

Law Enforcement Liability

Outside of the context of domestic violence, Illinois law is very protective of police officers and police agencies. Generally, a police officer owes a duty to the community at large, not to any individual citizen. Failure to provide police service – even with resulting injury – does not subject officers to liability under Illinois law. 745 ILCS 10/4-107

This protected status for officers and their agencies changed in 1995 when the Illinois Supreme Court ruled in *Calloway v. Kinkelaar*. The court found that the IDVA created a “specially protected class of individuals to whom statutorily mandated duties are owed.” While the Act provides immunity for negligence, a domestic violence victim has a right of action against a police department if the victim can show that:

- He or she is a person in need of protection under the Act;
- The statutory law enforcement duties owed to him or her were breached by the willful and wanton acts or omissions of law enforcement officers; and
- Such conduct proximately caused plaintiff's injuries. (See *Calloway v. Kinkelaar*, 168 Ill App 2d 312, 323, 659 N.E.2d 1322, 1330 [IL 1995]).

Willful or wanton conduct is defined as “action which, if not intentional, shows an utter indifference to or conscious disregard for the safety of oneself or others.”

In 2006, the Illinois Supreme Court revisited the issue of police accountability in *Moore v. Green*, a lawsuit against the City of Chicago and two of its officers. In that case, the city argued that it was protected by the Tort Immunity Act, which provides,

"Neither a local public entity nor a public employee is liable for failure to establish a police department or otherwise provide police protection service or, if police protection service is provided, for failure to provide adequate police protection or service, failure to prevent the commission of crimes, failure to detect or solve crimes, and failure to identify or apprehend criminals." 745 ILCS 10/4-107

The Court unanimously reaffirmed its decision in *Calloway* and found that the specific language of the IDVA trumps the general provisions of the Tort Immunity Act. *Moore v. Green*, 848 N.E. 2d 1015 (2006).

There is, however, a time limit for police enforcement as there is “no generalized, open-ended duty to protect victims of domestic violence.” *Calloway* and *Moore* involved situations where the police failed to respond appropriately to calls for emergency assistance. In *Lacey v. Palatine*, the issue was failure to appropriately investigate allegations and provide ongoing assistance. Lacey and her mother were killed by her

abuser nearly two months after the police had closed their investigation into allegations that the abuser had found someone to kill her. No additional allegations were made to the police after the case was closed.

The Illinois Supreme Court found that the defendant departments were not actively engaging in law enforcement responsibilities involving Lacey at the time of the murders. To find the police departments liable “would create a situation where once officers were aware of the potential for violence, they would remain liable for the prevention of that violence for an indefinite period of time.” Therefore, to come within the provisions of the Act, officers must be rendering emergency assistance or otherwise enforcing the Act by “giving effect to some portion of the Act under circumstances that cannot be considered an emergency.” *Lacey v. the Village of Palatine*, 904 N.E.2d 18 (2009).

It isn’t necessary for victims to have an order of protection against the abuser in order to be protected under the Act. *Beyer v. Joliet*, 910 N.E.2d 621 (3 Dist. 2009).

Trauma Informed Response

The Substance Abuse Mental Health Services Administration, (www.samhsa.gov) states that trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or threatening and that has lasting adverse effects on the individuals functioning and physical, social, emotional, or spiritual well-being. Trauma is very personal and everyone who experiences the same situation may have a different response.

According to Judith Herman's book, *Trauma and Recovery*, psychological trauma is characterized by feelings of:

- Intense fear.
- Helplessness.
- Loss of control.
- Threat of annihilation.

Trauma not only affects the person's observable response but can also overload the brain's stress response. Traumatic events produce profound and lasting changes in physiological arousal, emotion, cognition, and memory.¹

In general, when victims feel understood, listened to, and empowered investigators tend to get better and more accurate reports of what happened. For law enforcement officers to establish rapport with victims, it is important to be trauma responsive. Russell Strand is an expert in this area and his article, "The Forensic Experiential Trauma Interview," is included in the protocol attachments. Some of his suggestions include: focusing on the persons experiences rather than a sequential reporting of events; using open ended questions, referencing senses during the interview, i.e. what did you hear, see, smell, taste, feel, and understanding the biochemistry and brain response to trauma. Additionally, Strand suggests victims should not be treated like a witness to their own victimization/crime.

Policies and procedures should be developed with the goal of avoiding victim re-traumatization, increasing the safety of all, and increasing the effectiveness and efficiency of interactions with victims. Using a trauma-informed approach helps produce better case results for law enforcement. For example, it leads to more effective interviews of victims and witnesses; it maximizes the chances of cooperation with law enforcement; and it helps structure the search for evidence to present a trauma-informed story in court to the fact-finder (judge/jury) and for the purposes of pretrial litigation. In the end, the jury will need to understand the effects of trauma to properly evaluate testimony and credibility in reaching a just verdict.²

¹ Herman, Judith. *Trauma and Recovery*. Basic Books: New York, NY (1997).

² Human Trafficking Task Force e-Using a Trauma-Informed Approach, Office of Justice Program, OVC

Domestic Violence Dynamics

Officers should have a basic understanding of the dynamics of domestic violence abuser behaviors, and victim responses to accurately assess a domestic disturbance.

Failure to properly understand the dynamics of domestic violence could result in officers being misled by an abuser, leading the officers to make an improper arrest decision. This improper decision, in turn, could result in more danger to the victim and civil liability to the officers and their agency.

A. Abuser behavior

Law enforcement officers may find the abuser seems reasonable and willing to cooperate with them when they arrive. Abusers are notorious for calming themselves when intervention arrives and using charm and reasonable behavior to attempt to manipulate the system into believing that they are innocent. The abuser may try to convince the officer that no abuse has taken place or that the couple was just having a disagreement, or give some other excuse for the disturbance. Abusers may explain that the victim's injuries are due to clumsiness or an accident or they may blame the injuries on the victim's disability or age.

Another tactic frequently employed by abusers is to claim that they are the victims and that their partners are the abusers. As abusers blame the victim for their own behavior and see themselves as the true victim, they can be quite convincing. They may even self-inflict wounds, or claim injuries caused by the victim in self-defense are attack wounds. Officers must be acutely aware of this abuser tactic. A thorough aggressor investigation is necessary when confronted by both parties claiming to be the victim.

B. Victim response

Officers may find that a victim's response to their arrival is confusing or contradictory. Again, officers must have a thorough understanding of the dynamics of domestic violence to accurately interpret what has taken place at the scene and proceed with the investigation. The following are some behaviors victims may display:

1. While the abuser may appear calm and reasonable when law enforcement officers arrive, some victims may appear out of control and unreasonable. Some victims appear angry and irrational and do not readily cooperate with officers who have come to assist them. They may be so hurt, traumatized or angry at the abuse that they yell, throw objects, or act violent themselves. Next to an abuser who is calm and reasonable, the victim may appear to be the problem. Some victims will finally feel safe enough to inflict violence upon the abuser when law enforcement officers arrive. In such situations, it is of utmost importance that officers conduct a thorough aggressor investigation. Thorough investigation will assist

officers in properly identifying who is the aggressor/abuser and who is the victim.

2. Another confusing reaction of victims to the arrival of law enforcement is the denial that violence is taking place. The officer may see the signs of abuse, but the victim may deny it. The victim may fear that if they report the abuse, the abuser will retaliate. The victim is especially likely to deny the violence if asked in front of the abuser. This is why separate interviews for both parties, and children, are so important. Interviews should take place outside the presence of the other parties.
3. The victim may also deny the violence because they wish to protect the abuser and not have them arrested. Officers must remember that this is a normal reaction to an abnormal situation, and that the abuser may not be abusive all the time. Admitting that violence is taking place, seeking help, and leaving an abusive situation is a process faced by victims of domestic violence.

Officers must also be aware that the victim may recant, refuse to sign a complaint, or may later refuse to testify. The victim may have been threatened by the abuser and, therefore, afraid to cooperate with the court system. The victim also may still be willing to believe the abuser will change and become a loving partner. Victims may not trust the courts to be fair or protect them if they cooperate. Economics may also play a role. If the victim is dependent upon the abuser for economic support, bail, fines, or jail time could hurt the victim as much as or more than the abuser. Other concerns include losing children, as well as losing services for people with disabilities. Older adults fear going to nursing homes or losing family loyalty. Recanting may simply mean that there are more negative consequences for reporting than positive.

This behavior may cause a law enforcement officer to conclude that the victim wants to remain with the abuser and is choosing to be abused rather than to do something about it. Officers have the power to intervene on behalf of domestic violence victims, and therefore must suspend judgment to assist a victim who is responding in this way. Focusing on the crime committed against the victim, on the abuser's behavior, will help guide officers toward the appropriate response.

C. Training

The Illinois Domestic Violence Act states that, "In the initial training of new recruits and every 5 years in the continuing education of law enforcement officers, every law enforcement agency shall provide training to aid in understanding the actions of domestic violence victims and abusers and to prevent further victimization of those who have been abused, focusing specifically on looking beyond the physical evidence to the psychology of

domestic violence situations, such as the dynamics of the aggressor-victim relationship, separately evaluating claims where both parties claim to be the victim, and long-term effects.” (750 ILCS 60/301.1b). All officers should receive basic training in domestic violence dynamics, aggressor identification, safety planning, child abuse, abuse against older adults, abuse against people with disabilities and their jurisdiction’s domestic violence policies. Law enforcement agencies should provide annual in-service training for all law enforcement officers and 911 operators.

D. Safety planning

Law enforcement officers should have a basic understanding of how to complete a safety plan (Chapter 5, page 47) with a victim of domestic violence. Officers are not expected to be a counselor during this process, however providing information, resources and referrals is essential to this process. This may be the victim’s only opportunity for the creation of a safety plan.

This section outlines information and procedures for law enforcement, dispatchers, and communications personnel upon receipt of an incident of domestic violence.

A. Obtaining Information

Due to the ever-changing dynamics in domestic related incidents, those calls reporting o-going and/or recently occurring domestic incidents should be promptly dispatched to law enforcement. Even if the caller reports that the other party has left the scene, there exists the possibility of their return either before or after law enforcement arrival.

Never assume that a domestic violence call is not dangerous!

Upon receiving a call reporting an in-progress or recent incident of domestic violence, telecommunicators should attempt to obtain the following information:

1. Location of the incident.
2. Description of incident.
3. Are the involved parties separated? If not, advise caller to move to a place of safety or leave the scene if possible. Where is the other involved party? **The safety of the victim(s) is always of primary concern, followed by that of responding law enforcement officers.**

References and Resources

911 Promising Practices Mini-Toolkit

For more information on promising practices for 911 Telecommunicators responding to domestic violence calls:
<http://www.icjia.state.il.us/ifvcc/projects>

4. Was there the use or threatened use of any weapon(s)? Is there access to firearms at the location? If so, what?
5. Are there any injuries? If so what? Are Emergency Medical Services (EMS) required? If so, dispatch EMS and advise them to stage away from the scene and wait for police request to respond to the scene.
6. Obtain the caller's telephone number and/or verify it with the caller. (If the caller is a child or third party, inquire as to whether those involved know that law enforcement is responding. Advise law enforcement of calls made by children or third parties).
7. Attempt to re-establish phone contact should the call be dropped or become disconnected.
8. Names of the involved parties.
9. Are there any children on the scene? What are their ages? Are they safe?
10. Regularly inquire as to the movements, actions and location of the involved parties until law enforcement arrival. Keep law enforcement informed.
11. Should the telecommunicator note a change in the demeanor or voice with the caller, be aware that it may indicate a change in the situational dynamics. The caller may be in increased danger or being threatened. Consider advising the caller to simply answer questions with a "yes" or a "no", or use numbers to classify their degree of risk or danger (scale of 1-5, with 5 being the highest risk or most severe).
12. Do the other involved parties know that law enforcement is responding? How will they act upon law enforcement arrival?
13. Are alcohol and/or drugs involved? If so what?
14. Are other non-involved persons on the scene? If so, how many?
15. Are there any protective orders in place?
16. The telecommunicator should remain on the call with the caller in those instances in which the incident is ongoing, or at the caller's request, or at the concern or suspicions of the telecommunicator. In those incidents in which the telecommunicator stays on the call, you should not terminate the call until told to do so by law enforcement.
17. Do not cancel calls in which the caller advises that they no longer require assistance. Advise law enforcement of the request made by the caller.

18. If possible, inquire on any history of domestic violence. This should also be accomplished through use of computer checks. Remember, that the lack of a call history does not mean that there is not a history of domestic violence.
19. The telecommunicator's role does not end upon law enforcement arrival. The telecommunicator should maintain communication with on-scene units by conducting periodic status checks to ascertain their safety. (The above does not represent an inclusive list of telecommunicator responsibilities, nor does the numbering necessarily represent a hierarchy of importance).

Officer Initial Response Procedures

Officers need to respond to domestic violence incidents in a safe and prompt manner based upon the information being supplied them by telecommunicators, and their own professional knowledge, while adhering to department policies and procedures. Those incidents in which an ongoing criminal act is reported or has recently occurred and the offender is on the scene or return is a possibility, should be handled like any other violent crime in-progress.

Officers are reminded that the first minutes on a domestic related scene, including the exiting of their police vehicle, are the most dangerous to law enforcement. Involved parties often know that law enforcement is responding and or realize such when they hear sirens approaching. This provides a motivated offender the opportunity to develop a plan of assault or flight from the scene. Officers should use their overhead lights and sirens prudently and according to their department policy and procedure.

Proper tactical responses are just as necessary when responding to domestic incidents as they are to bank robberies or barricaded subjects. Officers should consider deploying the following response and safety tactics when responding to these types of calls.

1. Park a safe distance from the scene.
2. Avoid parking under street lamps or in well lighted areas if possible.
3. Avoid slamming of car doors.
4. Turn down the volume on portable radios or cover the speaker.
5. Approach on an angle and making use of available cover and/or concealment.
6. Approach cautiously and always look all around you and listen.
7. Remember: Just because the telecommunicator told you that no weapons were involved, does not make it so!
8. Do not stand in front of doors or in doorways.
9. Upon making contact, determine who is on the scene and where they are.
10. Remove victim or caller, or move quickly to isolate subjects on the scene and establish tactical control.
11. Determine if the use or threatened use of weapons is involved.
12. Determine if immediate medical attention is required.

13. In the light of the United States Supreme Court decision in *Crawford v Washington*, great deference has been placed on the initial statements offered by victims in their first immediate contact with law enforcement. As such, officers should be particularly attentive to document the first immediate statement of victims.
14. Be observant of your surroundings, being mindful of the presence of weapons and crime scene evidence. Secure any weapons in immediate control of others or used in a crime.
15. Maintain a tactical presence throughout the investigation. Do not allow subjects to wander unescorted around the scene. Special Note: Homes and other buildings represent a serious officer safety concern. These locations are foreign to law enforcement and the involved subjects know well their surroundings. There is always a readily available weapon in all homes, offices, or business structures, from knives, to hammers, and letter openers. Officers should be ever vigilant in recognizing these threats and maintaining tactical control of the scene within established laws, policies and procedures.
16. Point of arrest is another dangerous time for law enforcement. If a decision has been made to affect an arrest, officers should move quickly to safely secure the offender and place them into custody.
17. When leaving a scene, be aware that departure is also a point of vulnerability for law enforcement. Just as in traffic stops, continue to look behind you and avoid recognized routes such as sidewalks and driveways. Remove yourself tactically from the scene.

Officer Responsibilities at the Scene

Often it is a victim's first contact with law enforcement that will determine how they participate in the investigation. Therefore, this initial law enforcement contact is very important. This section describes what is expected of the officer who responds to the scene of a domestic disturbance.

A. Handle domestic violence in the same manner as any other crime.

The Illinois Domestic Violence Act of 1986, as amended, requires officers to assist the victim, to arrest the abuser where probable cause exists, and to report the incident. In other words, the officer is expected to handle domestic violence in a manner similar to any other crime.

B. Separate parties and ensure safety.

When an officer responds to a domestic violence call and both victim and perpetrator are present at the household or location of the incident, the responding law enforcement officer should separate the parties and ensure the safety of all persons present. Officers should attempt to keep in view of each other at all times.

C. Identify and secure weapons.

The officer should identify and seize weapons used or with which the victim was threatened.

D. Employ a trauma-informed response.

It is imperative that law enforcement understand trauma, and how trauma affects victims' response to violence and the criminal justice process. Using a trauma-informed approach helps produce better case results for law enforcement as it leads to more effective interviews of victims and witnesses, maximizes the chances of cooperation with law enforcement, and helps structure the search for evidence to present a trauma-informed story in court.³

E. Attempt to locate abuse who are not present.

If the offender has left the scene, the officer should attempt to locate him or her.

F. Contact a victim advocate.

When possible, the officer should contact a victim advocate on the scene. Some victim advocates can respond to the scene, talk to the victim over the phone and/or follow-up with the victim the next day. The officer should give the victim contact information for the local domestic violence agency.

³The Office for Victims of Crime Training and Technical Assistance Center
<https://www.ovcttac.gov/taskforceguide/eguide/4-supporting-victims/41-using-a-trauma-informed-approach/>

Context Assessment and Aggressor Identification

Illinois law requires that responding officers carefully consider all relevant factors, both past and current, to make quality decisions that interrupt the cycle of violence, protect victims, and hold offenders accountable. Quality decisions identifying the victim and the aggressor, called the predominant, primary, or principal aggressor in some jurisdictions, are essential. It is important to note a victim of a pattern of intimate partner violence may have committed a crime during a particular incident, just as the person predominantly responsible for the violence (the aggressor) may not have committed a crime at the time of the incident. Officers should consider more than just the events of a particular incident. A proper law enforcement response requires officers to choose a course of action that both upholds the law and interrupts the cycle of violence.

Quality decisions require a proper assessment of each of the following:

A. Context

To understand the impact of violence on the parties involved, the context of the violence should be investigated. Each violent act should be examined for intent of the person who committed the violent act, the meaning of the act to the recipient, and the effect of the violent act on the recipient's future behavior.

B. Aggressor

The aggressor is that person primarily responsible for the violence and pattern of abuse in the relationship and the person attempting to abusively control the other, regardless of what crimes have been committed or what injuries have occurred. The presence, lack, or severity of injury is only one factor to be considered in determining the predominant aggressor. It should not be used as the sole factor in such determination. Identification of the predominant aggressor should only be made after a thorough investigation. To identify the aggressor, officers should consider multiple factors, including:

1. The history of domestic violence between these parties.
 - a. Has law enforcement been called to this site before?
 - b. Has anyone been previously arrested?
 - c. Is there or has there ever been an order of protection against either party?
2. Types of injuries, current and previous, including nature, location, and severity. This is sometimes difficult to determine, and requires investigation. Scratch and bite marks (generally defensive wounds) show up immediately, while more serious injuries, such as bruises or strangulation marks, are not visible until later. Look for:

- a. Does one party have scratch or bite marks on their face, arms, sides, or chest? These are generally defensive wounds received by the abusive party.
 - b. Does one person have small red marks around their neck, difficulty breathing or speaking? Are they holding their neck, even if no signs are present? These are signs of strangulation and can be difficult to detect. Or, does one person have minor red marks on the eye, or body, that you suspect may later turn to bruises? This person is more likely the victim.
- B. Likelihood of future injury to each person. History and signs of danger can be a good indication of likelihood of future injury.
 - 1. The basis and reasonableness of any fear by each person.
 - 2. The criminal history of the parties.
 - a. Does either party have any prior records for domestic violence against this or any other party?
 - b. Does either party have any prior convictions for other violent crimes, such as batteries, against any person?
 - 3. Consider the relative size and strength of the parties.
 - a. Which partner is more likely to exert power and control over the other based on physical size or strength?
 - 4. Do the statements match the injuries?
 - a. Which party's explanation for their and their partner's injuries seem more likely? For example, bite marks on the chest are more likely to be the result of self-defense by a person who being restrained than an act of aggression.
 - 5. Does any other physical evidence support either party's statement?
 - a. Is the state of the home consistent with mutual combat or are there signs that one party may have been trying to escape?
 - b. Are there broken locks on doors? Missing car keys? A phone torn out of the wall?

C. Risk Assessment

A risk assessment can help to determine the level of danger an abused person has of being killed by his or her intimate partner. Risk assessment tools in the domestic violence field have been developed to assess both an offender's risk of re-offending, and a victim's risk of lethal assault. Officers should utilize and document risk assessments and/or lethality assessments in order to provide information regarding a defendant's dangerousness to the prosecutor for use at arraignment and to judges to determine bail bond for the defendant. These assessments can also assist victims and domestic violence workers to develop more realistic safety plans.

Officers should gather information regarding the defendant's: criminal history, history of abusing current victim, history of abusing other victims, possession of weapons, use of weapons in prior violence against the victim, past threats against or abuse of pets, past attempts or threats to kill, past attempts or threat to commit suicide. Several evidence-based tools have been developed to identify the potential of lethal violence, the risk of re-assault, and severity of the assault. Each tool was developed for a specific purpose, to be used in certain settings, by identified

practitioners, and each obtains information from different sources, or combination of sources: public information (including past and present police reports), criminal history, past or present protective orders, violations of court orders or conditions, probation history, information from the perpetrator, and/or information from the victim. (<http://www.bwjp.org/our-work/topics/risk-assessment.html>)

To meet the goal of enhanced safety for an increasing number of victims, service providers and interveners are inevitably involved in attempting to identify the most dangerous offenders and manage the risks posed to victims. In response, risk assessment tools in the domestic violence field have been developed to assess both an offender's risk of re-offending, and a victim's risk of lethal assault.

⁴

Tips & Tools

VAWnet (A project of the National Resource Center on Domestic Violence has information and links to several Risk and Lethality Assessment tools.

<https://vawnet.org/sc/tools-strategies-assessing-danger-or-risk-lethality>

D. Self-defense

2. Statutory requirements

- a. A person is justified in using force against another when

⁴ Battered Women's Justice Project <http://www.bwjp.org/our-work/topics/risk-assessment.html>

- The user of force reasonably believed they or another was at risk of harm, and;
 - Risk of harm was actual or imminent, and;
 - The force used was reasonably necessary to prevent the infliction of harm. 720 ILCS 5/7-1(a).
- b. A person is justified to use deadly force when the person believes the amount of force was reasonably necessary to prevent
- The imminent death to himself or another.
 - Great bodily harm to himself or another.
 - The commission of a forcible felony. 720 ILCS 5/7-1(b).

3. **Case law requirements**

The First District Appellate Court, in *People v. Evans*, ruled in cases when deadly force is used in self-defense between intimate partners certain facts must be considered in these cases to determine if self-defense is a valid defense.

- a. The facts to be considered are:
- The mental state and sobriety of each person.
 - The difference between the physical attributes, skills, strengths of each person.
 - Prior threats in the relationship and to what extent these prior threats have been carried out.
 - Whether attacker was the apparent principle aggressor.
 - Other options that were readily available to quell the attack or escape.
 - The nature and extent of the attack.
 - The weapon that was used to stop the attack.
 - Apparent escalation or diminishment of attack at the time force was used.

- The reasonable apprehension at the time the deadly force was used. *People v. Evans*, 259 Ill. App. 3d 195, 210 (1st Dist. 1994).

- b. Additionally, a woman threatened by a larger man does not have to show infallible judgment if she reasonably believes she is in danger of suffering great bodily harm or death. *Id.*

E. Continuing threat

Prior to making an arrest, officers should consider if, and to what extent, each person who used violence is a continuing threat to the other person.

Evidence Collection

The evidence collected at the crime scene may play a role in determining the charges brought by the state's attorney or otherwise influencing the prosecution of a case. This section reviews the evidence collection steps the responding officer should take when handling a domestic violence call.

A. **Conduct separate interviews and prepare statements**

The officer should interview the victim and the offender separately so that the victim can speak freely without being intimidated by the presence of the offender.

Officers should identify and interview other potential witnesses to both the incident and the pattern of abuse. However, officers must remember domestic violence advocates are specifically prohibited by the IDVA from releasing any information about contact with victims.

In preparing written reports, officers should fully document their investigation. An officer serves neither themselves nor the victim by failing to complete a thorough report. Officers must remember that courts may not allow officers to testify to matters that are not documented.

In criminal cases, officer reports should include statements made by the victim, offender and any witnesses. When applicable, try to include quotes from involved parties in your narrative. The inclusion of quotes made by these parties can add substance and perspective to the report.

It is critical that officers obtain at least a statement from the victim about the incident which is either written and signed by the victim, or tape or video recorded. This will assist in those cases in which the victim recants or fails to articulate certain aspects of their statement during court proceedings. The same is true for offenders and witnesses. Get them to write down their version of events or document them by use of tape or video recording. Even when the offender does not confess to the crime, it is important to lock them in to their version of events in case they try to alter their statement in the future. Often overlooked and valuable pieces of evidence are 9-1-1 recordings. Officers should obtain such recordings for every domestic violence incident that results in

References and Resources

SASETA

"The Sexual Assault Survivors Emergency Treatment Act (410 IL CS 70) is an Illinois law that governs the healthcare that hospitals are required to provide to sexual assault survivors, establishes a statewide forensic evidence collection system, and creates a reimbursement program for the cost of care and evidence collection for victims who are not covered by private insurance or Medicaid."

For more information:

<http://icasa.org/legal-issues/saseta-information-and-resources>

arrest. Upon receipt, the officer should review the recording, summarize it, and place the recording into evidence. Remember that much of what the victim says on the 9-1-1 call may be admissible under *Crawford v Washington*.

Other statements which are important are those made by the victim upon immediate contact by law enforcement. These statements are generally classified as excited utterances and are looked at differently by the court than other statements made by victims that are classified as testimonial and subject to testimony in court by the victim. Responses to officer questions such as “what’s going on?”, “what happened?”, or “why are we here?” may be admissible under *Crawford*. For this reason, officers should pay special attention to these statements and document them, using quotes as much as possible, in their narratives.

Special consideration should be given to children who are on the scene and may have witnessed a crime. Care should be taken to assure the child that nothing that has happened is their fault. Officers should first attempt to establish rapport with the child by getting close to their level to establish eye contact and reducing the discrepancies in size between the officer and the child. Officers should take their time and speak to the child about non-investigative issues before asking questions about the incident. These interviews should be done in private and away from any undue influence of others.

Remember that statements by younger children may serve only to corroborate part(s) of the investigation and should not be relied upon as the sole reason for establishing probable cause to arrest. Likewise, statements made by younger children who may discount part(s) of the investigation should not be relied upon to prevent an arrest but taken into consideration along with all evidence obtained. The younger the child, the more likely their statements will be called into question or change in court. Research indicates that in homes where there is intimate partner violence, there is a significant level of child abuse. Officers should be observant of child abuse indicators and ready to investigate such suspicions when warranted.

Victims or witnesses who are older adults, have disabilities, or who are not English language users may require additional time and resources to interview and obtain a statement. The challenges can be great; however, law enforcement agencies are not allowed to provide less than full services. To do so would subject victims to further violence and victimization and liability for the officer and their agency. Some of these victims require special skills and interview techniques to be effective. Officers should learn about resources in their area that can meet these needs and how to access them.

Do not overlook the presence of any physical evidence.

B. Take photographs

Evidence collection should include color photographs of:

1. The victim's injuries
2. The premises which serve to corroborate the purported incident. Include weapons, broken glass or objects, torn clothing, blood-stained articles, damaged phones, and other damaged personal possessions of the victim, or other articles which can be used to corroborate the occurrence of violence.

With the popularity, availability and affordability of digital cameras, there should be no law enforcement agency that cannot or does not provide such a resource to their officers. Photographs, or the lack thereof, commonly either makes or breaks a case. Proper use of photography is critical and an essential element of all criminal domestic violence investigations.

Elementary photographic documentation of injuries is quite simple. A minimum of four photographs are suggested of a single injury:

1. An overall view of the subject from head-to-toe (this photograph only needs to be done once regardless of number of injuries).
2. A medium distance photograph of the injury/subject.
3. A close-up with a scale of the injury.
4. A close-up without a scale of the injury.

Officers should review their photographs prior to leaving the scene. Poor quality photographs taken by officers are quite common and often caused by officer movement during photography, washout from the flash, or distortion by being too close. Officers can avoid many of these issues by practicing using their camera during down time. Officers should retake photographs in an investigation until they are satisfactory. Always remember, that with digital photography, the number of photos taken is usually never an issue. Failure to produce usable photographs is an issue.

Digital photographs should be downloaded by the officer who took them onto a CD-R and placed into evidence or digital secured photographic storage system. It is not necessary to place a media card into evidence.

With the popularity of television programs such as CSI, the general public and hence jurors have come to expect photographs at the least in criminal prosecutions. When officers describe injuries in their report, but fail to photograph them, defense counsel may cast suspicion on the officer's veracity. Even though some marks, such as redness, do not show up well or at all on photographs,

officers should always take the photographs. The inability to see the injury in a photograph is easier to explain than the lack of a photograph.

While photographs are largely used to document victim injuries, they are equally needed and useful in documenting offender injuries or lack thereof. Injuries to an offender should always be photographed in the same manner as those of a victim. Additionally, photographing the lack of an injury to an offender is important when the offender raises claims that they were “attacked first” or that they have been injured by the victim.

It is also valuable to document the progression of injuries over time. Photographs showing only redness or the lack of observable injury often develop into bruising over time. Officers should make arrangements with victims to complete follow-up photographs as needed.

C. Collect other evidence

The officer should process the crime scene and collect evidence as in any other case involving physical harm to a victim.

The officer should obtain the names and numbers of all outcry witnesses in case further information or testimony is required of these witnesses. Ask also for the name and contact information for someone who will always know the location of the victim.

D. Verify existence of an order of protection

The officer should verify the existence of an order of protection either by telephone or radio communications with the law enforcement agency or by referring to the copy of such order provided by the victim or other individual present.

E. Look out for special considerations and signs of extreme danger

The officer should look for signs of stalking, strangulation, firearms, and sexual assault. Document all evidence of these special considerations. These are indicators that this is a potentially very dangerous situation and must be treated as such.

F. Write report

Officers responding to a domestic related incident are encouraged to write reports on the incidents. 750 ILCS 60/303 (a) requires written law enforcement reports for any “bona fide allegation” of “abuse, neglect, or exploitation” of a qualifying family and/or household member. Officers should refer to the definition of abuse as defined in 750 ILCS 60/103(1) and harassment in 750 ILCS 60/103(7) which would cover most or all domestic related incidents which come to the attention of law enforcement, including domestic arguments and certainly criminal acts, whether or not charges are filed.

Such reports by statute must include:

1. Victim statements of the severity and frequency of past abuse, neglect or exploitation;
2. History of domestic related incidents;
3. Disposition of the incident. 750 ILCS 60/304(b)(1)

In addition, it is strongly recommended that such written reports include:

1. Names of all involved parties, witnesses and children present at the scene;
2. Statements as to insulting and/or provoking contact, injury, or the lack thereof;
3. Distribution of IDVA Informational Forms.

Incidents involving allegations of criminal activity require a detailed and professional investigation, as well as, a comprehensive written report. Such reports should include:

1. Any non-testimonial statements made upon law enforcement arrival.
2. Identification of the predominant aggressor.
3. Written and/or audio, or audio/video statements of the victim, witnesses and offender.
4. Officer observations of injury or the lack thereof.
5. Observed injuries shall be described in detail as to location, size, and color.
6. Damage to property.
7. Allegations that the reporting of the incident were prohibited or interfered with by another.
8. Identification and collection of any evidence.
9. Contents of any 9-1-1 call.

In incidents requiring criminal charges, it is highly recommended that officers initiate contact with the victim, at least once, in the 72 hours following an arrest.

The objectives of the follow-up are to:

1. Document the progression or appearance of any injury.
2. Determine that there are no violations of the 72 Hour No Contact Prohibition.
3. Clarify any questions that may not have been addressed during the initial investigation.

Prior to leaving the scene of any incident in which there is an injury, or allegation of an injury, officers are required by statute 750 ILCS 60/304(b)(3) to inform the victim of the importance of seeking medical attention and the preservation of evidence, including documentation of injury or evidence by photography.

The importance of the documentation of the investigation through written reports cannot be over emphasized. It is as important, as the quality and professionalism of the investigation itself.

The objective of any report is to document the investigation and create a written record in which persons not at the scene can visualize and fully understand what it is the officers observed, heard, and did while on the scene. There are no shortcuts in report writing which benefit officers, prosecutors, or victims. State courts have over time, steadily adopted the federal court standards in reviewing law enforcement written reports. Simplified, that standard is largely one that if it does not appear in a report, then it did not happen. Good and professional report writing which accurately details the investigation and the incident reflects well on the officer, their agency, and serves to promote the overall efforts toward justice.

Arrest

Officers are required to handle domestic violence incidents as they would any other crime. When considering arrest, officers should consider all grounds for arrest, not just the offenses most commonly associated with domestic violence. This section describes the officer's arrest powers both with and without a warrant. Factors that should not disqualify or rule out whether an arrest is made include the complainant's history or prior complaints, complainant's emotional state or state of sobriety, potential financial consequences of arrest, relationship or marital status, gender, whether suspect lives on the premises, verbal assurances the violence will cease, location of the incident (public or private), speculation that the complainant may not follow through with the criminal justice process or the arrest may not lead to a conviction, whether or not there is an order of protection.

A. Warrantless arrest with probable cause conditions

In domestic violence cases involving the circumstances listed below, an officer should make an arrest without a warrant when probable cause exists. 750 ILCS 60/301(a). Under these circumstances, the officer should make an arrest, even if the victim does not want the abuser arrested or if the victim has not signed a complaint statement regarding the events that occurred. Such circumstances are:

1. There are reasonable grounds to believe that the person has committed an offense. 725 ILCS 60/301(a);
2. The officer has probable cause to believe a defendant at liberty under the provisions of subsection 725 ILCS 5/110-10(d)(1-2) and has violated a condition of their bail. 750 ILCS 60/301(c).

B. Warrantless arrest with probable cause at officer's discretion

In all other cases, it is within the officer's sound discretion to affect an arrest where there is probable cause to believe that an abuser has committed a domestic violence offense.

1. If another crime has been committed during the violation of an order of protection, that crime should be charged as an additional felony or misdemeanor complaint.
2. No officer should decline to arrest an abuser for any of the following reasons:
 - a. The victim does not wish to sign the complaint.
 - b. The parties live together.
 - c. The parties have sought civil remedies.

- d. The victim has been previously unwilling to participate in the complaint or arrest process.
- e. Verbal assurances are given by either party that the violence should cease.
- f. The parties are of the same sex, or are lesbian, gay, bisexual, or transgender.
- g. The parties claim that it is allowed within their religion or culture.
- h. One or both parties have a mental or intellectual disability or illness.
- i. Either or both parties are under the influence of alcohol and/or other drugs.
- j. There is probable cause that a subject has violated a police enforced provision/remedy of a valid and enforceable order of protection.

C. Report when no arrest is made

If an arrest is not made, the report should be forwarded to the state's attorney for review and the victim/parties should be advised of same. The victim should also be advised:

- 1. That a complaint need not be signed at the time of an incident for further action by the state's attorney.
- 2. That they have the right to request that a criminal proceeding be initiated where appropriate, including specific times and places for meeting with the state's attorney's office, a warrant officer, or other official in accordance with local procedure; 750 ILCS 60/304(b)(2) and 725 ILCS 5/112A-30(b)(2).
- 3. That it is of the utmost importance to preserve evidence, the types of evidence that could be collected at a later time, and how and by whom those types of evidence can be used. 750 ILCS 60/304(b)(3) and 725 ILCS 5/112A-30(b)(3).

D. Abuser has left the scene

If the abuser has left the scene, the officer should proceed with the following:

- 1. Conduct a search of the immediate area for the abuser.
- 2. Ask the victim what kind of vehicle the abuser may be driving, what the abuser is wearing, and where the abuser may go. If available, secure a

photograph of the abuser from the victim. Conduct a search of the places the abuser may have gone, such as a friend or family member's house, his or her place of employment, or a local business establishment.

3. Determine whether the incident indicates high risk that the abuser will return to the home and hurt the victim and/or children and make appropriate documentation.
4. Issue a broadcast, including the abuser's name and description, and note in the broadcast whether or not the incident indicates the above high risk.
5. Remain with the victim until all reasonable steps have been taken to ensure safety.
6. Provide or arrange for transportation for the victim, children and dependent adults in the victim's care to a safe place, as requested by victim.

E. List all charges

All possible charges, including non-domestic violence charges, should be listed on the arrest report. Consider all related charges, including stalking and sexual assault charges.

F. Avoid arresting both parties

Arrest decisions should consider what law enforcement action will interrupt the cycle of violence, protect the victim, and hold the abuser accountable.

1. Officers investigating domestic violence incidents are tasked with identifying the predominant aggressor. Officers often identify the single subject with an injury as the victim and the other as the primary aggressor. When all involved subjects are found to be injured, officers often use severity of injury as a determinant. These are common errors and officers should conduct thorough investigations before reaching conclusions.
2. As in any other type of crime against person, a subject has the right to defend themselves against attack. One need not wait until they are harmed in order to defend themselves. Officers need to look at the totality of the circumstances and the evidence available to them prior to assigning roles such as predominant aggressor or victim and making an arrest. The inability of an officer to do so is never a reason to arrest both subjects.
3. The arrest of both subjects, often referred to as dual arrest, most often will result in the dismissal of charges on each party. In these instances, state's attorneys are unable to discuss the case with either party, as each will invoke their constitutional rights. These cases will not make it to trial as neither party will be able to testify against the other.

4. In the very rare event that the arrest of more than one person is necessary, officers should specifically document the basis for each arrest and should write a separate report for each party justifying each arrest.
 - a. If the victim of a pattern of domestic violence has committed a crime, the officer is discouraged from arresting this person unless:
 - Failing to arrest the victim would pose an immediate physical threat to the principle aggressor or another, or
 - The crime committed is a felony. If an officer arrests the victim of domestic violence, the officer must still provide services to the victim as required by the Illinois Domestic Violence Act.

Incident Reporting and Documentation

Whether or not an arrest is made, it is of the utmost importance that the responding officers document their activity. This is particularly true in cases involving domestic violence because victims often place several calls to law enforcement before leaving their abuser or the conflict between the parties is otherwise resolved. This section describes what information should be recorded by the officer.

A. All domestic violence complaints require a report

1. Whenever an officer receives a domestic violence complaint, a report should be prepared.
2. A report should be prepared whether or not an arrest is made. If no arrest is made when the suspect is present, the report will clearly show sufficient reasons for not making an arrest.

B. The domestic violence report

Whenever an officer investigates a domestic violence incident, they should prepare a written report that includes the following:

1. The officer's observations of the victim, any visible injuries, the abuser, the presence of weapons, and any other relevant observable facts.
2. The victim's statements as to the frequency and severity of any and all prior domestic violence incidents committed by the same person.
3. Information about weapons, including any officer observations and the victim's and/or abuser's statements.
4. Information on the number of prior calls to law enforcement.
5. That the victim was advised of his or her rights under the Illinois Domestic Violence Act.
6. Statements indicating whether children were present and where they were during the incident, names and ages of children, and if they witnessed the incident. (The report should also include statements taken from the children or reason why statements were not taken).
7. Interviews and statements from all other persons present at the time of the incident, including the person who called law enforcement.
8. All other circumstances and facts pertinent to the incident.

9. Information that supports the officer's determination of who is the aggressor.

C. Report child abuse or neglect

If the officer reasonably suspects that the children have been abused or neglected, the officer should report the suspicion to the **Illinois Department of Child and Family Services at 1-800-252-8966**. This phone call and the evidence used to determine the need for the call should be documented in the report. Refer to the DCFS Manual for Mandated Reporters for more details. (<http://www.state.il.us/dcfs/docs/MANDATED2002.pdf>)

1. When there are children in the home, officers should determine, to the best of their ability, whether there is a history of physical, sexual, or serious emotional abuse of children.
2. If the officer reasonably suspects that the children have been abused or neglected, the officer should report the suspicion to the Illinois Department of Child and Family Services at 1-800-25-ABUSE. Abuse includes any act that creates a substantial risk of physical injury." Examples include choking or smothering a child, shaking or throwing a small child, and violently pushing or shoving a child into fixed objects. Other circumstances include incidents of domestic violence in which the child was threatened, violations of orders for the perpetrator to remain apart from the child, and a history of past sexual abuse which may place other children at risk.

DCFS Manual for Mandated Reporters, p. 6.

<http://www.state.il.us/dcfs/docs/MANDATED2002.pdf>

3. When probable cause exists and a crime was committed against a child, an arrest should be made for those offenses in addition to offenses related to the domestic violence incident.

D. Report abuse or neglect against older adults and adults with disabilities

If the officer reasonably suspects that a person over the age of 60 or a person with a disability has been abused, neglected, or exploited by a family member or caregiver, the officer should make a report to the appropriate reporting authority. See below.

WHERE TO REPORT

INDIVIDUAL	SETTING WHERE ABUSE HAPPENED	REPORT TO:
60 Years or Older	Community or Domestic	Adult Protective Services 1-866-800-1409

INDIVIDUAL	SETTING WHERE ABUSE HAPPENED	REPORT TO:
With a Disability 18 – 59 Years Old	Community or Domestic	Adult Protective Services 1-866-800-1409
60 Years or Older or with a Disability 18 – 59 Years old	Licensed Long-term Care Facility	IL Dept. of Public Health 1-800-252-4343
With a disability 18 – 59 years old	Licensed Facility	Office of Inspector General 1-800-368-1463

This phone call and the evidence used to determine the need for the call should be documented in the report. If an arrest is not made, the officer should clearly document circumstances of the incident and the reason an arrest was not made in the report.

E. Reports to state's attorney

Reports should be sent to the state's attorney's office that handles domestic violence cases.

F. LEADS inquiry

When an officer responds to a domestic violence complaint, an inquiry should be instituted through LEADS to determine whether an order of protection is in effect. LEADS should provide all the information contained in the order of protection. If no order of protection is in effect, the victim should be informed of her or his rights under the Illinois Domestic Violence Act. The officer should reference the LEADS inquiry and the victim's notification of their rights in the report.

Statutory Bail Provisions and Dangerousness Assessments

Many law enforcement, prosecutors, and judges have observed that victims are often at an increased risk of danger after an arrest has been made and bail issued. In fact, research has shown that battered women are at greatest risk of being killed at the time that they are trying to leave their abuser. Therefore, 725 ILCS 5/110-10(d) provides provisions to increase the safety of the victim while the defendant is out on bail.

A. Release from custody following arrest/conditions of bond

Under Illinois Supreme Court Rule 528, bond for persons charged with Violation of Order of Protection or Domestic Battery must be set by a judge. For all other misdemeanor offenses against family or household members, defendants can be released from the police custody after posting bond but must be placed under the following special conditions of bond to protect the domestic violence victim:

1. Refrain from contact or communication with the victim for a minimum period of 72 hours following release; and
2. Refrain from entering or remaining at the victim's residence for a minimum period of 72 hours following release. 725 ILCS 5/110-10 (d)

If bond is set by a judge, the amount of time that these conditions will be in effect is discretionary and thus can be more or less than 72 hours. This statute was intended to protect victims from the time of arrest until they had access to the courts to seek an order of protection. It is not intended as a substitute for an order of protection.

A violation of these conditions is a Class A misdemeanor. 720 ILCS 5/32-10(b) Whenever a defendant who is on bail for a felony, Class A misdemeanor or a criminal offense in which the victim is a family or household member under the IDVA is charged with a new felony, Class A misdemeanor or a criminal offense in which the victim is a family or household member, the defendant must appear before the court for bond to be set. 720 ILCS 5/32-10(c)

B. Setting of bail by court for domestic battery or violation of order of protection

1. When setting bail for domestic battery or violation of order of protection, the judge must consider to the extent possible the alleged offender's:
 - a. History of domestic or other violent acts.
 - b. Mental health.
 - c. History of violating court or other government orders.

- d. Potential as a threat to another person.
- e. Access to deadly weapons or history of using deadly weapons.
- f. History of alcohol or drug abuse.
- g. Severity of violence of the offense, including but not limited to:
 - The duration of the incident.
 - If the offense involved serious physical injury, sexual assault, strangulation, a pregnant victim, abuse of pets or forcible entry to gain access to the victim (725 ILCS 5/110-5.1[b][1-7])
 - Whether the alleged offender and victim have recently separated or if separation is pending.
 - Whether the alleged offender has exhibited obsessive or controlling behaviors such as but not limited to stalking, placing under surveillance, or isolating the victim.
- h. Whether the alleged offender has expressed suicidal or homicidal ideations.
- i. Any other relevant information contained in the complaint and police report, affidavit or other documents accompanying the complaint.

References and Resources

The Cindy Bischof Act came into effect on January 1, 2009 as **Public Act 095-0773**. It was named in memoriam for Cynthia Bischof, an Arlington Heights real estate broker who was murdered by her ex-boyfriend who defied an order of protection. The Act enhances protection for victims of domestic violence and creates stronger deterrence for order of protection violators by expanding the use of electronic surveillance of offenders, increasing risk assessment methods, and by establishing procedures for setting bail for order of protection violators.

<http://www.ilga.gov/legislation/publicacts/95/095-0773.htm>

C. Assessment of persons charged with violation of order of protection

The court may order a respondent charged with violation of order of protection to undergo a risk assessment evaluation by an Illinois Department of Human Services-approved partner abuse intervention program provider, pretrial services, probation, or parole agency. To complete the evaluation, the agency must have access to summaries of the defendant's criminal history, but should not be given access to victim interviews or information. Based on the results of the evaluation,

a judge may order a defendant to be placed under electronic surveillance as a condition of bond (see 5/-8A-7).

D. Compliance with order of protection

The court may order a defendant charged with any offense to comply with the terms and conditions of an order of protection. 725 ILCS 5/110-10 (b)(15)

E. Firearms

Persons prohibited from possessing firearms under federal law are prohibited from being issued a FOID card or possessing firearms in Illinois. 430 ILCS 65/10 (c-4)

Under federal law, persons convicted of a “misdemeanor crime of domestic violence” (including offenses other than domestic battery which meet federal criteria) are prohibited from possessing firearms. This includes offenses which have as an element the use or attempted use of physical force or threatened use of deadly weapon when the victim when committed against a person in a qualified relationship (18 U.S.C 922 [g][9]).

The state must notify a defendant who has been charged with an offense which, because of the relationship between the defendant and the alleged victim and the nature of the alleged offense, may result in the revocation of the FOID card. Defendants may be entitled to a hearing to determine if the charge qualifies under federal law as a misdemeanor crime of domestic violence (725 ILCS 5/112A-11.1).

The court may order a person to surrender all firearms in his or her possession to a law enforcement officer if that person has been charged with, among other things, stalking, aggravated stalking, or domestic battery (720 ILCS 5/110-10[a][5]). Such firearms should then be impounded by the investigating officer along with the owners Firearm Owners Identification (FOID) Card which shall immediately be mailed to the Illinois State Police, Firearm Services Bureau. *Id.* All legally possessed firearms shall be returned upon the charges being dismissed, or if the person is found not guilty, unless the finding of not guilty is by reason of insanity. *Id.*

1. Firearms and Other Weapons

Used or threatened

- a. Officers will take possession of all weapons and objects, including legally possessed firearms, if there is probable cause to believe these weapons or objects were used or were threatened to be used to commit domestic violence. If the officer has reason to fear for the continued safety of a family and/or household member(s) and firearms are available, the officer shall ask a subject with lawful

authority, to voluntarily surrender such firearms for the purpose of safekeeping, regardless of whether an arrest is made.

- b. Officers will check all persons involved in a domestic violence incident for a FOID card.

2. Release on bond

- a. When a person has bonded out (as determined by a court appearance) on a charge of domestic battery, one possible condition of the bond is that he/she may be prohibited from possessing a firearm. When an officer encounters someone whose bond requires the surrender of firearms, the officer should take lawful steps to confiscate firearms and FOID card in the person's possession.

3. Voluntary surrender of firearms

- a. If a person offers firearms to an officer to be secured for safekeeping, and the owner of the firearms does not object or is not present, the officer will temporarily secure the firearms as property to be released upon proof of ownership and a valid FOID card.

4. Orders of protection

- a. Officers who come upon a person in possession of firearms who is listed as the respondent to an active OP will notify the Illinois State Police, Firearm Services Bureau by LEADS message using CDC (KYW) or by telephone to 217/782-3700 or 217/782-3550.
- b. If the OP meets the criteria as a qualifying court order under federal law or the order prohibits possession of firearms officers will:
 - Seize the firearms and secure them as property.
 - Seize the FOID card and return it to the Firearm Services Bureau.

F. Violation of bail

A person will be charged with a Class A misdemeanor offense for violation of the 72-hour no-contact provision of the bail condition (720 ILCS 5/32-10[b]).

Therefore, if a defendant returns to the victim's residence or contacts the victim in any way within 72 hours of having been released on bail on a domestic violence case, they should be arrested and prosecuted for the offense of Violation of Bail Bond. *Note: prohibition of firearm possession, bail provisions, including the 72-hour no-contact provision, are not currently included in LEADS. Firearm possession is listed in the section for Remedy 17.*

G. Arrest of persons on parole or Mandatory Supervised Release

If an offender is on parole or on Mandatory Supervised Release and is arrested for any offense listed below, the Illinois Department of Corrections must issue a parole violation warrant for the offender:

1. Domestic battery or aggravated domestic battery.
2. Stalking or aggravated stalking.
3. Violation of order of protection.
4. Any offense that would require registration under the Sex Offender Registration Act.

Notify the Illinois Department of Corrections about an arrest by calling the Automated Message Center at 800-436-6317. This center operates 24 hours per day, 365 days a year.

Orders of Protection

Victims of domestic violence may petition a civil, criminal, or juvenile court to issue an order of protection (OP). An order of protection (OP) is a court order designed to protect family or household members against abuse. The OP prohibits the respondent from committing certain acts and may also order the respondent to perform certain acts. The OP is directed to the respondent only and does not require compliance by the petitioner.

The Illinois Domestic Violence Act appears in both the Families Code (750 ILCS 60/) and the Criminal Code (725 ILCS 5/112A). There are very few intentional differences in the procedures for obtaining an order of protection in criminal court versus civil court.

This section defines what an order of protection is, how it is obtained, and its enforcement by law enforcement.

A. Description

1. Family or household members are defined by the:
 - a. People who are related by blood or by present or prior marriage.
 - b. People who share or formerly shared a common dwelling (apartment or home).
 - c. People who have or allegedly have a child in common.
 - d. People who share or allegedly share a blood relationship through a child.
 - e. People who have or have had a dating or engagement relationship.
 - f. People with disabilities and their personal assistants and caregivers.

The IDVA defines caregiver. In addition to persons who would already come under the IDVA, this definition adds:

- A person who is employed by the elderly or disabled person or by another to reside with or regularly visit the elderly or disabled person and provide for such person's health and personal care.
- A person who has agreed for consideration to reside with or regularly visit the elderly or disabled person and provide for such person's health and personal care.
- A person who has been appointed by a private or public agency or by a court of competent jurisdiction to provide for the elderly or

disabled person's health and personal care (750 ILCS 60/103[6] and 720 ILCS 5-112A-3[3]).

B. Availability

An order of protection can be issued in civil, criminal, or juvenile court under a number of circumstances.

1. An order of protection can be issued in civil court independently in a civil action, or as part of a divorce proceeding, guardianship, probate, or other civil proceeding (750 ILCS 60/202[a][1-2]).
2. An order of protection can be issued in criminal court in connection with a criminal charge when the petitioner is the victim of the offense and the respondent is the defendant (750 ILCS 60/202[a][3] and 725 ILCS 5/112A-2[a]).
3. An order of protection can be issued in juvenile court in connection with a delinquency petition (750 ILCS 60/202[a][3]).

C. Types and duration of orders of protection

1. Emergency order of protection

An emergency order of protection is only valid for 14 to 21 days. In cases where the petitioner alleges that abuse would occur if the respondent were given notice, the emergency order of protection can be entered without giving notice to the respondent. In emergency order of protection, certain remedies cannot be granted. Remedies that are not available include counseling, temporary custody, payment of support, monetary compensation, or reimbursement of shelter costs.

2. Interim order of protection

An interim order of protection is valid for up to 30 days. This order is issued after the respondent has been served or after the petitioner has served notice on the respondent and convinced the court that they are trying to complete the required service of process. Though not generally available in an interim order of protection, the following remedies may be available if the respondent has been personally served or has filed an appearance in court: counseling, payment of support, monetary compensation, or reimbursement of shelter costs.

3. Plenary order of protection

- a. Plenary orders of protection can be valid for varying lengths of time.
- b. An independent order is valid for a set period of time not to exceed two years.

- c. If entered in conjunction with a civil proceeding, for a fixed period of time not to exceed 2 years, but if incorporated into the final judgment of the case, it can run for the life of the final decree, becoming a permanent order.
- d. If in conjunction with a criminal offense, for the length of the defendant's sentence plus two years or two years beyond mandatory supervisory release.
- e. In conjunction with any proceeding, until the conclusion of the case (750 ILCS 60/220).

If an Order of Protection is extended after the initial plenary order, the order may be in effect until vacated, which is essentially a permanent order (750 ILCS 60/220 [e]).

D. Service of process

- 1. Any action for an order of protection is a distinct cause of action and requires that a separate summons be issued and served. 750 ILCS 60/210(a).
- 2. The summons should be given expedited service. The sheriff or other law enforcement officer should serve the summons at the earliest time and should take precedence over other summonses except those of a similar emergency nature. 750 ILCS 60/210(c) and 725 ILCS 5/112A-10(c).

E. Entry into law enforcement agencies data system (LEADS)

The county sheriff should be responsible for entering all orders of protection into LEADS on the day the order is issued by the court regardless of whether the order has been served. 750 ILCS 60/220(b) and 725 ILCS 5/112A-22(b).

F. Revocation of firearms owner's identification (FOID) card

If a court finds that there is sufficient evidence of danger of illegal use of a firearm, the court will issue an order to seize the firearm (750 ILCS 60/214[b][14.5][a] and 725 ILCS 5/112A-14.5[a]). If the respondent is in court, the firearms should be turned over to the local law enforcement agency for safekeeping. *Id.* If the respondent is not in court, the court shall issue a warrant for the seizure of the firearms. *Id.* Illinois State Police can revoke and seize a Firearm Owners Identification Card (FOID) card from who it is issued if the person is under an order of protection prohibiting possession of a firearm. 430 ILCS 65/8(j). Additionally, after January 1, 1998, a FOID card can be revoked for a conviction of a domestic battery (430 ILCS 65/8[l]).

G. Full faith and credit

A petitioner may enroll a copy of their order of protection in any judicial circuit where they believe they may need to enforce the order. But such enrollment is

not necessary for enforcement of the OP by law enforcement. Officers may be able to verify a protective order issued by another state through the NCIC protective order file. It is possible, however, that a valid order is not listed in NCIC for a variety of reasons, including that the petitioner did not know the birth date of the respondent, the jurisdiction does not enter the orders in a timely manner, or the jurisdiction does not enter their orders into a database reflected in NCIC. Federal law allows officers to enforce a protective order without liability if it is certified and it appears authentic on its face.

Order of Protection Remedies

Victims of domestic violence can choose which remedies they want to request in the order of protection. A domestic violence victim advocate or state's attorney's office advocate can assist the victim with understanding the order including the paperwork, possible remedies and the process.

A. **Prohibition of abuse, neglect or exploitation**

This remedy prohibits the respondent from further abusing, neglecting, or exploiting the petitioner. Abuse includes physical abuse, harassment, intimidation, interference with personal liberty, or willful deprivation. 750 ILCS 60/214(b)(1) and 725 ILCS 5/112a-14(b)(1).

If the protected person is a high-risk adult with disabilities, the order can also prohibit the respondent from neglecting or exploiting the person. A high-risk adult with disabilities is a person 18 year of age or old whose physical or mental disabilities impairs their ability to seek assistance on their own.

This remedy is law enforcement enforceable. 750 ILCS 60/223(a)(1) and 725 ILCS 5/112a-23(a)(1). A respondent who violates this remedy should be arrested and charged with the crime of Violation of an Order of Protection. The DCFS hotline should be called if the protected person/victim is under 18.

B. **Exclusive possession of residence**

This remedy grants the petitioner exclusive possession of the residence and prohibits the abuser from entering. It can be used if the petitioner has the right to occupy and the respondent does not, or if both have the right to occupy and the balance of hardships favors the petitioner. 750 ILCS 60/214(b)(2) and 725 ILCS 5/112a-14(b)(2).

This remedy is law enforcement enforceable. 750 ILCS 60/223(a)(1) and 725 ILCS 5/112a-23(a)(1). A respondent who violates this remedy should be arrested and charged with the crime of violation of an order of protection.

C. **Stay away and additional prohibitions**

This remedy allows the court to order the respondent to stay away from the petitioner and/or prohibit the respondent from entering or remaining present at the petitioner's school, place of employment or other specified places at times when the petitioner is present, if the prohibition is reasonable given the balance of hardships. 750 ILCS 60/214 (b)(3)

If the court grants the stay away remedy, the respondent must also refrain from physical presence and nonphysical contact with the petitioner whether direct, indirect (including but not limited to, telephone calls, mail, email, faxes, and written notes) or through third parties who may or may not know about the order of protection. 750 ILCS 60/103 (14.5)

This remedy is law enforcement enforceable. 750 ILCS 60/223(a)(1) and 725 ILCS 5/112a-23(a)(1). A respondent who violates this remedy should be arrested and charged with the crime of violation of an order of protection. The DCFS hotline should be called if the protected person/victim is under 18.

D. Counseling

This remedy can require or recommend that the respondent undergo counseling for a specified amount of time. 750 ILCS 60/214(b)(4) and 725 ILCS 5/112a-14(b)(4). The counseling may be in a partner abuse intervention program, or it may be substance abuse, mental health, or some other type of counseling deemed necessary by the court. Id.

This remedy may be enforced through contempt proceedings by the court that issued the order.

E. Physical care and possession of a minor child

This remedy allows the court to grant physical care and possession of the minor child to the petitioner. It can also order the respondent to return a minor child to the petitioner or prohibit the respondent from removing the child from the petitioner's care. 750 ILCS 60/214 (b)(5)

The respondent can be charged with child abduction for intentionally concealing or detaining a child or removing a child from the state in violation of this remedy if it grants the petitioner (or another person) physical care and possession of the child. If the remedy is limited to an order to return the child or not remove the child from the petitioner, the remedy is enforced by contempt of court only.

F. Temporary legal custody of a minor child

This remedy allows the judge to award temporary custody of the minor children upon the motion of petitioner. 750 ILCS 60/214 (b)(6)

The respondent can be charged with Child Abduction for intentionally concealing or detaining a child or removing a child from the state in violation of this remedy.

This remedy is law enforcement enforceable as a violation of the state's child abduction statute. 750 ILCS 60/223(a)(2) and 725 ILCS 5/112a-23(a)(2). If the respondent violates the custody remedy by removing, concealing or detaining the child, he or she can be charged with Child Abduction. 720 ILCS 5/10-5

G. Parent Time (formerly Visitation)

This remedy allows the judge to deny or restrict visitation of a minor child if the respondent has, or is likely to, commit any of the following actions:

1. Abuse or endanger the child during visitation;

2. Use the visitation to abuse or harass the petitioner, the petitioner's family, or a household member;
3. Improperly conceal or detain the child;
4. Act in a manner that is not in the best interest of the child.
750 ILCS 60/214(b)(7) and 725 ILCS 5/112a-14(b)(7).

The court, if it grants visitation, shall specify the date and time for visitation. *Id.* The court can order supervised visitation or visitation exchange at a place other than the petitioner's home. The petitioner may refuse to exchange the child if the respondent is under the influence of drugs or alcohol, or if the respondent is a danger to the petitioner or the petitioner's minor child. *Id.*
750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

This remedy may be enforced through contempt proceedings by the court that issued the order.

H. Removal or concealment of minor child

The respondent can be charged with Child Abduction, and the DCFS hotline should be called, if he intentionally conceals or detains a child within the state or removes a child from the state in violation of this remedy.

This remedy is law enforcement enforceable as a violation of the state's child abduction statute. 750 ILCS 60/223(a)(2) and 725 ILCS 5/112a-23(a)(2). A respondent who violates this remedy should be arrested and charged with the crime of child abduction.

I. Order to appear in court

This remedy can order the respondent to appear in court with or without the minor child. 750 ILCS 60/214(b)(9) and 725 ILCS 5/112a-14(b)(9).

This remedy may be enforced through contempt proceedings by the court that issued the order. 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

J. Possession of personal property

This remedy gives the petitioner exclusive possession of personal property and may require the respondent to turn it over to the petitioner.

This remedy is not law enforcement enforceable unless the respondent can also be charged with theft or criminal damage to property. 750 ILCS 60/214(b)(13)(iii) and 725 ILCS 5/112A-14(b)(12). This remedy may be enforced through contempt proceedings by the court that issued the order. 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

K. Protection of property

This remedy forbids the respondent from taking, transferring, encumbering, concealing, damaging or otherwise disposing of any real or personal property.

A respondent may be charged with Violation of Order of Protection for taking or damaging protected property only if he or she can be charged with Theft or Criminal Damage to Property as well. 720 ILCS 5/12-3.4

L. Protection of animals

This remedy allows the court to:

1. Grant the petitioner the exclusive care, custody, or control of any animal owned, possessed, leased, kept or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent;
2. Order the respondent to stay away from the animal; and/or
3. Forbid the respondent from taking transferring, encumbering, concealing, harming, or otherwise disposing of the animal. 750 ILCS 60/214 (b)(11.5)

A respondent can be charged with violation of order of protection if the violation is also a criminal offense. 720 ILCS 5/12-3.4 For example, if the respondent can be charged with Cruel Treatment (of an animal) and the animal was protected by the order, the respondent can be charged with both offenses.

M. Order of payment of support

This remedy orders the respondent to pay support or child support for a minor child in the petitioner's care if the respondent would be obligated to do so under Illinois Marriage and Dissolution of Marriage Act (IMDMA). 750 ILCS 60/214(b)(12) and 725 ILCS 5/112a-14(b)(12).

This remedy may be enforced through contempt proceedings by the court that issued the order 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

N. Payment for losses

This remedy requires the respondent to pay for losses suffered as a direct result of the abuse, including as medical expenses, lost wages, temporary housing, reasonable attorney fees, court cost, or damaged property. 750 ILCS 60/214(b)(13) and 725 ILCS 5/112a-14(b)(13).

The court can also order the respondent to pay the expenses incurred in the search and recovery of a minor child in the case of improper concealment or removal of a minor child. 750 ILCS 60/214(b)(13)(ii) and 725 ILCS 5/112a-14(b)(12)(ii).

This remedy may be enforced through contempt proceedings by the court that issued the order. 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

O. Prohibition of entry

This remedy prohibits the respondent from entering or staying in the home while under the influence of drugs or alcohol and constituting a threat to the petitioner or the petitioner's child. 750 ILCS 60/214(b)(14) and 725 ILCS 5/112a-14(b)(14).

This remedy is law enforcement enforceable. A respondent who violates this remedy should be arrested and charged with the crime of violation of an order of protection. 750 ILCS 60/223(a)(1) and 725 ILCS 5/112a-23(a)(1). The DCFS hotline should be called if the protected person/victim is under 18.

P. Prohibition of firearm possession

A court may explicitly prohibit a respondent from possessing firearms when, after a hearing in which the respondent was given notice and had an opportunity to participate, the court finds such person represents a credible threat to the physical safety of the protected persons. 750 ILCS 60/214(b)(14.5) and 725 ILCS 5/112a-14(b)(14.5).

Any FOID in the possession of the respondent shall be ordered by the court to be turned over to the local law enforcement agency, which shall immediately mail the card to the Illinois State Police Firearm Services Bureau. Id.

The court shall issue a warrant for seizure of any firearm in the possession of the respondent to be kept by the local law enforcement agency for safekeeping for the duration of the order of protection. Id.

At the end of the order of protection, the respondent may contact the Firearms Services Bureau for return of the FOID card. With a valid FOID card, a respondent may then request the return of any firearms retained by local law enforcement. Law enforcement agencies should ensure firearms are only returned to persons with a valid FOID card and who are not otherwise prohibited from possessing firearms under state or federal law. Id.

If the respondent is a peace officer, any firearms used by the respondent in the performance of his or her duties will be surrendered to the chief law enforcement executive of the agency, who shall retain the firearms for safekeeping for the duration of the order of protection. Id.

This remedy is law enforcement enforceable. A respondent who violates this remedy will be arrested and charged with the crime of violation of an order of protection. 750 ILCS 60/223(a)(1) and 725 ILCS 5/112a-23(a)(1).

Note: The return (i.e., "transfer") of a firearm to a person who does not display a valid FOID card or who is otherwise prohibited from possessing firearms under state or federal law may constitute *Unlawful Sale or Delivery of a Firearm*. Law enforcement agencies must ensure firearms are only returned to those who

display a valid FOID card and only after the person and FOID card are checked through LEADS. 720 ILCS 5/24-3 (A)(k)

Q. Prohibition of access to records

This remedy prohibits the respondent from access to the school or any other records of a child in the care of the petitioner. 750 ILCS 60/214(b)(15) and 725 ILCS 5/112a-14(b)(15).

This remedy may be enforced through contempt proceedings by the court that issued the order 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

R. Payment of shelter services

This remedy orders the respondent to reimburse a program providing shelter or counseling services. 750 ILCS 60/214(b)(16) and 725 ILCS 5/112a-14(b)(16).

This remedy may be enforced through contempt proceedings by the court that issued the order 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

S. Order for injunctive relief

This remedy allows for other relief as necessary to prevent further abuse, neglect, and exploitation or to allow for the enforcement of one of the other remedies ordered. 750 ILCS 60/214(b)(17) and 725 ILCS 5/112a-14(b)(17). This remedy may be enforced through contempt proceedings by the court that issued the order 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

Violation of an Order of Protection

Some violations of an order of protection are criminal offenses, while others are enforced by civil or criminal contempt proceedings.

A. Criminal violations of an order of protection

The respondent commits the crime of violation of an order of protection if the respondent has acquired actual knowledge of the contents of the order and knowingly violates any of the following remedies:

1. Prohibition of abuse, neglect or exploitation (Remedy 01);
2. Exclusive possession of residence (Remedy 02);
3. Stay away and additional prohibitions (Remedy 03);
4. Court ordered surrender of custody (Remedy 05);
5. Prohibition of entry (Remedy 14);
6. Prohibition of firearm possession (Remedy 14.5);
7. Any remedies on a foreign protective order (issued by another state, tribal or territorial court) that are substantially similar to the remedies listed above;
8. Any other remedy when the violation would also constitute another crime, such as theft or criminal damage to property. 720 ILCS 5/12-3.4.

Arrest for a violation of an order of protection should not bar concurrent charges for any other crime, including any crime that may have been committed at the time of the violation of the order of protection. 750 ILCS 60/223(a) and 725 ILCS 5/112A-23(a).

If an order of protection is in effect and an officer has probable cause to believe that one of the above violations has occurred, the officer may make an arrest, based on local procedures.

B. Jurisdiction exists where the violation occurs

Jurisdiction exists where the act of violating the order occurred. Therefore, an arrest can be made in any county where a violation occurs. 750 ILCS 60/223(b) and 725 ILCS 5/112A-23(b).

C. No victim signature is required

The victim should not be required to sign a complaint.

D. Treat as any other criminal offense

The offense of violation of an order of protection should be treated as seriously as any other criminal offense, and investigated and reported as any other domestic violence crime. The offense should be issued even if other charges are pending.

E. Validity

An order of protection is valid regardless of how the offender obtained entry into the victim's residence. This includes entering the residence upon invitation by the victim.

F. Child abduction

A respondent on an order of protection can be charged, and the DCFS hotline should be called, with child abduction for committing any of the following violations of an order of protection:

1. The respondent intentionally conceals or detains a child or removes a child from the state in violation of the order of protection Remedy 5 granting the petitioner or another physical care and/or possession of the child;
2. The respondent intentionally conceals or detains a child or removes a child from the state in violation of the order of protection Remedy 6 granting temporary legal custody to the petitioner;
3. The respondent intentionally conceals or detains a child or removes a child from the state in violation of the order of protection Remedy 8 prohibiting such conduct. 720 ILCS 5/10-5(b)(1).

G. Effect of victim consent

Orders of Protection are orders of the court, not of the victim. While a petitioner does have the right to return to court and ask the court to modify an order of protection, a petitioner cannot waive the protection of the order while it is in effect. To allow a respondent to violate the order because the victim gave consent "...would lead to mockery of the powers granted to the courts under the Act." *People v. Townsend*, 538 N.E.2d 1297, 1299 (IL 5 Dist. 1989); also see *People v. Priest*, 698 N.E.2d 223 (IL Dist. 1998) ("Persons subject to a court order are not relieved from obeying it even if the third party whom the order protected decides he does not want the benefit of the order.")

H. A victim cannot violate an order of protection

Petitioners protected by an order of protection cannot violate an order of protection. Only the respondent can violate an order of protection.

I. GPS Monitoring of Defendants Charged with or Conviction of Violation of Order of Protection

Illinois law now allows for the GPS monitoring of certain defendants who have

been charged with or convicted of Violation of Order of Protection. When a defendant is charged with Violation of Order of Protection, the court:

1. May order the offender to undergo a risk assessment evaluation; and
2. May order that the defendant be placed on GPS monitoring as a condition of bond.

If a defendant is found guilty of Violation of Order of Protection, the court may order GPS monitoring as a condition of the defendant's sentence to probation or conditional discharge.

If a defendant is found guilty of felony Violation of Order of Protection and receives a prison sentence, the defendant must be placed on GPS monitoring as a condition of Mandatory Supervised Release. As of January 1, 2010, the term of Mandatory Supervised Release for this offense has increased to 4 years.

Lethal Violence Order of Protection Act or Firearms Restraining Order Act (effective January 1, 2019)

Courts are able to issue emergency orders of protection if relatives of firearm owners or law enforcement officers file affidavits alleging that someone possesses an immediate threat of harm to themselves or others with a gun. Petitioners need to describe the type and location of any guns the subject of the order possesses.

If a judge grants the order, the respondent must not buy or possess any guns and "turn over to the local law enforcement agency any firearm, Firearm Owner's Identification Card, or concealed carry license in his or her possession." Temporary orders of up to 14 days could be issued immediately following an emergency hearing without the gun owner being present. After a full hearing, courts would be able to issue a six-month firearm restraining order. (430 ILCS 67/)

Assistance to the Victim and the Role of the Victim Advocate

The first person a victim encounters for help in a domestic violence situation is frequently a law enforcement officer. How the officer responds, and the assistance given can determine whether or not the victim cooperates with the pursuit of criminal charges or contacts other service providers for help. In order for the victim to be safe, law enforcement officers need to provide assistance on a variety of levels beyond arresting the abuser. It is the role of the officer to take all reasonable steps to prevent further violence, including, but not limited to, the following:

A. Accompany victim to residence

The officer shall accompany the victim into their residence to remove necessary personal items, such as identification and important papers, purse or pocketbook, clothing, medications, and toiletries. 750 ILCS 60/304(a)(3) and 725 ILCS 5/112A-30(a)(3). When accompanying a victim or an offender into a residence to retrieve belongings, keep in mind that you are responsible for the victim's safety. Do not allow a victim or offender to be alone in the residence, even if the victim agrees to the contact. There have been several incidents across the country where the police have escorted a victim into the residence, allowed the victim and offender to go into another room alone and the offender has killed the victim.

B. Information on victim's rights

The officer shall furnish the victim with information of their rights under the Illinois Domestic Violence Act of 1986. Victims and witnesses of domestic battery, stalking, and violation of an order of protection are legally entitled to information about court proceedings and the release from custody of the accused. 750 ILCS 60/304(a)(4) and 725 ILCS 5/112A-30(a)(4).

C. Provide arresting officer and agency information

The officer shall provide the victim with the name and badge/I.D./star number of the responding officer, and the responding agency's phone number. Id.

D. Provide information in victim's primary language

All information shall be provided in the victim's primary language, whenever practicable. Id.

E. Referrals to local services

1. The law enforcement agency should have good working relationships and written networking agreements with local service providers;
2. Officers shall provide referrals to local service agencies, including, but not limited to:
 - a. Domestic violence shelters and services;

- b. Older adult services for persons over 60;
- c. Disability services for persons with disabilities;
- d. Language interpretation for persons who speak a primary language other than English, including American Sign Language;
- e. Youth or children's service providers, if the victim is a youth or if the victim has children;
- f. Homeless shelters, if a domestic violence shelter is not available;
- g. Hospital or emergency care facilities;
- h. Community programs with culturally appropriate services, as needed. This includes services for immigrant victims, lesbian, gay, bisexual, and transgender victims, victims from religious minorities, victims with disabilities, and others;
- i. Mental health services;
- j. workNet www.illinoisworknet.com
Illinois workNet® is the state's primary employment and training resource for workforce development. The Illinois workNet portal offers unique features, such as locally and geographically tailored information, that benefit individuals, businesses and workforce professionals

3. The officer should provide written as well as verbal referrals;

4. Referrals should be offered whether or not an arrest is made.
750 ILCS 60/304(a)(5) and 725 ILCS 5/112A-30(a)(5).

F. Advise to seek medical attention

The officer shall advise the victim to seek medical attention. Medical care may be necessary even though injuries are not immediately apparent. 750 ILCS 60/304(a)(6) and 725 ILCS 5/112A-30(a)(6).

G. Advise victim of current and future evidence collection

The officer shall advise the victim of the evidence that has been collected. The officer should also advise the victim of the importance of preserving evidence and the types of evidence that could be collected at a later time. Finally, the officer should also explain how and by whom the evidence may be used. Id.

H. Transportation

The officer shall transport or arrange for the transportation of the victim to a medical facility for the treatment of injuries, to a nearby shelter or place of safety, or, after close of court business hours, to the nearest available circuit judge or

associate judge so the victim may file a petition for an emergency order of protection. 750 ILCS 60/304(a)(7) and 725 ILCS 5/112A-30(a)(7).

I. Services to victims

Domestic violence programs in Illinois offer a range of services to victims of domestic violence. These services include safety planning, advocacy, hotline services, individual and group counseling, shelter and transitional housing, children's services, and legal advocacy. Domestic violence advocates are an essential part of the system's response to domestic violence.

J. Written agreements with domestic violence advocacy programs

Law enforcement agencies should have signed written agreements with local domestic violence advocacy programs that serve victims in their area. These agreements should specify duties and responsibilities of the law enforcement agency and the domestic violence advocacy program. Working with domestic violence advocacy programs is an essential part of any law enforcement agency's response protocol.

K. Referral to a domestic violence advocacy program

Law enforcement officers should offer a referral all victims of domestic violence to their local domestic violence advocacy program or programs. Domestic violence advocacy programs assist victims with safety planning, problem solving, support and counseling, court advocacy, children's services, and locating other necessary resources and services. Many domestic violence advocacy programs also offer temporary shelter or transitional housing to domestic violence victims.

L. Privileged communications between domestic violence advocate and victims

The Domestic Violence Act of 1986 allows for confidential communication between domestic violence advocates and counselors who are 40-hour trained and work as an employee or volunteer for a domestic violence program and victims of domestic violence. Confidential communication is defined as communication between an alleged victim of domestic violence and a domestic violence advocate or counselor in the course of providing information, counseling, or advocacy. 750 ILCS 60/227(a)(3). The term includes all records kept by the advocate, counselor, or domestic violence program in the course of providing services to an alleged victim concerning the alleged victim and the services provided. *Id. The Mental Health and Developmental Disabilities Confidentiality Act also prohibits providers from revealing that someone is receiving services.*

Child Witnesses to Domestic Violence

Witnessing domestic violence is traumatic to children and can have long lasting effects. The officer may be the only person to ask the children about the abuse and to provide assistance to the children. The following are steps the officer can take to assist child witnesses of domestic violence:

A. Children

1. Children on the Scene

a. Interview

- i. Officers should identify all children in the home and interview all children who are verbal and/or have a means of communicating. Alternative forms of communication might include sign language, typing, spelling words, augmentative communication devices, pointing to pictures, and/or drawing pictures. Interviews of children should be conducted alone and in an age appropriate manner. The officer should sit or crouch at the child's level and speak in a gentle voice. If the child becomes too distressed, take a break or consider ending the interview.
- ii. Children should be asked about this incident and any prior abusive incidents. Leading questions should be avoided. Use general terms in asking questions and allow children to give details.
- iii. Document what the children say. Some evidence, such as excited utterances, may be admissible in court.
- iv. The officer may be the only person the children have talked to about the abuse. Therefore, the officer should listen to the children, acknowledge their experience, and respond in a comforting manner.
- v. Be sure children are with the non-offending parent or caregiver as soon as possible after the interview.

b. Determine and report child abuse and neglect

- i. When there are children in the home, officers should determine, to the best of their ability, whether there is a history of physical, sexual, or serious emotional abuse of children.

- ii. If the officer reasonably suspects that the children have been abused or neglected, the officer should report the suspicion to the Illinois Department of Child and Family Services at 1-800-25-ABUSE. Abuse includes any act that “creates a substantial risk of physical injury.” Examples include choking or smothering a child, shaking or throwing a small child, and violently pushing or shoving a child into fixed objects. Other circumstances include incidents of domestic violence in which the child was threatened, violations of orders for the perpetrator to remain apart from the child, and a history of past sexual abuse which may place other children at risk.

DCFS Manual for Mandated Reporters, p. 6.

<http://www.state.il.us/dcfs/docs/MANDATED2002.pdf>

- iii. When probable cause exists, a crime was committed against a child, an arrest should be made for those offenses in addition to offenses related to the domestic violence incident.

c. Ensure children’s care

- i. When a victim of abuse chooses to leave the scene of the offense, it should be presumed that it is in the best interests of any minors or dependents in the victim’s care to remain with the victim or a person designated by the victim, rather than to remain with the abusing party. 750 ILCS 60/304(a)(7).
- ii. If the non-offending parent or caretaker needs to be taken for medical services, or is otherwise unable to care for the children after the incident, obtain from the non-offending parent or caregiver information on who should care for the children. If needed and with the non-offending parent or caregiver’s permission, provide or arrange for transportation of the children to the temporary caregiver. If there are no family members or friends available, contact the Illinois Department of Child and Family Services. An officer should stay with the children until there is a safe adult to care for them.

2. Child abduction

The Child Abduction statute, 720 ILCS 5/10-5, was created to provide stability for minor children and to protect them from being inappropriately separated from the parent who is providing for their care. To achieve this,

the statute is based on the custodial rights of parents. Police officers are often called upon to resolve conflicts between parents regarding their children. Many of those situations are civil in nature as no crime has been committed. Parental Child Abduction is a Class 4 felony in Illinois, but the statute may be confusing to officers as the statute combines both criminal and family law concepts. (Refer to Resolving Conflicts Between Parents & Parental Child Abduction, Jan Russell in the Appendices).

a. Child abduction charges

A person can be charged with the crime of child abduction if:

- i. The person is a parent and where the parents are married or have been married and there has been no determination of custody and the offender conceals a child for 15 days without notifying the other parent of the child's location or making arrangements for visitation or conduct. (It is not a violation if a parent fleeing domestic violence is in housing provided by a domestic violence program);
- ii. The person is a parent, where the parents are or have been married and custody of the child has not been determined, and the offender detains, conceals, or removes the child with force or the threat of force;
- iii. The person is the putative father and he intentionally conceals, detains, or removes the child without consent of the mother or legal guardian and one of the following is true:
 - Paternity of the child has not been established; or
 - Paternity of the child has been established but an order regarding custody has not been entered.
- iv. The person is the mother and she intentionally conceals, or removes a child that she has abandoned or from who she has relinquished custody, from the unadjudicated father who had been the sole ongoing caregiver and her custody of the child in the mother's absence;
- v. They remove from the state or conceal a child when there is a divorce or paternity action pending, but before there has been a temporary or final determination of custody;
- vi. They violate a court order of custody, joint custody, physical care, or possession of a child;

- vii. They violate an order prohibiting the concealment, detainment, or removal of a child from the jurisdiction of the court;
- viii. Following an out-of-state violation, the offender fails to return the child to the lawful custodian in Illinois;
- ix. They remove or conceal the child for payment or promise of payment;
- x. They retain a child from another state in this state for 30 days without consent from the lawful custodian or in violation of a court order. 720 ILCS 5/10-5(b)(1-9)

b. Returning the child

Law enforcement officers should remove the child from the parent believed to have abducted the child and return the child to the lawful custodian of the child.

c. Providing lawful custodian with rights

The law enforcement officer should provide the lawful custodian information on their rights under the Child Abduction Act.

d. Fleeing domestic violence victims

The Child Abduction statute recognizes the need for victims of domestic violence to flee for their safety and take their children with them. This often requires hiding the children for some period of time from the abusive parent. The violation prohibiting the concealment of the child for 15 days where the parents are or have been married includes an exemption that prohibits such parents from being charged under that section if they are in housing provided by a domestic violence program.

In addition, the statute includes an affirmative defense that the person was fleeing an incident or pattern of domestic violence. While an affirmative defense does not prevent a person from being charged with the offense, the intent of the legislation is treat victims of domestic violence differently from other parents. Before charging child abduction, officers should seriously consider whether the parent's actions were reasonable under the circumstances, taking into account the level of violence and threat of future violence experienced by the parent.

3. Unlawful visitation interference

The Unlawful Visitation Interference statute is often misused by abusers. Such abuses make it essential for officers to understand the appropriate use of the statute.

a. Valid order

For a parent to commit this offense, there must be a valid order granting specific visitation rights to the other parent. For example, an order that calls for reasonable visitation cannot be the basis of this charge, while an order that calls for visitation to begin at 6 p.m. on Friday night can be.

The Illinois Supreme Court has also determined that this charge cannot be used in situations where the parents share joint custody of the children. The use of the statute is only appropriate where there has been no determination of custody or one parent has been granted sole custody of the children. *People v. Warren*, 671 N.E.2d 700 (IL 1996)

b. Intent to deprive visitation

The custodial parent must detain or conceal children with the intent to deprive the other parent of their right to visitation. This statute includes language that makes the person's intent an element of the offense that must be proven at trial. If the person does not have the "specific intent" to deprive the other parent of visitation, they have not committed this offense. 720 ILCS 5/10-5.5(b).

For example, an abuser might call law enforcement and request charges for unlawful visitation interference in situations where the parent has arrived late to the drop off site or the children aren't ready to leave home on time. In other cases, the children might be legitimately too ill to go for visitation. In such cases, the parent does not have the intent to deprive the parent of visitation, so it is not unlawful visitation interference.

A parent may also deny visitation that is granted pursuant to an order of protection if the visiting parent is under the influence of drugs or alcohol or is behaving in a violent or abusive manner at the time of pick up. 750 ILCS 60/214 (B)(7).

There is a limited window for the parent to pick up the children for visitation. For example, the order states that the parent has visitation from 6 p.m. on Friday until Sunday at 6 p.m. Unless the parent has made other arrangements, the children must be picked up within a reasonable time or the parent forfeits the visitation period. The custodial parent does not have to stand by the entire weekend to allow the visiting parent access throughout the visitation period.

c. When unlawful visitation interference is committed

If you have determined that the parent has committed unlawful visitation interference, there are two issues of importance:

- i. Unlawful visitation interference is a petty offense. A case report should be generated and a citation, summons or notice to appear served on the scene prepared. An arrest cannot be made unless the parent has been convicted of unlawful visitation interference at least twice previously.
- ii. Law enforcement officers do not have the right to enforce civil process unless that right is specifically granted by statute. For example, the Illinois Domestic Violence Act not only allows officers to enforce most of its provisions, in many cases it requires officers to do so. There is no statute that grants officers the right to enforce visitation orders. The officer's role is limited to writing a citation for unlawful visitation interference. An officer who orders or coerces a parent to turn a child over for visitation can be held civilly liable for any injury to the child while the child is in the hands of the other parent.

d. **Abuse tactic**

When faced with an angry, hostile parent who is demanding action, it is easy enough to decide to write a report and/or issue the citation as a means of placating the parent. Keep in mind that people who would abuse the statute will also abuse your report or the case you have initiated, using it against the custodial parent as another means of abusive power and control. Therefore, it is important that an officer's report accurately report the entire situation regarding a citation for unlawful visitation interference.

e. **Affirmative defenses**

The person denied visitation or parenting time:

- i. To protect the child from imminent physical harm, provided that the defendant's belief that physical harm was imminent was reasonable and that the defendant's conduct in withholding visitation was a reasonable response to the believed risk;
- ii. The act was committed with the mutual consent of all parties having a right to custody and visitation; or
- iii. The act was otherwise authorized by law.

- Note that the Illinois Domestic Violence Act allows a parent to deny visitation when the other parent arrives for visitation under the influence of drugs or alcohol or was behaving in a violent or abusive manner.

4. Referrals

The officer should offer the victim referrals to programs that serve as child witnesses of domestic violence where she can take her children for services and support.

High Risk Tactics of Violence

Law enforcement officers must be aware of several special considerations when investigating domestic violence incidents. Stalking, strangulation, firearms, and sexual assault are the signs of a potentially very dangerous situation both for the victim and for the officer. Further, there are particular elements to each of these considerations that require expert investigation by an officer.

When looking for signs of danger, it is important for an officer to remember that only by knowing the pattern and most serious behaviors of an abuser is it possible to determine the level of danger, and even then, such an assessment may not be accurate.

Utilization of dangerousness or lethality assessment tools that consider the offender's record, victim interview, offender interview, and psychological testing can have serious flaws. Offenders cannot be relied on to tell the truth, victims may minimize or may feel too intimidated to report accurately, and psychological testing, which is based on personality characteristics, is not reliable for this offender population. Additionally, many abusers may not have criminal records even when they have a long history of violence. Further, records of abusers' crimes that may have been committed as part of an abusive or stalking behavior may not be very illuminating, since there usually is no indication that those crimes were domestic violence-related.

With this in mind, the following is a list of elements of the most serious considerations and best practice policies that will assist officers in identifying some of the more extreme elements of danger.

A. Stalking

As of January 1, 2010, the Stalking statute in Illinois (720 ILCS 5/12-7.3) states a person commits stalking when he or she knowingly engages in a course of conduct directed at a specific person and knows or should know that the conduct would cause a reasonable person to:

1. Fear for their own safety or the safety of another person; or
2. Suffer emotional distress, defined in the statute as "significant mental suffering, anxiety or alarm."

Course of conduct means 2 or more acts including, but not limited to, acts in which a

Facts & Stats

According to the Centers for Disease Control:

"Nearly 1 in 6 women (16.0%, or 19.1 million) in the U.S. were victims of stalking at some point in their lifetime, during which she felt very fearful or believed that she or someone close to her would be harmed or killed ([Figure 5](#), [Table 5](#))."

"About 1 in 17 (5.8% or 6.4 million) men in the U.S. were victims of stalking at some point in their lifetime, during which he felt very fearful or believed that he or someone close to him would be harmed or killed ([Figure 5](#), [Table 6](#))."

<https://www.cdc.gov/violenceprevention/nisvs/2015NISVSdatabrief.html>

defendant directly or indirectly or through third parties by any action, method, device or means:

1. Follows, monitors, observes, surveils the victim;
2. Threatens or communicates to the victim or about the victim;
3. Interferes with or damages the victim's property or pet; or
4. Engages in other non-consensual contact initiated without the victim's consent, including but not limited to:
 - Being in the physical presence of the victim;
 - Appearing within the sight of the victim;
 - Approaching or confronting the victim in a public place or on private property owned, leased or occupied by the victim, or
 - Placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

The wording "method or device" allows for charges when the offender communicates via electronic communication or uses technology to track or monitor the victim.

"Reasonable person" in the statute means a "person in the victim's situation" which clarifies that courts can consider the prior history between the parties and other factors that contribute to the victim's fear or emotional distress. It is helpful for officers to document in the narrative of their report statements made by victims regarding their fear or distress and/or reasons for their fear or distress. It is also helpful to document actions the victim has taken to avoid the stalker, such as changing phone numbers or email addresses, changing the routes they travel, moving their residence, or changing jobs. These changes help to show that the offender's conduct was non-consensual and upsetting to the victim.

Under the older section of the Stalking statute, a person commits stalking when he or she, knowingly and without legal justification:

1. Follows the victim at least twice; or
2. Places the victim under surveillance at least twice; or
3. Engages in a combination of following or surveillance on at least two separate occasions;

AND

4. Transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that the victim or the victim's family member; or
5. Places the victim in reasonable apprehension of bodily harm, sexual assault, confinement or restraint; or
6. Places the victim in reasonable apprehension that a family member will receive immediate or future bodily harm, sexual assault, confinement or restraint.

A person who has been convicted of stalking need only engage in one act of following or surveillance, coupled with a threat of immediate or future bodily harm, sexual assault, confinement or restraint to the victim or the victim's family to be charged with a new offense of stalking. 720 ILCS 5/12-7.3(b) Stalking is a Class 4 felony. A second or subsequent conviction for Stalking is a Class 3 felony.

B. **Aggravated Stalking**

A person commits Aggravated Stalking when he or she commits Stalking **and**:

1. Causes bodily harm to the victim;
2. Confines or restrains the victim; or
3. Violates a temporary restraining order, an order of protection, a Stalking No Contact Order, a Civil No Contact Order or an injunction prohibiting the abuse as defined by the Illinois Domestic Violence Act. 720 ILCS 5/12-7.4.

A person can also be charged with Aggravated Stalking when he or she is or previously was required to register as a sex offender and stalks the same victim as in the sex offense.

Aggravated Stalking is a Class 3 felony. A second or subsequent conviction is a Class 2 felony.

Bond provisions

A court may deny the defendant bond in a Stalking case where the "proof is evident or

References and Resources

Information and helpful tools can be found on the **Stalking Resource Center** and **The Department of Justice, Office of Violence Against Women** websites:

- <http://victimsofcrime.org/our-programs/stalking-resource-center>
- <https://www.justice.gov/sites/default/files/ovw/legacy/2013/01/31/tips-for-law-enforcement.pdf>

the presumption great that the defendant has committed" stalking and:

1. the State proves by clear and convincing evidence that the "defendant poses a real and present threat to the physical safety of the ... victim ...";
2. the denial of release is "necessary to prevent fulfillment of the threat upon which the charge is based"; and
3. the court finds that no condition or combination of conditions of bond "can reasonably assure the physical safety of the ... victim ..." 725 ILCS 5/110-6.3(b)

C. Strangulation

Strangulation has been identified as one of the most lethal forms of domestic violence. As a result, more than half of the states in this country have passed criminal laws specifically dealing with strangulation. In 2010, Illinois amended the Aggravated Battery and Aggravated Domestic Battery statutes to allow for strangulation incidents to be charged as felonies.

Definitions

Victims reporting strangulation often say, "I was choked." It is very important for a victim to describe what happened in their own words, but it is just as important to understand the difference between "choking" and "strangulation" and to use the proper terminology in police reports. "Choking" occurs when a person swallows something that blocks the person's airway. It is usually accidental.

Under Illinois law, "Strangulation" is intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual.

References and Resources

Information and helpful tools can be found on The Training Institute on Strangulation Prevention website:

<https://www.strangulationtraininstitute.com/strangulation-concerning-type-domestic-abuse/>

Strangulation as a predictor of homicide in domestic violence cases

In several studies of domestic violence homicides, evidence showed that the victim had suffered at least one strangulation episode in the year prior to her death. It is important to note that while only 10% of murders nationally were by strangulation, 90% of those murders by strangulation were domestic violence-related. **Many of those victims died without a single visible mark to the victim's neck.**

The San Diego study

The San Diego City Attorney's Office conducted a study of 300 strangulation cases submitted for prosecution in San Diego in 1995. The research reviewed

the existing evidence, including 911 recordings, police and medical reports and photographs, and found that in 50% of cases, officers reported seeing no physical injury when responding to the scene and in 35% of cases the injury was too minor to photograph. Only 15% of cases had a photograph of sufficient quality to be used in court as physical evidence of strangulation.

While visible injury may not be present at the time of police response, there may be other physical signs of strangulation which include the following:

- Neck or throat pain
- Difficulty swallowing
- Hoarseness, change in voice or coughing
- Breathing changes
- Pain to ear or headaches
- Loss of consciousness, lightheadedness, seeing “black spots”
- Hyperventilation
- Nausea or vomiting
- Incontinence or defecation
- Uncontrollable shaking
- Pupils not the same size
- Trouble walking or moving neck
- Loss of memory
- Red spots in the eye
- Miscarriage

One physical sign not well understood until this study was the appearance of pinpoint hemorrhages (red spots), called petechiae, which can be found in the eye, under the eyelids, around the eye, on the face or scalp or, generally, anywhere above the area of constriction. Disruption of oxygen to the brain may result in behavioral changes in the victim, such as aggressiveness or a combative demeanor.

Facts & Stats

Facts You Deserve to Know from The National Domestic Violence Hotline

- Strangulation is a significant predictor for future lethal violence
- If your partner has strangled you in the past, your risk of being killed by them is 10 times higher
- Strangulation is one of the most lethal forms of domestic violence: unconsciousness may occur within seconds and death within minutes.”

<http://www.thehotline.org/2016/03/15/the-dangers-of-strangulation/>

The medical examiner noted that a victim of strangulation may die from unseen internal injuries days, and in some cases weeks, after the incident. It is important to encourage victims of strangulation to seek medical attention.

Illinois' Strangulation Law

Illinois has amended the Aggravated Battery and Aggravated Domestic Battery statutes to allow what would otherwise be a misdemeanor battery to be charged as a felony.

Strangulation is defined as:

Intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual). 720 ILCS 5/12-3.05 (3)

D. Aggravated Battery

A person who commits a battery against another person by strangulation may be charged with Aggravated Battery. 720 ILCS 5/12-3.05 (a)(5) (Formerly: 720 ILCS 5/12-4) Aggravated Battery is typically a Class 3 felony, carrying a penalty of 2 - 5 years. The sentence can be enhanced for Aggravated Battery by Strangulation to a Class 1 felony, carrying a penalty of not less than 4 years and up to 15 years, if any of the following conditions apply:

1. The person used or attempted to use a dangerous instrument while committing the offense;
2. The person caused great bodily harm or permanent disability or disfigurement to the other person while committing this offense;
3. The person has been previously convicted of this violation under the laws of this State or similar laws of another state. 720 ILCS 5/12-3.05 (h) (Unless otherwise provided, aggravated battery is a Class 3 felony)

E. Aggravated Domestic Battery

A simple battery against a family or household member as defined by the Illinois Domestic Violence Act (Domestic Battery) can be charged with Aggravated Domestic Battery when the battery was committed by strangulation. 720 ILCS 5/12-3.3 (a-5) Aggravated Domestic Battery is a Class 2 felony.

F. Firearms

The possession of firearms increases the risk of homicide in domestic violence cases. According to the Centers for Disease Control, there were 1,064 firearms deaths and 783 homicides in Illinois in 2010

(http://www.cdc.gov/nchs/pressroom/states/IL_2013.pdf). Law enforcement officers are in a unique position to ensure that laws, policies, and procedures are implemented to decrease the use and possession of firearms for abusers.

1. Policies and procedures

Each law enforcement agency should have policies and procedures regarding:

- a. The secure storage of relinquished/seized weapons;
- b. The return of firearms to respondents after an order of protection expires, including checking the respondents past criminal record, any current firearm prohibitions, and their FOID status;
- c. The handling of officers within their own law enforcement agency who are subject to orders of protection in which Remedy 14.5 is granted.

References and Resources

750 ILCS 60/214

Order of protection; remedy 14.5

“If the respondent is a peace officer as defined in Section 2-13 of the Criminal Code of 2012, the court shall order that any firearms used by the respondent in the performance of his or her duties as a peace officer be surrendered to the chief law enforcement executive of the agency in which the respondent is employed, who shall retain the firearms for safekeeping for the duration of the order of protection.”

“If the respondent is a peace officer as defined in Section 2-13 of the Criminal Code of 2012, the court shall order that any firearms used by the respondent in the performance of his or her duties as a peace officer be surrendered to the chief law enforcement executive of the agency in which the respondent is employed, who shall retain the firearms for safekeeping for the duration of the order of protection.”

2. Identification, documentation, and seizure of firearms

When responding to domestic violence-related calls, officers should ask if there are firearms in the house, and if those firearms have ever been used or threatened to be used in an abusive situation. These firearms should be seized. If firearms are present, but have not been used or threatened to be used, it should be documented and may be important if the offender denies owning or possessing any firearms at a later date.

3. Firearms transfer

If a respondent on an order of protection claims to have given any or all of their firearms to a relative or friend, the officer should ask if the person receiving the firearm(s) has a valid FOID card and proof of the transfer. The officers should also ask the respondent, as required of any person transferring a weapon, if he or she kept a record of to whom he or she gave the gun and a description of the gun. 430 ILCS 65/3(b). This record should be kept for 10 years. Id. If he or she does not have the record, the

officer may arrest him or her for violating firearms transfer law or for a violation of the FOID act. Id.

4. Revocation of firearms owners identification card

If a court finds that there is sufficient evidence that there is a danger of illegal use of a firearm, the court will issue an order to seize the firearm. 750 ILCS 60/214(b)(14.5)(a) and 725 ILCS 5/112A-14.5(a). If the respondent is in court, the firearms should be turned over to the local law enforcement agency for safekeeping. Id. If the respondent is not in court, the court shall issue a warrant for the seizure of the firearms. Id. ISP can revoke and seize a FOID card from who it is issued if the person is under an order of protection prohibiting possession of a firearm. Additionally, a FOID card can be revoked for a conviction of within the last five years of a domestic battery after January 1, 1998. 430 ILCS 65/8(l).

G. Intimate partner sexual assault

When most people think about sexual assault, they think about a stranger attacking a woman walking home alone late at night. However, studies show between 70-80% of sexual assaults are committed by someone the victim knows – from acquaintances to current or former intimate partners.

In multiple studies, 10-14% of married women in the general population reported being sexually assaulted by their husbands at least once. Of those women, half reported being attacked five or more times and 1/3 reported being attacked 20 or more times. In 18% of the cases, the attacks were witnessed by children.

Could go with a condensed version of the above - The law in Illinois now makes no distinctions between sexual assault by a stranger or by a husband. Sexual violence can happen to anyone.

In multiple studies, 10-14% of married women in the general population reported being sexually assaulted by their husbands at least once. Of those women, half reported being attacked five or more times and 1/3 reported being attacked 20 or more times. In 18% of the cases, the attacks were witnessed by children.

When we look at the issue of sexual assault within the context of domestic violence, the numbers are even more staggering. Approximately 50% of battered women reported being sexual assaulted at least once by their abusers.

Therefore, it is important for law enforcement to look for signs of sexual violence especially when the report involves domestic violence.

1. Sexual assault indicators

Whenever a law enforcement officer is responding to a domestic violence incident, it is important to look for clues from the victim that sexual assault may be occurring in the relationship and inquire further. The victim may

give subtle clues to sexual assault. Additional follow-up questions may be necessary. Indicators of intimate partner sexual assault in a violent relationship include:

- a. Torn or missing clothing;
- b. Signs of the victim having been held or tied down, such as marks on wrists or ankles;
- c. The retelling of the incident by the victim seems to be missing elements;
- d. Injuries to victim's genitals, which may be apparent when the victim shows signs of pain upon sitting or walking;
- e. Stomach cramps experienced by the victim;
- f. Bite marks or blood-bruises on the victim;
- g. The mention of "make-up sex" by the victim or abuser during the interview.

2. Investigate with care

Intimate partner sexual assault victims should be treated like all other sexual assault victims. They have experienced a loss of control over their bodies and may be experiencing numerous psychological repercussions, including embarrassment, shame, or anxiety. Law enforcement officers should:

- a. Be clear with the victim about their role as an investigator and why the questions being asked are necessary;
- b. Create an environment for questioning that is private and calming;
- c. Provide information regarding what is happening whenever the victim is left alone for more than a few minutes;
- d. Physically get on the victim's level, avoiding standing over the victim and using closed or authoritative body language.

3. Obtain medical help for the victim

When pursuing cases of sexual assault, encourage the victim to seek medical care for health and safety reasons; and to obtain a sexual assault evidence collection kit examination to preserve evidence for prosecution. Under the Sexual Assault Survivors Emergency Treatment Act, treatment must be provided without charge to the survivor. In addition, hospitals must complete an evidence collection kit at the survivor's request. The survivor does not have to release the kit to law enforcement at that time, but may release at a later date.

4. The law and charging

There are no longer any reporting restrictions on marital rape. Therefore, charges for a marital sexual assault can include criminal sexual abuse, aggravated criminal sexual abuse, criminal sexual assault, or aggravated criminal sexual assault based on the elements of the crime. Law enforcement officers should investigate and prosecutors should charge the appropriate sexual assault charges as well as domestic violence charges. A sex crimes charging chart can be downloaded from the law book in the legal issues section of www.icasa.org.

Chapter 3:

PROTOCOL FOR PROSECUTORS:
Responding to Victims of Domestic Violence

Produced by:
Illinois Family Violence Coordinating Council
at the
Illinois Criminal Justice Information Authority

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Chapter 3: Prosecutor Component

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Introduction

The *Prosecutors' Component* of the Illinois Model Domestic Violence Protocol is intended to be utilized in conjunction with Chapter 1 of the protocol.

The *Goals and Intentions and Guiding Principles*, in Chapter 1, form the basis of the beliefs upon which this protocol was designed. When a situation arises for which the protocol has no answer, prosecutors may refer to the *Guiding Principles* and make decisions that fit within that framework.

It is the desire of the task force that this protocol provides guidelines and information to assist prosecutor offices across Illinois as they update existing protocols or develop new ones. The guidelines within this protocol, incorporated with local knowledge of best practices, will assist prosecutors with the skills necessary to effectively prosecute the laws this state has developed to protect victims of violence.

Structures and Strategies for Effective Prosecution

This section offers techniques to successfully prosecute domestic violence cases. Successful intervention by the courts is the best way to stop the violence and hold the abuser accountable. Prosecutors should work from a pro-prosecution perspective.

A. Vertical prosecution

With vertical prosecution, the same prosecutor stays with a domestic violence case from beginning to end. Vertical prosecution is preferable in domestic violence cases. Prosecutors' familiarity with domestic violence is necessary for responding effectively to these cases. Therefore, where staff size permits, prosecutor's offices should designate one or more assistants to prosecute all phases of domestic violence cases. Further, both felony and misdemeanor cases should be handled within the domestic violence unit. Vertical prosecution also reduces the need for a victim to repeatedly describe the crime and allows for a rapport to develop between the victim and the prosecutor.

B. Centralized domestic violence court

Where possible, scheduling all domestic violence cases for a single court call with a designated judge is recommended. As in other areas of law, such specialization allows for judges and prosecutors to develop an in-depth knowledge of relevant laws and the unique needs of battered victims as well as developing skills in working with victims of domestic violence.

C. Knowledge of domestic violence dynamics

1. Training

Everyone in a prosecutor office should receive training on the dynamics and prevalence of domestic violence, the relevant provisions of the law, both state and federal, aggressor identification, safety planning, dangerousness issues, child abuse, parental child abduction, elder abuse, and their office's policies on handling domestic violence cases. This training should include information on evidence collection, referral sources, how to be accountable to victims, intervention strategies, and jurisdictional policies.

Specialized training should be provided to all staff on a regular and ongoing basis. Staff should be provided with opportunities for multi-disciplinary and cross-training with other professions and specializations, including law enforcement and the judiciary, domestic violence advocates, juvenile court staff, probation, elder abuse services and child protection professionals, as well as working with victims of diverse communities.

2. Potential abuser behaviors concerning the court system

Prosecutors should take steps to ensure the offender does not use the court system as another means of exercising power and control over the

victim. The offender may employ several strategies within the courtroom to achieve this end. Some of these are not always obvious to those working with the victim.

Behaviors that the abuser or a third party may use to manipulate the courts and the victim include any or all of the following:

- a. Threatening the victim or victim's family with further violence;
- b. Threatening other witnesses;
- c. Assaulting the victim during travel to or from the courthouse, or during the court hearing;
- d. Requesting repeated changes of counsel and/or continuances;
- e. Accompanying the victim to the prosecutor's office, law enforcement detective's office, or courtroom;
- f. Using proximity to the victim or to persons with the victim in the courtroom to continue intimidation and violence. For example, sending the victim notes during the proceedings, following the victim in and out of the courtroom, bringing family or friends to the courtroom to intimidate the victim, and threatening to physically assault the victim or family;
- g. Using courtship behaviors, such as sending flowers, love letters, or gifts, to harass and manipulate the victim;
- h. Manipulating the victim into recanting by claiming to change and using behaviors during this process to make the victim believe this is true;
- i. Appearing to be reasonable and willing to cooperate while claiming that there is something wrong with the victim. For example, using the victim's disability or need for support in daily living to manipulate the court into believing the offender;
- j. Falsely claiming to be the victim, possibly including attempting to file charges against the victim or obtain an order of protection against the victim.

Effective prosecution strategies and prosecutors that understand the dynamics of domestic violence can diminish the influence of these behaviors.

3. Potential victim behaviors concerning the court system

Prosecutors may find that victims of domestic violence may not respond to the court system in the same manner as victims of other crimes. Their behavior may seem confusing or contradictory.

- a. Some victims can appear angry and irrational, and do not readily cooperate with prosecutors who wish to pursue their case. The victim may be challenging and frustrating to work with, and because of this the abuser may seem calm and reasonable in comparison to the victim.
- b. The victim may deny that abuse is taking place.
- c. The victim may recant, change the story, refuse to cooperate with prosecutors, and refuse to testify, or testify for the defense.

D. Employ victim safety considerations

Prosecutors should employ the following list of safety considerations adapted from the work of the American Prosecutors Research Institute (2006) for enhancing victim safety.

- 1. Contact the victim early and often.
- 2. Work with domestic violence advocates.
- 3. Ensure that someone works with the victim to create a safety plan.
- 4. Prepare the victim for court.
- 5. Institute vertical prosecution, in which one prosecutor handles the case throughout, from charging through trial and sentencing.
- 6. Assist with and enforce orders of protection and no contact provisions.
- 7. Always keep the victim informed.
- 8. Place the focus on the offender or the system, not on the victim.
- 9. Collect and share data with other criminal justice agencies and victim support agencies.
- 10. Start public awareness initiatives.
- 11. Do not minimize the violence.
- 12. Institutionalize policies, protocols, procedures, forms, and best practices.

13. Remember, holding the offender accountable will help victim safety.

E. Evidence-based prosecution

1. What is evidence-based prosecution?

Evidence-based prosecution relies on the use of evidence rather than being dependent on the victim's testimony. This method of prosecution has long been used in the prosecution of homicide and gang-related cases. Evidence-based prosecution is a successful strategy that can be used to prosecute a case whether or not the victim testifies. In evidence-based prosecution, the prosecutor focuses on the criminal behavior of the defendant and on the evidence available rather than on the testimony of the victim. Keys to successful evidence-based prosecution are (Viswanathan, 2003; King-Reis, 2005; Markarian, 2003):

Law enforcement should proceed with all investigations of domestic violence as if the victim will not be available to testify. Evidence is gathered that supports the case thereby providing the prosecution support for the victim's testimony should she testify. However, if the victim cannot or will not testify, such investigations should provide sufficient evidence to proceed without a statement by the victim. While Illinois has a strongly worded exception to the hearsay rule for victim statements in cases of domestic violence, the provision is contrary to the ruling in *Crawford*. However, not all victim statements to police are inadmissible. The concept of "excited utterance" provides an avenue for admitting such statements if the first responder's report contains evidence of the victim's demeanor: what was her tone of voice; was she crying, shaking or fearful; was the victim clearly "upset" (in the negative sense of the word "excited"). If the report does contain such information, then the first responder can testify about the victim's demeanor during trial and then can testify about the statements she made about the incident if the victim is unwilling or unavailable to testify. The statements can be offered as direct evidence under the excited utterance exception to the hearsay rule.

It is wise in most situations where the prosecution intends to rely on a first responder's testimony about the victim's statements, to seek a ruling on the admissibility of the officer's testimony during the pretrial period by arguing a motion in limine. A brief in support of the motion should also be presented to the court. Seeking a pretrial ruling allows the prosecution to better prepare and put precedent before the court without the pressure of a sitting jury. A motion in limine can also be used at trial but may receive less attention from the court.

The prosecutor proceeds with the charges if there is sufficient evidence to prosecute, implementing a pro-prosecution policy.

The prosecutor makes the decision on whether or not to prosecute without the victim's cooperation on a case-by-case basis. Victim cooperation and victim safety factors are taken into this decision.

2. Evidence in a domestic violence case

As prosecutor's offices develop policies and strategies to reduce the amount of necessary victim participation in the case, they reduce the potential for conflict with victims who do not wish to testify. Starting each case with the assumption that the victim will not testify leads law enforcement and prosecutors to prepare cases in which such testimony is not needed. With increased training and sophistication within law enforcement agencies, prosecutors find they have the evidence to proceed with many cases with or without victim testimony. The following is a list of types of evidence that can be used to support a domestic violence case (King-Reis, 2005; Markarian, 2003; State of New York Office for the Prevention of Domestic Violence, 1998):

a. Photographs

- Victim's injuries
- Abuser's injuries or lack of injuries
- Blood-stained items
- Property damage
- Messages on caller ID or pager (evidence of stalking or violating an order of protection)
- The crime scene

b. Physical evidence collected at the scene

- Weapons
- Evidence of alcohol or drug abuse
- Damaged property, including damaged phones
- Items used to restrain, gag, beat or torture victim
- Letters with envelopes
- Victim's diary or calendar documenting abuse
- Bloody items (clothes, sheets)

- Tapes of phone messages
 - Martial arts paraphernalia
- c. **911 tapes**
Davis v. Washington confirmed the admissibility of 911 calls in 2006 (see Section XII D). 126 S. Ct. 2266, 2276 (2006).
 - d. **Text messages, email, social media sites.**
 Victims should be alerted that her use of these may be used as evidence.
 - e. **Eye witnesses**
 Neighbors may have seen or heard the abuse taking place.
 - f. **Excited utterances by victim**
 Utterances made to law enforcement, neighbors, emergency medical services, nurses, or doctors (see sub-section VIII, D for case law).
 - g. **Abuser's statements**
 Any statements that demonstrate the abuse or demonstrate inconsistent denial of the abuse.
 - h. **Medical records**
 The victim's medical records after the incident, as well as a series of medical records that show repeated injuries, are excellent sources of evidence.
 - i. **Expert medical opinion**
 The opinion of a medical expert is useful whether or not the victim sought medical care after the incident.
 - j. **Expert witness testimony**
 Local domestic violence program advocates and local law enforcement officers with extensive experience in domestic violence make excellent expert witnesses.
 - k. **Evidence of animal abuse.**
3. **Victim reluctance**
 Victims are often reluctant to testify in court for a number of reasons, including:
 - a. **Fear**
 Victims often fear for their safety, with good cause, when criminal charges are pursued. When charges are pursued the abuser may

threaten the victim in a number of ways. The victim has experienced the abuser following through on threats in the past. The abuser may still be living with the victim, or the abuser may know the victim's daily routine and have ongoing access to the victim. The abuser may continue to harass, threaten and abuse the victim after the charges were filed.

b. **Distrust of the system**

The courts may have been unable to protect the victim and children in the past. The victim may have a general fear and distrust of the court and its ability to act in a fair and respectful manner. This can be particularly true for women of color, immigrant women, women from impoverished communities, and lesbian, bisexual, and transgender women who know of others in their communities that have had negative experiences within the system.

c. **Wish to move on**

The victim may wish not to relive the whole experience through a court case, but rather wish to move on with life. This may be because the victim has left the abuser and started a new life, or because the victim has reconciled with the abuser.

d. **Shame and guilt**

The victim may feel that in some way her behavior caused the violence, or may feel it is too shameful to be reviewed in a public forum.

e. **Children**

The victim and abuser may have children together. The victim may not wish to pursue charges against the children's other parent. The victim may fear the inevitability of ongoing contact with the abuser for visitation or shared custody of the children or the abuser's threats to try to take the children if charges are pursued. The victim may also be fearful that the abuser will take his anger and/or frustration out on the children.

f. **Financial dependence**

The victim may be financially dependent upon the abuser and have no other means of support.

g. **Dependence for daily needs**

The victim may depend on the abuser for meeting daily needs due to a lifelong or age-related disability.

h. **Level of violence**

When victims contact the police, we get a snapshot of the relationship at its worse. It is important for prosecutors to

understand that there may be periods of relative calm in the relationship, especially after a battering incident and police intervention. This period of relative calm may provide victims with an opportunity to seek assistance and to work on overcoming obstacles to leaving. While we tend to believe that prosecution improves safety for victims, it may actually trigger a higher level of abuse and danger for some battered women. It has been well established that the most dangerous time for a battered woman is when she is trying to get away from the abuser. Some battered women may be working a longer-term plan to leave with greater safety and prosecution may jeopardize that plan. These factors should be taken into account when a victim makes a request that a case not go forward.

4. Victim safety considerations

The safety considerations of the victim and victim's family should be taken into account when prosecutors decide to pursue a case when the victim is reluctant or has refused to testify. Prosecutors should assess dangerousness components and safety factors. Prosecutors must take into account the possibility that pursuing charges may increase the danger to the victim.

When a prosecutor decides that justice is best served by pursuing a case in which the victim is reluctant or hostile, the prosecutor's office should develop strategies to continue assisting the victim with safety planning, support services, and appropriate referrals. The message should be that the court wishes to assist the victim, regardless of the victim's current level of cooperation.

5. Victim cooperation

Prosecutor office should incorporate strategies that assist with victim cooperation. Frequently, these are the same strategies that assist with victim safety. Victims are more likely to be cooperative if:

- a. The prosecutor works to establish a partnership with the victim in pursuing the case;
- b. They are believed, listened to, and encouraged by law enforcement officers, prosecutors, and judges;
- c. They are not made to feel responsible for the victimization or guilty for showing some signs of reluctance to testify;
- d. They are educated on the process, sentencing options, and other components and potential outcomes of their case;
- e. The prosecutor office stays in touch with the victim;

- f. They have a domestic violence advocate or victim witness specialist who supports them throughout all phases of the case;
- g. They are prepared to give testimony by the prosecutor office;
- h. When victims show signs of reluctance they are asked why, listened to, and their fears are addressed to the extent possible with education, orders of protection, violation of order of protection charges, and other actions and services as needed.

The United States Supreme Court's decision in *Crawford v. Washington*, 541 U.S. 36 (2004), strongly impacted the prosecution of domestic violence cases. After *Crawford*, no matter how reliable a victim's "testimonial statement" might be, it cannot be admitted against a defendant unless he has had an opportunity to cross-examine the victim. A "testimonial statement" is a statement "made under circumstances which would lead an objective witness reasonably to believe that the statement would be available for use at a later trial." *Id.* at 51-53.

In *Crawford*, the defendant was charged with stabbing a man who he claimed had previously assaulted his wife. Under police questioning relating to the stabbing, Crawford's wife made a tape-recorded statement at the police station that cast doubt on her husband's claim of self defense. Her statement was later used at trial against her husband in the stabbing case when defendant asserted a spousal privilege to prevent her from testifying against him. The Court found that introduction of such a statement violated the confrontation rights of the defendant.

Today, the parameters of the use of out-of-court statements in domestic violence cases are still being defined, but there are some decisions which give guidance to what is permissible after *Crawford*.

Most courts that have considered the admissibility of victim statements made to non-law enforcement (i.e., friends or relatives) are non-testimonial and therefore unaffected by *Crawford*. In 2006, the United States Supreme Court clarified that 911 calls for emergency assistance are not testimonial in domestic violence cases. *Davis v. Washington*, 126 S.Ct. 2266 (2006) (statement identifying assailant during emergency 911 call was not testimonial and not subject to confrontation clause requirements, and therefore admissible even if the victims is unwilling or unable to testify at trial). *Davis* also clarified that a domestic violence victim's statements to police at the scene of the domestic incident once the "emergency" was over were testimonial and inadmissible (because the victim was no longer "excited"). Thus, evidence of the victim's demeanor is critical to the admissibility of her statements to police under the excited utterance exception to the hearsay rule.

There are other situations where victim statements may be offered whether or not the victim testifies. For instance, if the county sheriff's office records all outgoing inmate

telephone calls from the jail (assuming each call begins with a warning to caller and recipient about recordation), the conversations can be quite fruitful. If a victim has recanted, a telephone call might reveal that she was pressured to recant by the perpetrator. Indeed, the perpetrator may actually admit the offense to the victim in attempting to get her to recant. Such calls can lead to additional charges such as interference with or harassment of a witness.

The forfeiture by wrongdoing doctrine is applicable to this issue. Forfeiture by wrongdoing is a doctrine which prevents a defendant from silencing a victim, thereby making the victim unavailable as a witness, and then seeking to bar testimonial statements. See *Davis*, 126 S.Ct. at 2280. The doctrine holds that such a defendant forfeits his rights under the Confrontation Clause by his own wrongdoing. The Illinois Supreme Court has found that the doctrine applies “when the assault is motivated at least in part by intent to interfere with or impede the process of a trial at which all witnesses with relevant knowledge appear and testify and are subject to cross-examination.” *People v. Stechly*, 225 Ill. 2d 246, 272 (2007).

Sources of Cases and Charging Considerations

Domestic violence cases come to the attention of the prosecutors' office in several different ways. The following list reviews those ways:

A. Arrest or charging by law enforcement

Most domestic violence cases result from the arrest or charging of an alleged offender by a law enforcement officer.

B. Initiated by prosecutor after review of case report

In some jurisdictions, law enforcement send reports on all domestic violence related calls, whether an arrest was made or not, to the prosecutor office. Some cases are initiated by the prosecutor following the case review. In most of these cases, the officer was unable to make an arrest because defendant had fled the scene or the officer determined that there was no probable cause to support an arrest.

C. Victim files complaint

Some cases are initiated by the prosecutor when a victim comes to the prosecutor office and files a complaint. In a portion of these cases, the victim is referred to the prosecutor by a victim assistance provider.

The prosecutor is the only one with the authority to press charges, drop charges, or prosecute in domestic violence cases. In making the decision of whether or not to prosecute, and which charges to pursue, the prosecutor should weigh a number of factors.

D. Charged as any crime against a person

Domestic violence cases should be evaluated and charged as any other crime against the person. The fact that the victim and defendant have a family or household relationship should not be a determining factor in the decision to initiate or reject charges, only in the decision as to whether the case is domestic violence in nature.

E. Deciding what charges to file

Domestic battery is a Class A misdemeanor. 720 ILCS 5/12-3.2(b). Domestic battery is distinguishable from simple battery by virtue of the parties involved as well as the provision that a second and subsequent violation becomes a Class 4 felony. In addition, there is an extensive list of offenses which elevate a misdemeanor domestic battery to a felony if the offender has been convicted prior to the domestic offense, provided that the victim in the prior case was a family or household member of the offender. Id

1. Other felony charges

Other criminal offenses may have occurred at the same time as the domestic battery, including felony crimes such as possession of a weapon or narcotics. It is important to continue to prosecute the misdemeanor

domestic violence charge as well as the felony charges. This provides additional protection to the victim that is not available if the domestic violence charge is dropped.

2. Stalking, strangulation and sexual assault

The prosecutor should look for signs of stalking, strangulation, possession of firearms or sexual assault when investigating domestic violence cases and charge appropriately.

3. Age, physical condition and relationship to the victim

The prosecutor should consider the option of filing charges of criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse and aggravated criminal sexual abuse when committed by an intimate partner, no matter the offender's age, physical condition or relationship with the victim. 720 ILCS 5/11-1.10

F. Consider all evidence in charging

In determining which charges to file, the reviewing attorney should consider the facts of the case and sufficiency of evidence, including the following:

1. Whether or not the offender used or threatened the use of a gun or other weapon;
2. The extent or seriousness of the injuries to the victim;
3. The defendant's prior criminal history;
4. The defendant's history of violence against this victim;
5. Any threats the defendant has made of future violence.

G. The presence of factors associated with lethal violence.

Many research studies have found a number of factors associated with homicide in domestic violence situations (see appendices for sample dangerousness assessment). Prosecutors must be aware, however, that domestic violence situations can escalate quickly, even in the absence of such factors. For this reason, prosecutors should use a dangerousness assessment to identify cases where extra attention is needed, but should never see the absence of identified lethality factors as meaning that the victim is not in danger of serious or lethal violence. A victim's intuition that the abuser may kill her or him is just as important as those factors identified through research.

H. Availability of independent corroboration

When independent corroboration of the domestic violence offense is available, the prosecutor will have a much stronger case whether or not the victim testifies. Independent corroboration includes:

1. Injuries observed by a person other than the victim;
2. A medical report that indicates injuries;
3. Witness to the crime;
4. Admission by the defendant;
5. Physical evidence present such as weapon, broken furniture, disarray, and torn clothes;
6. 911 call or other taped communication;
7. Video- or audio-taped interviews or statements by the victim, offender or witness;
8. Witnesses to excited utterances by the victim or other witnesses;
9. Photographs of injuries or the crime scene;
10. Witnesses who heard noises indicating that a domestic violence incident took place, such as screams or furniture being broken;
11. Information from DCFS, domestic violence programs, or other agencies for which the victim signs a release of information.

I. Victim's preference in charging

Whether or not to prosecute is the state's decision. The victim can not make the decision to press charges or to drop charges. However, the prosecutor should give consideration to the victim's safety, when making the decision as to whether or not to prosecute.

J. Declined prosecutions

The state has the right not to pursue charges as the prosecutor deems appropriate. If the prosecutor office decides not to pursue charges, a written explanation of this decision should be entered into the file. Victims should be contacted, reasons for the decision not to prosecute explained, referrals for victim services given, and invitations to contact the prosecutor's office made if they have further questions.

Context Assessment and Aggressor Identification

Some cases coming into the Prosecutor's Office for prosecution may have been well investigated by law enforcement. Unfortunately, this is not always true. As abusers are known to manipulate the legal system by claiming that they are actually the victim, prosecutors must be aware of the need to evaluate the possibility that the person charged acted in self-defense; or when self-defense isn't clear, evaluate to determine who the predominant aggressor was in a particular incident. It is also important for prosecutors to understand the context in which violence was used.

NOTE: Self-defense and predominate aggressor should be flipped. You assess for self-defense first and only do a predominant aggressor assessment if you've determined that the person didn't act in self-defense or you can't make a clear determination of self-defense.

Quality decisions require a proper assessment of each of the following:

A. Context

To understand the full picture of violence within a relationship, the context of the violence must be investigated. Each violent act should be examined for *intent* of the person who acted violently, the *meaning* of the act to the recipient, and the *effect* of the violent act on the recipient's future behavior.

B. Aggressor

The aggressor is the person primarily responsible for the pattern of abuse in the relationship and the person attempting to abusively control the other, regardless of what crimes have been committed by either party or what injuries have occurred. Prosecutors should know how to identify the aggressor so as to ensure that they are prosecuting crimes committed by the aggressor, not prosecuting a victim of violence for acts of self-defense. To identify the aggressor, multiple factors should be considered, including:

1. The history of domestic violence between these parties:
 - a. Have law enforcement ever been called to an incident between these two people?
 - b. Was either party arrested? Did law enforcement institute and document an aggressor identification at the time of the arrest?
 - c. Is there or has there ever been an order of protection against either party?
2. Types of injuries, current and previous, including nature, location and severity:

- a. Types of injuries, current and previous, including nature, location, and severity. This is sometimes difficult to determine, and requires investigation. Scratch and bite marks (generally defensive wounds) show up immediately, while more serious injuries, such as bruises or strangulation marks, are not visible until later. Look for:
 - Does one party have scratch or bite marks on their face, arms, sides, or chest? These are generally defensive wounds received by the abusive party.
 - Does one person have small red marks around their neck, difficulty breathing or speaking? Are they holding their neck, even if no signs are present? These are signs of strangulation and can be difficult to detect. Or, does one person have minor red marks on the eye, or body, that you suspect may later turn to bruises? This person is more likely the victim.
3. Likelihood of future injury to each person. Past history and signs of danger can be a good indication of likelihood of future injury.
4. The basis and reasonableness of any fear by each person. Which party is afraid of the other?
5. The criminal history of the parties:
 - a. Does either party have any prior records for domestic violence against this or any other party?
 - b. Does either party have any prior convictions for other violent crimes against this or any other person?
6. Consider the relative size and strength of the parties. Which partner is more likely to exert power and control over the other based on physical size or strength? The prosecutor may not have this information at the time each of the parties is trying to press charges, so this information will need to be investigated.
7. Do the statements match the injuries? Do explanations for injuries seem likely? Is it possible, as one party says that the other party attacked them? Do the injuries look like defensive wounds?

C. Self-defense

1. Statutory requirements

- a. A person is justified in using force against another when:

- The user of force reasonably believed he or she or another was at risk of harm, and;
 - Risk of harm was actual or imminent, and;
 - The force used was reasonably necessary to prevent the infliction of harm. 720 ILCS 5/7-1(a).
- b. A person is justified to use deadly force when the person believes the amount of force was reasonably necessary to prevent:
- Imminent death to oneself or another;
 - Great bodily harm to oneself or another;
 - The commission of a forcible felony;
720 ILCS 5/7-1(a).

2. **Case law requirements**

The First District Appellate Court, in *People v. Evans*, ruled in cases when deadly force is used in self-defense between intimate partners certain facts must be considered in these cases to determine if self-defense is a valid defense. 259 Ill. App. 3d 195, 210 (1st Dist. 1994). The facts to be considered are:

- a. The mental state and sobriety of each person;
- b. The difference between the physical attributes, skills, strengths of each person;
- c. Prior threats and abuse in the relationship and to what extent these prior threats have been carried out;
- d. Whether the attacker was the apparent principal aggressor;
- e. Other options that were readily available to quell the attack or escape;
- f. The nature and extent of the attack;
- g. The weapon that was used to stop the attack;
- h. Apparent escalation or diminishment of attack at the time force was used;

- i. The reasonable apprehension at the time the deadly force was used. Id.
3. Additionally, a woman threatened by a larger man does not have to show “infallible judgment” if she reasonably believes she is in danger of suffering great bodily harm or death. Id.

D. Battered women defendants

Many prosecutors face the challenge of deciding whether or not to pursue charges when the actual victim of domestic violence has been charged with a domestic violence crime. Victims can be wrongly charged when a law enforcement officer inaccurately identifies which party is the aggressor on a domestic violence call; when an officer arrests both parties because both were using violence; or when an abuser (aggressor) claims to be a victim and requests to pursue charges; or Prosecutors should take the following steps to ensure that a victim of domestic violence is not prosecuted:

1. **Aggressor identification**

Prosecutors should ensure that primary aggressor evaluation was accurately completed during law enforcement investigations, or should complete a primary aggressor evaluation themselves before pursuing charges in cases in which both parties used violence.

2. **Screening for female heterosexual defendants**

Each female heterosexual defendant should be screened to ensure that she is actually the perpetrator rather than the victim of an abusive relationship. This screening should be conducted separately by two individuals, one from the prosecutor’s office and one from a domestic violence advocacy program.

3. **Referral to services**

Clearly, some domestic violence victims are also arrested as offenders during a domestic violence event. Context assessment is critical to any prosecutorial charging decision. However, if a police report of a domestic violence incident results in dual arrests, a prosecutor should carefully examine events leading to the arrests (and even suggest further investigation if possible) to determine if both parties should be charged. Often context will reveal that one party is clearly the primary victim and her actions may constitute self-defense or defense of others. If a prosecutor chooses to charge only one of the persons arrested, a plan of how to distinguish the charging decision at trial should be devised. It seems obvious to state that the defense will attempt to use the arrest of the victim to the advantage of the offender. Additional investigation may reveal a pattern of behavior that explains the victim’s response. The testimony of an expert in domestic violence may also be helpful.

Statutory Bail Provisions and Dangerousness Assessments

Many law enforcement, prosecutors and judges have observed that victims are often at an increased risk of danger after an arrest has been made and bail issued. In fact, research has shown that battered women are at greatest risk of being killed at the time that they are trying to leave their abuser. Therefore, 725 ILCS 5/110-10(d) provides provisions to increase the safety of the victim while the defendant is out on bail.

A. Release from custody following arrest/Conditions of bond

Under Illinois Supreme Court Rule 528, bond for persons charged with Violation of Order of Protection or Domestic Battery must be set by a judge. For all other misdemeanor offenses against family or household members, defendants can be released from the police custody after posting bond but must be placed under the following special conditions of bond to protect the domestic violence victim:

1. Refrain from contact or communication with the victim for a minimum period of 72 hours following release; and
2. Refrain from entering or remaining at the victim's residence for a minimum period of 72 hours following release. 725 ILCS 5/110-10 (d)

If bond is set by a judge, the amount of time that these conditions will be in effect is discretionary and thus can be more or less than 72 hours. This statute was intended to protect victims from the time of arrest until they had access to the courts to seek an order of protection. It is not intended as a substitute for an order of protection. A violation of these conditions is a Class A misdemeanor. 720 ILCS 5/32-10(b)

Whenever a defendant who is on bail for a felony, Class A misdemeanor or a criminal offense in which the victim is a family or household member under the IDVA is charged with a new felony, Class A misdemeanor or a criminal offense in which the victim is a family or household member, the defendant must appear before the court for bond to be set. 720 ILCS 5/32-10(c)

B. Setting of bail by court for domestic battery or violation of order of Protection

1. When setting bail for domestic battery or violation of order of protection, the judge must consider to the extent possible the alleged offender's:
 - a. History of domestic or other violent acts;
 - b. Mental health;
 - c. History of violating court or other government orders;

- d. Potential as a threat to another person;
- e. Access to deadly weapons or history of using deadly weapons;
- f. History of alcohol or drug abuse;
- g. Severity of violence of the offense, including but not limited to:
 - The duration of the incident;
 - If the offense involved serious physical injury, sexual assault, strangulation, a pregnant victim, abuse of pets or forcible entry to gain access to the victim; 725 ILCS 5/110-5.1(b)(1-7).
- h. Whether the alleged offender and victim have recently separated or if separation is pending;
- i. Whether the alleged offender has exhibited obsessive or controlling behaviors such as but not limited to stalking, placing under surveillance, or isolating the victim;
- j. Whether the alleged offender has expressed suicidal or homicidal ideations;
- k. Any other relevant information contained in the complaint and police report, affidavit or other documents accompanying the complaint.

C. Assessment of persons charged with violation of order of protection

The court may order a respondent charged with violation of order of protection to undergo a risk assessment evaluation by an Illinois Dept. of Human Services approved partner abuse intervention program provider, pretrial services, probation, or parole agency. In order to complete the evaluation, the agency must have access to summaries of the defendant's criminal history, but should not be given access to victim interviews or information. Based on the results of the evaluation, a judge may order a defendant to be placed under electronic surveillance as a condition of bond (see 5/-8A-7).

D. Compliance with order of protection

The court may order a defendant charged with any offense to comply with the terms and conditions of an order of protection. 725 ILCS 5/110-10 (b)(15)

E. Firearms

The court may order a person to surrender all firearms in his or her possession to a law enforcement officer if that person has been charged with, among other things, stalking, aggravated stalking, or domestic battery. 725 ILCS 5/110-

10)(a)(5). Normally a court will require notice and a separate hearing before ordering the surrender of all firearms. However, the Prosecutor should ask for surrender as a condition of bail in all cases where it is suspected that the offender is a gun owner. Such firearms should then be impounded and the bailee should surrender his or her firearm owner's identification card (FOID). All legally possessed firearms shall be returned upon the charges being dismissed, or if the person is found not guilty, unless the finding of not guilty is by reason of insanity. Departments should have a written policy regarding the return of weapons. No weapons should be returned without an investigation to determine if the owner is able to lawfully possess.

As bail conditions are not currently entered into LEADS, the prosecutor should give the complaining witness a copy of the bail sheet so it can be shown to law enforcement, if necessary. The prosecutor may also fax copies of all bail requirements to law enforcement departments, as practicable.

F. Violation of bail

Illinois' violation of bail bond statute, 720 ILCS 5/32-10, provides a separate and additional offense of violation of bail bond when the crime for which bail was set involves a victim who is a family or household member of the offender. The offense is a Class A misdemeanor no matter the class of the original offense and is found in subsection (b) of the statute. Subsection (c) adds an additional requirement that enhances victim safety. Whenever an offender is released on bail for a felony, Class A misdemeanor or a criminal offense in which the victim is a family or household member is subsequently charged with any other felony, Class A misdemeanor or a criminal offense in which the victim is a family or household member of the offender must appear before the court before bail is set. As most arrests for domestic offenses are not immediately referred to the prosecution for charging or the court for the purposes of setting bond, subsection (c) seems to require incarceration of the offender until he is brought before the court for the purposes of setting bond. The period of time during which the offender is incarcerated provides a "safety zone" during which the victim can seek an emergency order of protection.

Preparing the Case for Trial

A. Victim preparation

Early contact with the victim is critical in providing victims with information and in gaining their participation in the court process. Victim preparation allows the prosecutor to demystify the system and to provide the victim with an understanding of the court process. Abusers often give victims incorrect information regarding courts. Meeting with the victim at an early stage in the proceeding is critical in ascertaining the dangerousness of the perpetrator. This meeting provides the prosecutor with a good opportunity to discuss safety issues and to refer the victim to a domestic violence advocate or victim witness staff to develop a safety plan (see Chapter 1). Thorough victim preparation provides the prosecutor with an opportunity to forge a partnership with the victim in the fight for justice.

Victim preparation allows the prosecutor to identify areas of concern and to discover information that could be forwarded to law enforcement for further investigation and for possible use at trial. (See 725 ILCS 5/115-7.4 discussed below).

The following is a list of questions that may be useful during victim preparation.

1. Has the offender spoken with the victim since the incident? If so, when? Were threats or promises made?
2. Has the victim been contacted by any family members or friends since the incident? What did they say? Have they discouraged going forward with charges or have they been supportive?
3. Is the victim able to support the family? Where are they living? What assistance do they need? What supports did the abuser provide for the victim? Does the victim have other people who can provide for these needs? This is especially important with older victims and victims with disabilities.
4. How long has the abuse been taking place? Have the children and/or pets been abused?
5. How has the victim been hurt in the past? Has the victim's life or the lives of family members been threatened?
6. Have weapons been used? If so, which? Have the victim describe the incident(s).
7. Has the victim ever been forced into unwanted sexual activity?

8. Is the victim still feeling unsafe?

It is important to remember that a prosecutor should have a witness for all meetings or interviews with victims in the event that the victim reveals information that must be disclosed to the defense. If no one witnesses the conversation, the prosecutor becomes a witness in the case and cannot prosecute.

B. Other Crimes

Pursuant to 725 ILCS 5/115-7.4, in a criminal prosecution in which the defendant is accused of an offense of domestic violence as defined by statute, evidence of the defendant's commission of another offense or offenses of domestic violence is admissible, and may be considered for its bearing on any matter which is relevant. Evidence offered pursuant to this section may include specific instances of conduct, testimony as to reputation, or testimony in the form of an expert opinion; except that the prosecution may offer reputation testimony only after the opposing party has offered that testimony. The prosecution must disclose evidence sought to be admitted under this section at a reasonable time in advance of trial, or during trial if the court excuses pretrial notice on good cause shown. In making its ruling on the admissibility of said evidence, the court will weigh the probative value of the evidence against undue prejudice to the defendant by considering those factors outlined in the statute.

The type of other crimes evidence outlined above will more than likely be disclosed during witness preparation and should immediately be referred to law enforcement for further investigation. A good rule of thumb is to file a motion in limine prior to trial seeking the court's ruling on the admissibility of said evidence.

C. Reviewing the physical evidence

(See subsection D under Structures and Strategies for Effective Prosecution for the type of evidence that should be gathered and reviewed).

1. Follow-up photographs. Photographs taken two to 21 days after the incident often provide far more powerful evidence of the true violence than initial photographs. Often bruises do not show and swelling may not happen immediately. Severe discoloration often peaks 14 to 21 days after the injury. If possible, contact should be made with the victim during this period of time to obtain follow-up photographs.

D. 911 and other emergency communications.

1. When available, 911 tapes or other taped communications should be reviewed on every case. Do not rely on printouts, as they may not reflect the full impact of the call. A tape accurately captures the victim's emotional state, it provides a microphone into the violent incident, and it often records statements of a child, witness, or defendant which the prosecutor may not be aware of.

2. When introduced at trial, these tapes reveal the severity of the domestic violence and can be the most important piece of evidence in proving the case.
3. A copy of the 911 tape should be obtained as quickly as possible, as the tapes are often erased or destroyed within a brief period of time.
4. In 2006, the U.S. Supreme Court affirmed in *Davis v. Washington* that 911 calls are not testimonial and not subject to confrontation clause requirements, and therefore admissible if the victim is unwilling or unavailable to testify at trial. 126 S. Ct. 2266, 2276 (2006). If the county jail is equipped to record telephone conversations of inmates, the prosecutor's investigator or other personnel should review an offender's calls. This can be an excellent source of corroborative evidence or, in some cases, evidence of other crimes such as harassment of a witness.
5. As was stated above, 911 telephone calls to police seeking assistance in a domestic violence situation are admissible and are not considered testimonial by the courts. Other communications by a victim may also be used should she be unwilling or unavailable to testify. Any statements made to emergency service personnel or statements to health providers ("my boyfriend punched me in the face and I cannot see out of my left eye") can be used because such statements are made for the purposes of receiving treatment. These statements are not testimonial and therefore not hearsay.

Subpoenas, Plea Negotiations, Dismissals, and Continuances

A. Subpoenas

1. Victim Subpoena

A number of protocols and policies on prosecution of domestic violence suggest subpoenaing victims both to relieve them of the responsibility for choosing to testify against the abuser, and to encourage or force them to testify. Anecdotal evidence provided by prosecutors suggests that subpoenaing victims is helpful to the prosecution of domestic violence cases. Many proponents of victim empowerment strategies proposed not using victim subpoenas. Policies following this line of thought suggest strongly encouraging but not forcing victims to testify. If the prosecutor's office does issue victim subpoenas, efforts should also be made to counsel the victim on safety concerns arising from testifying. She should also be informed about VESSA and the provision of the Illinois Code of Criminal Procedure (725 ILCS 5/115-13) which prohibits employers from firing, threatening to fire or penalizing any employee who misses work to attend any criminal proceeding if the employee is a subpoenaed witness. Such counseling should be handled by either victim/witness personnel in the prosecutor's office or victim advocates from the local domestic violence agency. Should an outside agency provide such counseling, it is helpful if the prosecutor's office and the domestic violence agency work together to design a protocol for victim counseling.

Unfortunately, some victims ignore subpoenas to testify in domestic violence cases and fail to appear. Failure to appear is a criminal offense. Indeed, should a victim ignore a properly served subpoena to testify, she can be incarcerated and held in jail until she appears before the court under the forthwith subpoena procedure. Prosecutors should carefully examine all relevant facts before deciding to either charge the victim or subject her to incarceration. Often the victim fears retaliation from the offender far more than she fears a criminal prosecution. Charging the victim or subjecting her to incarceration is harsh and a re-victimization. Clearly the facts leading to a victim's failure to appear should be carefully examined. Indeed, if it is revealed that the offender is the cause of her failure to appear then it is appropriate to charge him with interfering with or harassing a witness. Prosecutorial policy should always place victim safety as a primary concern. While it would be inappropriate to establish a rigid policy that either ignores criminal behavior or unduly compromises victim safety, a strong investigation of the facts leading to a failure to appear should always be required, and criminal charges should be made only in cases where criminal intent can be clearly demonstrated from the facts.

2. Other witnesses subpoenas

Subpoenaing other witnesses in the case has been found to be useful in evidence-based prosecution. When subpoenaing other witnesses:

a. **Subpoena early**

Prosecutor's offices should give the witness as much notice of the court date as possible.

b. **Prepare witness**

Prosecutor's offices should educate witnesses on the court process and prepare witnesses to testify in the case.

B. Plea negotiations, reductions, dismissals or diversions

1. **Policy against reductions and dismissals**

Criminal prosecutions would be hopelessly delayed without plea negotiations. In cases of domestic violence, an offer to resolve a case should consider victim safety, the likelihood of success of any programmatic referral (offered by a PAIP or other appropriate agency), the extent of physical injury if present, and all statutory options. Prosecutors should also focus on offender accountability in fashioning an offer to resolve a criminal case.

In cases of domestic violence, it is important to keep victims informed of plea offers and the progress of negotiations. Indeed, it may be helpful to ask a victim what she thinks is appropriate given the facts of each case, the level of injury, and the parameters of sentencing. However, it is equally important that the victim understands that she has no control over what the prosecution's offer will be. A victim should never be left with the impression that she is in any way responsible for a potential outcome. The victim should understand that it is the People of the State of Illinois who are the complainants in any criminal prosecution, not the victim of the crime. Prosecution offers should recognize the effects of the crime on the community as well as on a particular victim and her family. It may be wise to involve victim/witness personnel and/or outside legal advocates in keeping victims informed of the progress of plea negotiations as it is likely that victims may react emotionally during this process.

The state has the right to *Nolle Prosequi*, to not prosecute the charges as the prosecutor determines is appropriate.

If the prosecutor determines that a reduction or dismissal is required by the ends of justice, the prosecutor should enter a written explanation of this decision into the file. The victim should be contacted, reasons for the decline to prosecute explained, referrals for victim services given, and an invitation to contact the prosecutor's office if they have further questions.

2. Victim consultation on plea bargains

Victims should be informed of the terms of a plea and even given an opportunity to comment. However, if the prosecutor gives the victim the impression that the decision to compromise is hers (as the term “consult” too often suggests), the State creates additional pressure on the victim and may jeopardize her safety if the offender suspects that the victim can make the decision about a plea.

C. Continuances

1. Minimize prosecution continuances

Continuances prolong justice and increase risk for the victim. The prosecution should proceed to trial as quickly as the court docket allows. The prosecutor should object to continuances used primarily as a means of delaying the case or to discourage the victim. In addition, if the jurisdiction typically requires victims to come to every court date, the state should ask that the victim be excused until the matter is ready (for example, the defendant asks for time to get an attorney, the victim should be excused until he actually has one).

2. Minimize defense continuances

Defense continuances should be opposed when unsupported by written motion and affidavit and not based upon a recognized statutory provision. If the defense asserts as a basis for continuance that a material witness is unavailable for trial per 725 ILCS 5/114-4(b)(3), the prosecutor should consider stipulating to the testimony of that witness, if such stipulation, without cross examination, would not be detrimental to the prosecution’s case.

3. When continuances are granted

If a continuance is granted to either party, the following responsibilities of the prosecutor should be enacted:

- a. The prosecutor should ask the court to remind the defendant that all conditions of bail or orders of protection remain in effect.
- b. The prosecution should move for all previously issued subpoenas to remain in full force and effect.
- c. The prosecutor should also ensure that any orders of protection remain in effect throughout the trial process.

Sentencing

Evidence exists to demonstrate that arrest and jail deter future incidents of domestic violence (Ventura and Davis, 2005). The following outlines recommended policies to assist prosecutors during sentencing proceedings.

A. Basis of recommendations for sentencing

The prosecutor's recommendation for sentencing should be based on facts of the case and should be commensurate with sentences for other crimes.

B. Supervision

Supervision is not available as a disposition for any defendant who has pleaded guilty or found guilty of domestic battery. 730 ILCS 5/5-6-1(c)(i).

C. First time offenders

In the case of first time offenders, the assigned attorney should request, at a minimum, that the court order payment of court costs and order the defendant to participate in an abuser treatment program as a condition of probation. It is important that prosecutors request these fines and fees because a portion of those fees go to local domestic violence service providers which assist victims. When required by the ends of justice, probation and/or incarceration should also be requested by the prosecutor.

D. Repeat offenders

Domestic Battery and Violation of Order of Protection can be charged as a Class 4 felony if:

1. The offender has a prior conviction for either domestic battery or violation of order of protection; OR
2. The offender has a prior conviction for one of the offenses listed below (or a substantially similar offense in another state); AND
3. The victim of that offense was a family or household member of the offender. The victim in the current case does NOT have to be the same victim as in the prior case.

Murder

- ✓ First degree murder
- ✓ Attempt first degree murder

Stalking

- ✓ Stalking
- ✓ Aggravated stalking

Battery Offenses

- ✓ Aggravated battery
- ✓ Aggravated domestic battery
- ✓ Heinous battery
- ✓ Aggravated battery with a firearm
- ✓ Aggravated battery of a child
- ✓ Aggravated battery of an unborn child
- ✓ Aggravated battery of a senior citizen

Unlawful Restraint/Kidnapping

- ✓ Unlawful Restraint
- ✓ Aggravated unlawful restraint
- ✓ Kidnapping
- ✓ Aggravated kidnapping

Arson

- ✓ Aggravated arson

Sex offenses

- ✓ Criminal sexual assault
- ✓ Aggravated criminal sexual assault
- ✓ Predatory criminal sexual assault of a child
- ✓ Aggravated criminal sexual abuse

Firearms

- ✓ Aggravated discharge of a firearm

720 ILCS 5/12-3.2(b); 720 ILCS 5/12-3.4(d)

If the repeat offender has not previously attended a partner abuse intervention program, the prosecutor should seek that the courts mandate these services at this time. The prosecutor should also seek that the court impose probation, and if the repeat offender has previously been ordered into partner abuse intervention services, a recommended condition of probation should be screening or counseling as deemed appropriate by probation.

E. Partner abuse intervention programs

Abuser's programs, also called batterer's treatment, batterer's education programs, or abuser's services, are called partner abuse intervention programs (PAIPs) in Illinois. There have been numerous studies on partner abuse intervention programs, including four clinical trials, with mixed outcomes. While some large studies have found that partner abuse intervention programs have positive effects on reducing the likelihood of violence with some abusers (Gondolf, 2002 and 1998; U.S. Department of Justice, 1998), others have found court-based partner abuse intervention programs to have minimal impact on the behavior and recidivism rate of abusers (Labriola, Rempel and Davis, 2005). A recent comprehensive review of partner abuse intervention programs suggests that while the current "one size fits all" approach to PAIP may not fit everyone, it does fit most (Gondolf, 2012). Researchers and experts in the field generally agree that **partner abuse intervention programs are not a substitute for criminal sanction, but a resource to utilize along with criminal sanctions.** PAIP are a necessary but not sufficient component in a comprehensive community intervention system to reduce intimate partner violence.

1. Partner abuse intervention programs

The Domestic Violence Advisory Council to the Illinois Department of Human Services (IDHS) has written and updated a manual reviewing the requirements state approved partner abuse intervention programs must meet. IDHS updates the list of approved service providers on a regular basis. Courts should refer offenders to state approved partner abuse intervention services only. While substance abuse treatment, individual counseling or anger management programs may also be appropriate additional services, these are not substitutes for and do not constitute abusers' programs.

2. No diversion

Partner abuse intervention programs should not be used as a diversion for a criminal conviction. Similarly, offenders should not be allowed to plead guilty to a lesser non-domestic violence charge in exchange for receiving services. Failure to obtain a conviction on a domestic violence charge limits further penalty enhancements in the future, and can cause a law enforcement officer and the courts to treat a repeat domestic violence offender as a first time domestic violence offender.

3. Non-completion penalties

In order for Partner Abuse Intervention Programs (PAIP) to work, offenders must be held accountable for failing to comply with the program requirements. Prosecutors should work closely with Adult Probation (or in Cook County, Social Services) to violate offenders who do not satisfactorily complete PAIP requirements.

F. Fines

1. For domestic battery

For the offense of domestic battery, an additional fine in the amount of \$10 shall be added to every penalty imposed in sentencing upon a plea of guilty, stipulation of facts, or finding of guilty resulting in a judgment of conviction or order of supervision. 730 ILCS 5/5-9-1.6.

2. For domestic violence

In addition to any other penalty imposed, a fine of \$200 shall be imposed upon any person who pleads guilty or no contest to or who is convicted of murder, voluntary manslaughter, involuntary manslaughter, burglary, residential burglary, criminal trespass to residence, criminal trespass to vehicle, criminal trespass to land, criminal damage to property, telephone harassment, kidnapping, aggravated kidnapping, unlawful restraint, forcible detention, child abduction, indecent solicitation of a child, sexual relations between siblings, exploitation of a child, child pornography, assault, aggravated assault, battery, aggravated battery, heinous battery, aggravated battery of a child, domestic battery, reckless conduct,

intimidation, criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, violation of an order of protection, disorderly conduct, endangering the life or health of a child, child abandonment, contributing to the dependency or neglect of a child, or cruelty to children and others provided that the offender and victim are family or household members as defined at 750 ILCS 60/103(6). 730 ILCS 5/5-9-1.5.

3. For violation of order of protection

In addition to any other penalty, a fine of \$20 shall be imposed upon any person who is convicted of or placed on supervision for violation of an order of protection; provided that the offender and victim are family or household members as defined at 750 ILCS 60/103(6). 730 ILCS 5/5-9-1.11.

4. Burden on victim

If the court finds that the fee would impose an undue burden on the victim, the court may reduce or waive the fee. The court shall order that the defendant may not use funds belonging solely to the victim of the offense for payment of the fee.” For purposes of this paragraph, the defendant may not be considered the victim's representative. If the court finds that the fine would impose an undue burden on the victim, the court may reduce or waive the fine. The court should order that the defendant may not use funds belonging solely to the victim of the offense for payment of the fine.

G. Victim notice

1. Sentence or acquittal

The prosecutor’s office should give written notification to the victim of the sentence or the acquittal of the offender.

2. Appeal

At the request of the victim, if the case is appealed, notice of the appeal and notice of the outcome of the appeal should be given in writing to the victim.

3. Incarceration and release

At the request of the victim, notice of incarceration of the offender, notice of death while in custody, and notice of release should be given in writing to the victim. If an offender is sentenced to the Illinois Department of Corrections, the victim should be vigorously encouraged to register with the Victim Notification Program (AVN) which can be found at <http://www2.illinois.gov/idoc/programs/Pages/VictimServices.aspx> or through contacting the Department of Corrections.

Orders of Protection

Victims of domestic violence may obtain an order of protection which directs the alleged abuser to avoid contact with the victim and to perform other acts as well. Orders of protection direct the respondent to behave in a certain manner. They create no duty for the victim. This section defines what an order of protection is, how it is obtained, and how it is enforced.

A. Description

1. An order of protection (OP) is a court order designed to give **family or household members** relief under statutory provisions 725 ILCS 5/112A *et. seq.* or 750 ILCS 60/201 *et. seq.* The order of protection can both prohibit the abuser from committing certain acts and/or order him to perform certain acts.
2. **Family or household members** are defined by the IDVA and in the Code of Criminal Procedure as:
 - a. People who are related by blood or by present or prior marriage;
 - b. People who share or formerly shared a common dwelling (apartment or home);
 - c. People who have or allegedly have a child in common;
 - d. People who share or allegedly share a blood relationship through a child;
 - e. People who have or have had a dating or engagement relationship;
 - f. People with disabilities and their personal assistants or caregivers.
3. **Beyond the typical relationships**, examples of other caregivers include, but are not limited to:
 - a. a person who is employed by the person with a disability or by another to reside with or regularly visit the disabled person and provide for such person's health and personal care;
 - b. a person who has agreed for consideration (received something of value) to reside with or regularly visit the disabled person and provide for such person's health and personal care; and

A person appointed by a private or public agency can include workers who are sent into the victim's residence to provide services. Some examples would be a visiting nurse or a homemaking assistant. A person appointed by the court would include someone appointed as the guardian of the person, who is granted the right to make health care decisions. 750 ILCS 60/103(6) and 720 ILCS 5-112A-3(b)(3).

B. Availability

An order of protection can be issued in civil, criminal or juvenile court under a number of circumstances. In many counties, staff or volunteers are available from a local domestic violence program to assist victims seeking an order of protection *pro se*.

1. An order of protection can be entered in an independent proceeding in civil court, or in conjunction with another civil proceeding, such as a divorce, guardianship or probate case.
2. An order of protection can be issued in criminal court in connection with a criminal charge when the petitioner is the victim of the offense and the respondent is the defendant. If the order of protection is sought in the criminal case, the victim must be represented by the prosecutor throughout the process.
3. An order of protection can be issued in juvenile court in connection with a delinquency petition.

C. Types and duration of orders of protection

1. Emergency order of protection

An emergency order of protection is valid for 14 to 21 days. 750 ILCS 60/220(a)(1) and 725 ILCS 5/112A-20(a)(1). In cases where the petitioner alleges that the abuse they are trying to prevent would occur if the respondent were given notice, the emergency order of protection can be entered without giving notice to the respondent. An emergency order of protection does not have all the remedies of a plenary order. Remedies that are not available include counseling, temporary custody, payment of support, monetary compensation, and reimbursement of shelter costs. 750 ILCS 60/217(a)(3).

2. Interim order of protection

An interim order of protection is valid for up to 30 days. 750 ILCS 60/220(a)(2). This order is issued after one of three conditions have been met: 1) there has to be actual appearance by the respondent, 2) the respondent must have received notice as laid out in statute's notice provisions, or 3) the petitioner is diligently trying to serve process on the respondent. 750 ILCS 60/218(a)(3). Although not generally available in an interim order of protection, the following remedies can be available if the

respondent has been personally served or has filed an appearance in court: counseling; payment of support; monetary compensation; and reimbursement of shelter costs. 750 ILCS 60/218(a).

3. Plenary order of protection

Plenary orders of protection can be valid for varying lengths of time:

- a. An independent order is valid for a fixed period of time not to exceed two years;
- b. If entered in conjunction with a civil proceeding, for a fixed period of time not to exceed 2 years, but if incorporated into the final judgment of the case, it can run for the life of the final decree, becoming a permanent order;
- c. If in conjunction with a criminal offense, for the length of the defendant's sentence plus two years or two years beyond mandatory supervisory release;
- d. If in conjunction with any proceeding, until the conclusion of the case. 750 ILCS 60/220(b).

If an Order of Protection is extended after the initial plenary order, the order may be in effect until vacated, which is essentially a permanent order. 750 ILCS 60/220 (e)

D. Burden of proof

The order of protection proceeding is civil in nature, regardless of whether it is held in a civil, criminal, or juvenile court. 750 ILCS 60/205(a). The burden of proof for a civil proceeding is preponderance of the evidence, meaning that the evidence in the case demonstrates that the allegations are more likely true than not true. Id.

E. Filing fees for orders of protection – 750 ILCS 60/202(b)

(b) Filing, certification, and service fees. No fee shall be charged by the clerk for filing, amending, vacating, certifying, or photocopying petitions or orders; or for issuing alias summons; or for any related filing service. No fee shall be charged by the sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.

F. Responsibilities of the Clerk's and Sheriff's Offices

Upon issuance of any order of protection, the clerk should immediately enter the order on the record and file the same, as well as provide a file-stamped copy to the respondent and copies, as needed, to the petitioner. 750 ILCS 60/222(a) and 725 ILCS 5/112A-22(a).

1. The circuit clerk's office of the issuing judge should, or the petitioner may, on the same day that an order is issued, file a certified copy of that order with the sheriff. 750 ILCS 60/222(b) and 725 ILCS 5/112A-22(b).
2. The county sheriff should be responsible for entering all orders of protection into the LEADS system on the same day the order is issued by the court whether or not the order has been served. 750 ILCS 60/222(b) and 725 ILCS 5/112A-22(b).
3. Unless the respondent was present in court when the order was issued, the sheriff should promptly serve the order on respondent and file proof of such service. 750 ILCS 60/222(c).
4. The respondent can also be served via the Order of Protection Short Form Notification Form, also called the "short form." This form is a one page summary of the order of protection that can be served by any law enforcement officer during any encounter with a respondent. 750 ILCS 60/222(c).

G. Notice to schools

1. Upon the request of the petitioner, the clerk of the issuing judge must file a certified copy of an order of protection with the day-care facilities, pre-kindergarten, pre-school private school, schools or the principal office of the school district and universities and colleges in which any children of the petitioner are enrolled.
2. After receiving a certified copy of an order of protection, school employees are prohibited from allowing the abuser access to school records. 750 ILCS 60/222(e,f).

H. Notice to health care providers

Upon the request of the petitioner, the clerk of the circuit court must send a certified copy of the order of protection to any specified health care facility or health care practitioner requested by the petitioner at the mailing address provided by the petitioner. 725 ILCS 5/112A-22(e,f,g)

After receiving a certified copy of an order of protection that prohibits a respondent's access to records, health care facilities/practitioners are prohibited from allowing a respondent access to the records of any child who is a protected person under the order of protection, or releasing information in those records to the respondent. 750 ILCS 60/222 (h)

I. Full faith and credit

Congress enacted the Violence Against Women Act, otherwise known as VAWA, in 1994 instructing jurisdictions to give full faith and credit to all valid orders of

protection issued by other state, territorial or tribal courts. This requires the enforcement of all valid orders of protection to protect victims of domestic violence wherever a violation of the order occurs, regardless of the ordering jurisdiction. An order of protection is entitled to enforcement if:

1. The court that issued the order of protection had jurisdiction over the parties and the matter under the law at the time of issuance;
2. The respondent was given reasonable notice and opportunity to be heard to protect his due process rights. In the case of an order of protection that is entered *ex parte*, these notice and opportunity standards must be provided within the time required by the law of the issuing state.
18 USC § 2265(b)(1-2) (2006).

The remedies included, protected parties, and length of time the order is in effect are determined by the state issuing the order. The state where the violation occurs must honor the order of protection, regardless of whether the laws of the two states are inconsistent. 735 ILCS 5/12-652(c).

The laws of the state where the violation occurred, however, determine how the violation is enforced. The state must enforce a foreign order in the same manner that it enforces orders given within the state.

Remedies of Orders of Protection

(Note: The citations listed after each remedy is to both the civil and criminal remedies found in orders of protection sections of the particular statute.)

A. **Prohibition of abuse, neglect or exploitation**

This remedy prohibits the respondent from further abusing, neglecting or exploiting the petitioner. Abuse includes physical abuse, harassment, intimidation, intimidation of a dependent, interference with personal liberty, or willful deprivation. If a protected person is a high-risk adult with a disability, the respondent can also be prohibited from neglecting or exploiting the person. 750 ILCS 60/214(b)(1) and 725 ILCS 5/112a-14(b)(1).

This remedy is law enforcement enforceable. 750 ILCS 60/223(a)(1) and 725 ILCS 5/112a-23(a)(1). A respondent who violates this remedy should be arrested and charged with the crime of violation of an order of protection.

B. **Exclusive possession of residence**

This remedy grants the petitioner exclusive possession of the residence and prohibits the abuser from entering. It can be used if the petitioner has the right to occupy and the respondent does not, or if both have the right to occupy and the balance of hardships favors the petitioner. 750 ILCS 60/214(b)(2) and 725 ILCS 5/112a-14(b)(2).

Who has a right to occupy:

1. The petitioner's name is on the lease or title to the property;
2. The petitioner's spouse's name is on the lease or title;
3. The petitioner is caring for a minor child of the person whose name is on the lease or title; or
4. The petitioner but not the respondent has permission to occupy from the person(s) whose name is on the title or lease (example: relative's home or domestic violence shelter). 750 ILCS 60/214 (b)(2)(A)

Balance of hardships – 750 ILCS 60/214 (b)(2)(B)

If a petitioner and respondent each has the right to occupancy of a residence or household, the court shall balance (i) the hardships to respondent and any minor child or dependent adult in respondent's care resulting from entry of this remedy with (ii) the hardships to petitioner and any minor child or dependent adult in respondent's care resulting from continued exposure to the risk of abuse (should petitioner remain at the residence or household) or from loss of possession of the residence or household (should petitioner leave to avoid the risk of abuse). Then determining the balance of hardships, the court shall also take into account the

accessibility of the residence or household. Hardships need not be balanced if respondent does not have a right to occupancy. The balance of hardships is presumed to favor possession by the petitioner unless the presumption is rebutted by a preponderance of the evidence, showing that the hardships to respondent substantially outweigh the hardships to the petitioner and any minor child or dependent adult in petitioner's care. The court, on the request of petitioner or on its own motion, may order respondent to provide suitable, accessible, alternate housing for petitioner instead of excluding respondent from a mutual residence or household.

This remedy is law enforcement enforceable. 750 ILCS 60/223(a)(1) and 725 ILCS 5/112a-23(a)(1). A respondent who violates this remedy should be arrested and charged with the crime of violation of an order of protection.

C. Stay away and additional prohibitions

This remedy allows the court to order the respondent to stay away from the petitioner and/or prohibit the respondent from entering or remaining present at the petitioner's school, place of employment or other specified places at times when the petitioner is present, if the prohibition is reasonable given the balance of hardships. 750 ILCS 60/214 (b)(3)

If the court grants the stay away remedy, the respondent must also refrain from physical presence and nonphysical contact with the petitioner whether direct, indirect (including but not limited to, telephone calls, mail, email, faxes, and written notes) or through third parties who may or may not know about the order of protection. 750 ILCS 60/103 (14.5)

D. Counseling

This remedy can require that the respondent undergo counseling for a specified amount of time. 750 ILCS 60/214(b)(4) and 725 ILCS 5/112a-14(b)(4). The counseling may be in a partner abuse intervention program, or it may be substance abuse, mental health, or some other type of counseling deemed necessary by the court. Id.

This remedy is enforced through contempt proceedings in the court that issued the order of protection. 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

E. Physical care and possession of a minor child

This remedy can grant physical care and possession of a minor child to the petitioner, order the respondent to return a minor child to the petitioner, or order the respondent not to remove a child from the petitioner or a person acting in loco parentis. 750 ILCS 60/214(b)(5) and 725 ILCS 5/112a-14(b)(5).

This remedy is law enforcement enforceable as a violation of the state's child abduction statute. 750 ILCS 60/223(a)(2) and 725 ILCS 5/112a-23(a)(2). A respondent who violates this remedy should be arrested and charged with the

crime of child abduction. If the respondent violates an order granting physical care to the child by removing, concealing or detaining the child, he or she can be charged with Child Abduction. 720 ILCS 5/10-5. A violation of the section of the order that orders the respondent not to remove or to return the child is enforceable through contempt proceedings.

F. Temporary legal custody of a minor child

This remedy allows the judge to grant temporary custody of a minor child to the petitioner. Custody of the minor child has to be in accordance with the section, the Illinois Marriage and Dissolution of Marriage Act, the Illinois Parentage Act of 1984, the Illinois Uniform Child-Custody Jurisdiction and Enforcement Act. 750 ILCS 60/214(b)(6) and 725 ILCS 5/112a-14(b)(6). There is a rebuttable presumption that temporary custody to the petitioner would be in the best interest of the minor child if there has been determination by the court of abuse. *Id.* This remedy is law enforcement enforceable as a violation of the state's child abduction statute. 750 ILCS 60/223(a)(2) and 725 ILCS 5/112a-23(a)(2). A respondent who violates this remedy should be arrested and charged with the crime of child abduction. If the respondent violates the custody remedy by removing, concealing or detaining the child, he or she can be charged with Child Abduction. 720 ILCS 5/10-5

G. Visitation

This remedy allows the judge to deny or restrict visitation of a minor child if the respondent has, or is likely to, commit any of the following actions:

1. Abuse or endanger the child during visitation;
2. Use the visitation to abuse or harass the petitioner, or the petitioner's family or household members;
3. Improperly conceal or detain the child;
4. Act in a manner that is not in the best interest of the child;
750 ILCS 60/214(b)(7) and 725 ILCS 5/112a-14(b)(7).

The court, if it grants visitation shall specify the date and time for visitation. *Id.* The court can order supervised visitation or visitation exchange at a place other than the petitioner's home. The petitioner may refuse to exchange the child if the respondent is under the influence of drugs or alcohol, or if the respondent presents a danger to the petitioner or the petitioner's minor child. *Id.* However, the petitioner needs to be aware of the possibility of being charged with interference with visitation if he or she refuses to exchange the child for visitation.

This remedy is enforced through contempt proceedings in the court that issued the order of protection. 750 ILCS 60/223(a)(2) and 725 ILCS 5/112a-23(a)(2).

H. Removal or concealment of minor child

This remedy prohibits the respondent from removing a child from the state or concealing a child within the state. 750 ILCS 60/214(b)(8) and 725 ILCS 5/112a-14(b)(8).

This remedy is law enforcement enforceable as a violation of the state's child abduction statute. 750 ILCS 60/223(a)(2) and 725 ILCS 5/112a-23(a)(2). A respondent who violates this remedy should be arrested and charged with the crime of child abduction.

I. Order to appear in court

This remedy can order the respondent to appear in court, with or without the minor child. 750 ILCS 60/214(b)(9) and 725 ILCS 5/112a-14(b)(9).

This remedy is enforced through contempt proceedings in the court that issued the order of protection. 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

J. Possession of personal property

This remedy gives the petitioner exclusive possession of personal property and may require the respondent to turn it over to the petitioner. This remedy can be granted if:

1. Petitioner solely owns the property;
2. Parties own the property jointly and sharing it would risk abuse of the petitioner;
3. Parties own the property jointly and the balance of hardship temporary favors the petitioner.
750 ILCS 60/214(b)(10) and 725 ILCS 5/112a-14(b)(10).

This remedy does not, however, influence ownership of the property, which must be assigned later in a divorce proceeding. Id.

This remedy is not law enforcement enforceable unless the respondent can also be charged with theft or criminal damage to property. 750 ILCS 60/233(a)(3)(iii) and 725 ILCS 5/112A23(a)(3)(iii). Otherwise, it is enforced through contempt proceedings in the court that issued the order of protection. 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

K. Protection of property

This remedy prohibits the respondent from damaging, destroying, selling, taking, concealing, or otherwise disposing of personal or real property. This remedy can be granted if:

1. Petitioner solely owns the property;

2. Parties own the property jointly and the balance of hardship temporary favors the petitioner.

Relief under this subparagraph is only available if a proper proceeding has been filed under the Illinois Marriage and Dissolution of Marriage Act. 750 ILCS 60/214(b)(11) and 725 ILCS 5/112a-14(b)(11).

This remedy is not law enforcement enforceable unless the respondent can also be charged with theft or criminal damage to property. 750 ILCS 60/223(a)(iii) and 725 ILCS 5/112a-23(a)(iii). Otherwise, it is enforced through contempt proceedings in the court that issued the order of protection. 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

L. Protection of Animals

This remedy allows the court to:

1. Grant the petitioner the exclusive care, custody, or control of any animal owned, possessed, leased, kept or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent;
2. Order the respondent to stay away from the animal; and/or
3. Forbid the respondent from taking transferring, encumbering, concealing, harming, or otherwise disposing of the animal. 750 ILCS 60/214 (b)(11.5)

A respondent can be charged with violation of order of protection if the violation is also a criminal offense. 720 ILCS 5/12-3.4. For example, if the respondent can be charged with Cruel Treatment (of an animal) and the animal was protected by the order, the respondent can be charged with both offenses.

M. Order of payment of support

This remedy orders the respondent to pay support or child support for a minor child in the petitioner's care if the respondent would be obligated to do so under Illinois Marriage and Dissolution of Marriage Act (IMDMA). 750 ILCS 60/214(b)(12) and 725 ILCS 5/112a-14(b)(12).

This remedy is enforced through contempt proceedings in the court that issued the order of protection. 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

N. Payment for losses

This remedy requires the respondent to pay for losses suffered as a direct result of abuse, including medical expenses, lost wages, temporary housing, reasonable attorney fees, court cost, or damaged property. 750 ILCS 60/214(b)(13) and 725 ILCS 5/112a-14(b)(13).

The court can also order the respondent to pay the expenses incurred in the search and recovery of a minor child in the case of improper concealment or removal of a minor child. 750 ILCS 60/214(b)(13)(ii) and 725 ILCS 5/112A-4(b)(13)(ii).

This remedy is enforced through contempt proceedings in the court that issued the order of protection.

O. Prohibition of entry

This remedy prohibits the respondent from entering or staying in the home while under the influence of drugs or alcohol and constituting a threat to the petitioner or the petitioner's child. 750 ILCS 60/214(b)(14) and 725 ILCS 5/112a-14(b)(14).

This remedy is law enforcement enforceable. A respondent who violates this remedy should be arrested and charged with the crime of violation of an order of protection. 750 ILCS 60/223(a)(1) and 725 ILCS 5/112a-23(a)(1).

P. Prohibition of firearm possession

If the respondent is present in court, or has failed to appear after receiving actual notice of the order of protection, and the court is satisfied that there is any danger of the illegal use of firearms, the court should require that any firearms in the possession of the respondent be turned over to the local law enforcement agency. 750 ILCS 60/214(b)(14.5) and 725 ILCS 5/112a-14(b)(14.5).

If the respondent has failed to appear, or fails to surrender his or her firearms, the court should issue a warrant for seizure of any firearm in the possession of the respondent. Id.

If the respondent is a peace officer, the court should order that any firearms used by the respondent in the performance of the officer's duties be surrendered to the respondent's chief law enforcement executive.

Under this law, the firearms can be retained for safekeeping for the period stated in the court order, not to exceed two years. Firearms should be returned to respondent when this remedy is no longer in effect. Id.

This remedy is law enforcement enforceable. A respondent who violates this remedy should be arrested and charged with the crime of violation of an order of protection. 750 ILCS 60/223(a)(1) and 725 ILCS 5/112a-23(a)(1).

Q. Prohibition of access to records

This remedy prohibits the respondent from access to, and prohibits the respondent from inspecting, obtaining, or attempting to inspect or obtain the school or any other records of a child in the care of the petitioner. The court must grant this remedy if:

1. The order of protection prohibits the respondent from having contact with the child;
2. The petitioner's address needs to be hidden to protect the petitioner;
3. It is necessary to prevent the abuse, removal, or concealment of the child. 750 ILCS 60/214(b)(15) and 725 ILCS 5/112a-14(b)(15).

This remedy is enforced through contempt proceedings in the court that issued the order of protection. 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

R. Payment of shelter services

This remedy orders the respondent to reimburse a program providing shelter or counseling services. 750 ILCS 60/214(b)(16) and 725 ILCS 5/112a-14(b)(16).

This remedy is enforced through contempt proceedings in the court that issued the order of protection. 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

S. Order for injunctive relief

This remedy allows for other relief as necessary to prevent further abuse, neglect, and exploitation or to allow for the enforcement of one of the other remedies ordered. 750 ILCS 60/214(b)(17) and 725 ILCS 5/112a-14(b)(17).

This remedy is enforced through contempt proceedings in the court that issued the order of protection. 750 ILCS 60/223(b) and 725 ILCS 5/112a-23(b).

Violation of an Order of Protection

Some violations of an order of protection are criminal offenses, while others are enforced by civil or criminal contempt proceedings.

A. Violation of an order of protection:

The respondent commits the crime of violation of an order of protection by having knowingly violated the following remedies:

1. Prohibition against further abuse (Remedy 01);
2. Exclusive possession of residence (Remedy 02);
3. Stay away and additional prohibitions (Remedy 03);
4. Prohibition of entry (Remedy 14);
5. Prohibition of firearm possession (Remedy 14.5);
6. Any remedies on a foreign protective order (issued by another state, tribal or territorial court) that are substantially similar to the remedies listed above;
7. Any other remedy when the violation would also constitute another crime, such as theft or criminal damage to property. 720 ILCS 5/12.3.4.

B. Penalties for violation of an order of protection

1. First violation of an order of protection

A violation of an order of protection is a Class A misdemeanor for the first offense. 720 ILCS 5/12-3.4. This carries a penalty of up to 364 days in jail.

2. Second violation of an order of protection

A second or subsequent violation of an order of protection can be charged as a Class 4 felony which can be punishable by a period of imprisonment from one to three years. A violation of an order of protection can also be charged as a Class 4 felony when the offender has a prior conviction for domestic battery or one of the following felony convictions *provided that the offense was committed against a family or household member of the offender*.

- a. First degree murder;
- b. Attempt to commit first degree murder;
- c. Aggravated domestic battery;

- d. Aggravated battery; heinous battery;
- e. Aggravated battery with a firearm;
- f. Aggravated battery of a child;
- g. Aggravated battery of an unborn child;
- h. Aggravated battery of a senior citizen;
- i. Stalking; aggravated stalking;
- j. Criminal sexual assault; aggravated criminal sexual assault;
- k. Kidnapping; aggravated kidnapping;
- l. Predatory criminal sexual assault of a child;
- m. Aggravated criminal sexual abuse;
- n. Unlawful restraint; aggravated unlawful restraint;
- o. Aggravated arson; or
- p. Aggravated discharge of a firearm. [See 729 ILCS 5/12-39(d)]

A Class 4 felony carries a penalty of one to three years. 720 ILCS 5/12-3.05(d) In addition, if offender is sentenced to a term of incarceration in the Illinois Department of Corrections for domestic battery or aggravated domestic battery, the offender must also serve a four year term of mandatory supervised release (parole) upon release from prison.

C. Criminal violations - Child abduction

A respondent on an order of protection can be charged with child abduction for committing any of the following violations of an order of protection:

1. The respondent intentionally conceals or detains a child or removes a child from the state in violation of the order of protection, Remedy 5 granting the petitioner or another physical care and/or possession of the child;
2. The respondent intentionally conceals or detains a child or removes a child from the state in violation of the order of protection, Remedy 6 granting temporary legal custody to the petitioner;

3. The respondent intentionally conceals or detains a child or removes a child from the state in violation of the order of protection, Remedy 8 prohibiting such conduct. 720 ILCS 5/10-5(b)(1).

D. Penalties for child abduction

Child abduction is a Class 4 felony and carries a penalty of one to three years. 720 ILCS 5/10-5(d)

E. Contempt of court

This section on Contempt is taken, with permission, from A Practical Guide to the Illinois Domestic Violence Act (2009), written by Jan Russell and published by the Illinois State Bar Association. The section relies on *In re Marriage of Betts*, 558 N.E. 2d 404 (IL 4 Dist. 1990), unless otherwise cited.

There are two types of contempt: civil and criminal. Whether contempt is civil or criminal has nothing to do with the court in which the sanction is sought. It is the goal of the contempt that determines what type it is.

Additionally, contempt is either direct or indirect. Direct contempt occurs in the presence of the judge; and the judge's observation of the person's conduct is sufficient for the court to find the person in contempt. Indirect contempt occurs outside of the presence of the judge and a hearing is required to allow the person an opportunity to explain their actions or inactions. Note that the failure to comply with a court order is still indirect contempt, as the reason for the failure to comply is not within the personal knowledge of the judge.

1. Civil contempt

Civil contempt is prospective in nature. It is used to compel a party to comply with a court order. It arises when a party has been ordered to do or not do something and the party does not comply. To force a party to comply, the court can order the party to pay a fine if the party does not comply in the future or order that the party be incarcerated in county jail until he or she complies with the order.

Indirect civil contempt is not a new action but a continuation of the underlying cause. Therefore, the respondent is not entitled to a substitution of judge as a matter of right if the judge has made any substantial ruling in the underlying case. *In re: Marriage of Kozloff*, 463 N.E.2d 719 (IL 1984).

Civil contempt requires that the party must have the opportunity to "purge" him or herself of contempt by complying with the order. It is said that the civil contemnor holds the "keys to his own jail cell." The burden of proof for civil contempt is preponderance of the evidence.

2. Criminal contempt

Criminal contempt is retrospective in nature and is primarily used to punish a party and preserve the dignity and authority of the court. It arises when the party has done what was prohibited.

Indirect criminal contempt is a separate cause of action and requires a separate filing under a separate case number and summons to the respondent. *Bray v. United States*, 423 U.S. 73 (1975). The title should be "Petition for Adjudication of Criminal Contempt," rather than petition for rule-to-show-cause. Because it is a new case, the respondent would be entitled to a substitution of judge as a matter of right, which may take away the advantage of using a contempt proceeding instead of seeking criminal charges – the knowledge the judge who issued the order of protection has about the respondent and the history of the case.

The burden of proof for criminal contempt is beyond a reasonable doubt. Note that the admonishments required in criminal proceedings are required for indirect criminal contempt proceedings as well. *People v. Horton*, 620 N.E.2d 437 (IL 4 Dist. 1993)

3. Body attachment

In a contempt proceeding where a petition for a rule-to-show cause or petition for adjudication of criminal contempt states facts evidencing an immediate danger that the respondent will flee the state, conceal a child, or inflict physical abuse on the petitioner or minor children or dependent adult in the petitioner's care, the court may order the attachment of the respondent without prior service of the rule or the petition for a rule. Bond must be set unless specifically denied in writing. 750 ILCS 60/223 (b) (1)

In addition, if the respondent refuses to appear or is evading service of the order, the court may order the attachment of the respondent without prior service of the order under local court rules. For example, Cook County Circuit Court Rule 6.1(b) provides for the issuance of a body attachment without service of the rule or order based upon a motion supported by affidavit stating facts showing that a party to the action:

- a. Will not respond to a rule or order; or
- b. Threatens to leave the jurisdiction of the court or conceals himself to elude or to avoid the process of the court and to make the enforcement of the judgment or order impossible.

A body attachment is served by the Sheriff's Department and is enforceable only in the state in which it was issued.

4. Expedited proceeding

A petition for rule-to-show cause for violation of an order of protection is an expedited proceeding. 750 ILCS 60/223 (b) (2)

5. Double jeopardy

If the conduct of the respondent can result in a criminal charge, be aware that double jeopardy attaches to a finding of criminal contempt if the conduct complained of is exactly the same as the criminal charge. For example, an indirect contempt proceeding to punish the respondent for coming to a protected location and a criminal charge of Violation of Order of Protection for the same conduct has the same elements – 1) a knowing violation of the order of protection and 2) being at a protected location. Double jeopardy would attach.

If any element of the criminal charge is different from the elements for the indirect criminal contempt, double jeopardy would not attach. For example, a respondent is charged with domestic battery for causing bodily harm to the petitioner and that conduct also violated the order of protection. The two proceedings have overlapping elements but are not the same elements because the domestic battery statute does not require a violation of a court order. In this case, the respondent could both be held in indirect criminal contempt for violating the order of protection and be found guilty of domestic battery.

A finding of civil contempt does not cause double jeopardy problems if the court order clearly states that the respondent was found in civil contempt and the order clearly allows the respondent to purge himself of contempt.¹

6. Location of offense

A contempt proceeding may be brought in any court with jurisdiction, regardless of where the act or acts that violated the order occurred. 750 ILCS 60/223(b) Therefore, a contempt action may be brought in the court that issued the order or in a court in the jurisdiction where the act or acts occurred.

7. Right to counsel

If incarceration is possible, whether for civil or criminal contempt, the respondent may be entitled to counsel. (Check your local court rules.) The U.S. Supreme Court ruled recently in *Turner v. Rogers* that “due process does not always require the provision of counsel in civil proceedings where incarceration is threatened” but did find that an individual’s due process rights could be violated in some cases where there are not

¹Child Abduction provides an analogous situation where the elements of the criminal offense and the indirect criminal contempt are the same. See *In re Marriage of D’Attomo*, 570 N.E.2d 796 (IL 1 Dist. 1991); *People v. Doherty*, 518 N.E.2d 1303 (IL 2 Dist. 1988); and *People v. Rodriguez*, 514 N.E.2d 1033 (IL 2 Dist. 1987).

adequate procedural safeguards in place to ensure fairness. *Turner V. Rogers*, 131 S.Ct. 2507 (2011)

F. Penalties for contempt of court

Except where the court finds the commission of a crime, including a violation of an order of protection or child abduction, or where the violation is of a custody or support order, the penalty should generally apply in such civil contempt or criminal contempt proceedings, and may include an order directing the respondent to pay restitution to the petitioner, or a fine, or both.

1. Civil contempt

Sanctions for indirect civil contempt continue until the order is obeyed. Possible sanctions include an indefinite and continuing fine and/or jail until the order is complied with. The opportunity to purge contempt must be given to the respondent. This sanction is used only to force a respondent to comply with a court order.

2. Criminal contempt

Sanctions for criminal contempt are issued to vindicate the authority of the court. The sentence is punitive and unconditional. Examples of criminal contempt sanctions include a specific time of jail commitment or a specific fine payable to the court.

G. Illinois Marriage and Dissolution Act

A violation of custody or support remedies can be enforced by any remedy provided by 750 ILCS 60/214(b)(5-8). Violation of custody or support remedies include:

1. The physical care and possession of a minor child (Remedy 5);
2. Temporary legal custody of a minor child (Remedy 6);
3. Visitation (Remedy 7);
4. Removal or concealment of a minor child (Remedy 8).

H. Actual knowledge

An order of protection may be enforced only if the respondent was served or has actual knowledge of the contents of the order of protection (some jurisdictions use the term *constructive knowledge*). 750 ILCS 60/223(d) and 725 ILCS 5/112A-23(d). This is by any means by which it can be shown that the respondent had actual knowledge of the remedy violated. 750 ILCS 60/223(d)(4) and 725 ILCS 5/112A-23(d)(4).

In *People v. Ramos*, the court found a respondent guilty of violation of an order of protection where the defendant had actual knowledge of the provision prohibiting

him from entering the petitioner's home, even though the defendant had not been served or received a full copy of the order of protection. 316 Ill. App. 3d 18, 23 (2000). The court held that the respondent need not be served or know full details of the order to be charged with a violation. The state only needs to show that the respondent had actual knowledge of the remedy that the respondent was charged with violating. *Id.* at 24.

I. Effect of victim consent

Orders of protection are orders of the court, not of the victim. A petitioner or protected person cannot give effective consent to violate the order. To allow a respondent to violate the order because the victim gave consent "would lead to mockery of the powers granted to the courts under the Act." *People v. Townsend*, 538 N.E.2d 1297, 1299 (IL 5 Dist.1989). Also see *People v. Priest*, 698 N.E.2d 223 (IL 4 Dist. 1998)

In addition, the petitioner cannot be held accountable for the respondent's violation of the order, even if the victim consented to the violation. Under Illinois' Accountability law, a person cannot be held accountable for the acts of others if the person is a victim of the offense committed. 720 ILCS 5/5-2

Victims Rights and Role of the Domestic Violence Advocate

All entities and persons involved in the criminal prosecution of domestic violence cases should be aware of their responsibilities under the Rights of Crime Victims and Witnesses Act (725 ILCS 120/1 et seq.). The Act includes within the parties protected by the statute victims of domestic battery and violation of an order of protection offenses. Section 4 of the Act sets forth the following rights of crime victims:

1. The rights to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process;
2. The right of notification of court proceedings;
3. The right to communicate with the prosecution;
4. The right to make a statement to the court at sentencing;
5. The right to information about the conviction;
6. The right to the timely disposition of the case following the arrest of the accused;
7. The right to be reasonably protected from the accused through the criminal justice process;
8. The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at trial;
9. The right to have present at all court proceedings including proceedings under the Juvenile Court Act of 1987 subject to the admonition of the rules of confidentiality and subject to the rules of evidence, a victim witness specialist, an advocate or other support person of the victim's choice;
10. The right to restitution.

Law enforcement, Prosecutor and victim advocate personnel should pay particular attention to Section 4.5 of the Act which sets forth specific responsibilities of each group. Some of the requirements include written notice of victim compensation procedures, dates and times of trial and other specified pretrial events, and the like.

A. Written agreements with domestic violence advocacy programs

The prosecutor's office should have written agreements with local domestic violence programs that serve victims in its area, as well as with all groups involved with domestic violence issues. Often known as a Memorandum of

Understanding (MOU) the document should set forth the goals for a coordinated community response to domestic violence, a brief informational description of each participating agency, and the general duties of each member. While general in scope, a MOU assists all parties in serving victims and providing effective responses to crimes of domestic violence. A MOU also gives communities a strong basis for selection for most federal grant programs to encourage proactive approaches to reducing domestic violence crimes.

B. Domestic violence advocates play a support and advocacy role

The companionship and reassurance of the domestic violence advocate can help the victim deal with harassment or intimidation by the abuser and assist the victim in planning for their safety. Advocates may also assist the victim to facilitate more convenient court dates, arrange for transportation to court proceedings, ensure that the victim has a secure place to wait before testifying, find resources for their children, provide shelter and counseling services, assure that services and proceedings are accessible to victims with disabilities, and provide advocacy with other agencies on behalf of the victim. Working closely to support the victim, the domestic violence advocate can aid the prosecutor in providing the victim with a greater understanding of the court process, which can increase the likelihood that the victim will understand and cooperate with the court process.

C. Right of the victim to have an advocate

Domestic violence advocates are authorized to attend court proceedings, sit at the counsel table, and confer with the victim, at the victim's request, unless the court finds good reason to direct otherwise. 750 ILCS 60/205(b)(1-2). It is in the best interest of the victim, and the state, to have access to a domestic violence advocate as victims who are supported by advocates are more likely to follow and cooperate with the court process (Belknap, Graham, Hartman, Lippen, Allen, Sutherland, 2000).

D. Privileged communications between domestic violence advocate and victims

The Domestic Violence Act of 1986 allows for confidential communication between domestic violence advocates who are 40-hour trained and work as an employee or volunteer of a domestic violence program, and victims of domestic violence. 750 ILCS 60/227(a)(3). Confidential communication is defined as communication between an alleged victim of domestic violence and a domestic violence advocate or counselor in the course of providing information, counseling, or advocacy. Id. The term includes all records kept by the advocate, counselor, or domestic violence program in the course of providing services to an alleged victim concerning the alleged victim and the services provided. Id. *The Mental Health and Developmental Disabilities Confidentiality Act* also prohibits providers from revealing that someone is receiving services.

E. Disclosure or examination of a domestic violence advocate

Domestic violence advocates or counselors can not disclose any confidential communication or be examined as a witness. There are two statutory exceptions to this confidentiality:

1. In cases where failure to disclose is likely to result in an imminent risk of serious bodily harm or death of the victim or another person;
2. In accordance with the provisions of the Abused and Neglected Child Reporting Act. 750 ILCS 60/227 (b).

There are also two statutes that affect disclosures without consent. The privilege may not hold in proceedings under the Juvenile Court Act. 705 ILCS 405/2-18(e). Nonetheless, information can only be released if the subpoena is accompanied by a court order that specifies what material is subject to release. Only that material described in the court order may be released. The provider as well as the client must receive notice and have the opportunity to be heard before such a court order can be entered by the court.

After the passage of the IDVA, the Elder Abuse Reporting Act was passed requiring all social service providers to report suspected abuse, neglect or financial exploitation of any person over the age of 60 when that person, because of dysfunction, is unable to self-report. 320 ILCS 20/4 (a-5) Seniors who are capable of self-reporting may choose whether or not they want a report to be made.

F. Penalty for knowing disclosure

The knowing disclosure of a confidential communication by a domestic violence advocate is a Class A misdemeanor. 750 ILCS 60/227(c).

G. Court responsibilities and confidentiality of domestic violence advocate and program

No court should compel any person or domestic violence program to disclose the location of any domestic violence program or the identity of any domestic violence advocate or counselor in any civil or criminal case or proceeding. A court may only compel disclosure following a hearing when there is clear and convincing evidence that failure to disclose would be likely to result in an imminent risk of serious bodily harm or death to a domestic violence victim or another person. The disclosure shall take place in chambers under a restrictive protective order that does not frustrate the purposes of compelling the disclosure and not be part of the written record of the case. 750 ILCS 60/227.1.

Victims with Special Needs and Considerations

A. Cases involving child witnesses

The decision to use a child witness should always be made after a careful examination of the needs of the case and the relevance of the expected testimony. In cases of domestic violence, children are traumatized by the criminal events and the behaviors leading to the criminal offense. They require special assistance from trained personnel throughout the investigation and trial of a domestic violence case. Many jurisdictions are served by child advocacy centers and a prosecutor's office ought to utilize the services of available child advocates wherever possible. Some centers even provide facilities for the forensic examination of children. Law enforcement and prosecutors should be trained in the forensic examination of a child in order to avoid challenges to the admissibility of a child's testimony. In any community where a coordinated community response to domestic violence team has been constituted, child services agencies and personnel should be encouraged to become partners in the effort.

Children are at great risk of witnessing domestic violence or being abused themselves in homes where domestic violence is taking place. Prosecutors take this into account when pursuing domestic violence cases where children were in the home. The following are best practices prosecutor's offices can implement to address the overlap between domestic violence and child maltreatment.

1. Enforce orders of protection and probationary sentences

Keep children's presence in mind when these issues come before the court. Enforcement of orders of protection, statutory bail provisions and probationary sentences by the prosecutor's office are means of protecting children.

2. Develop policies for identifying cases in which domestic violence and child maltreatment coexist

Prosecutor's offices should develop policies that promote the identification and investigation of both domestic violence and child maltreatment within the same home. In order to do this, prosecutor's offices should work closely with law enforcement, the Department of Child and Family Services, domestic violence advocates, and, in jurisdictions where the issues are handled in separate courtrooms, judges who handle child abuse cases.

3. Develop policies for information sharing between domestic violence prosecutors and child abuse prosecutors

In some jurisdictions, the same assistant prosecutor prosecutes domestic violence and child abuse cases but in others these prosecutors rarely interact. Policies for developing information sharing between prosecutors pursuing domestic violence cases and prosecutors pursuing child abuse

cases should be developed in jurisdictions where they are in separate courts if the issue of the overlap of domestic violence and child abuse is to be addressed. Offenders should be held accountable for all acts of family violence. Further, prosecutors who are aware of the full picture of family violence have better information to prepare a prosecution.

4. **Prosecute offenders on concurrent charges of domestic violence, child abuse and child endangerment**

When appropriate, concurrently prosecute offenders for the domestic violence charges committed as well as appropriate child endangerment and child abuse charges. Work together with child abuse prosecutors in jurisdictions where these issues are handled in separate courts.

5. **Unlawful visitation interference**

The Unlawful Visitation Interference (UVI) statute is often misused by abusers. Such abuses make it essential for prosecutors to understand the appropriate use of the statute.

6. **Valid order**

In order for a parent to commit this offense, there must be a valid order granting specific visitation rights to the other parent. For example, an order that calls for reasonable visitation cannot be the basis of this charge, while an order that calls for visitation to begin at 6 p.m. on Friday night can be.

7. **Intent to deprive visitation**

The custodial parent must detain or conceal children with the intent to deprive the other parent of their right to visitation. This statute includes language that makes the person's intent an element of the offense that must be proven at trial. If the person does not have the intent to deprive the other parent of visitation, they have not committed this offense. 720 ILCS 5/10-5.5(b).

For example, an abuser might call law enforcement and request charges for unlawful visitation interference in situations where the parent has arrived late to the drop off site or the children aren't ready to leave home on time. In other cases, the children might be legitimately too ill to go for visitation. In such cases, the parent does not have the intent to deprive the parent of visitation, so it is not unlawful visitation interference.

A parent may also deny visitation that is granted pursuant to an order of protection if the visiting parent is under the influence of drugs or alcohol or is behaving in a violent or abusive manner at the time of pick up. 750 ILCS 60/214 (B)(7).

There is a limited window for the parent to pick up the children for visitation. For example, the order states that the parent has visitation from

6 p.m. on Friday until Sunday at 6 p.m. Unless the parent has made other arrangements, the children must be picked up within a reasonable time or the parent forfeits the visitation period. The custodial parent does not have to stand by the entire weekend to allow the visiting parent access throughout the visitation period.

8. When unlawful visitation interference is committed

If you have determined that the parent has committed unlawful visitation interference, there are two issues of importance.

- a. Unlawful visitation interference is a petty offense. A case report should be generated and a citation prepared. An arrest cannot be made unless the parent has been convicted of unlawful visitation interference at least twice previously.
- b. Law enforcement officers do not have the right to enforce civil process unless that right is specifically granted by statute. For example, the Illinois Domestic Violence Act not only allows officers to enforce most of its provisions, in many cases it requires officers to do so. There is no statute that grants officers the right to enforce visitation orders. The officer's role is limited to writing a citation for unlawful visitation interference. An officer who orders or coerces a parent to turn a child over for visitation can be held civilly liable for any injury to the child while the child is in the hands of the other parent.

9. Abuse tactic

When faced with an angry, hostile parent who is demanding action, it is easy enough to decide to write a report and/or issue the citation as a means of placating the parent. Keep in mind that people who would abuse the statute will also abuse your report or the case you have initiated, using it against the custodial parent as another means of abusive power and control. Therefore, it is important that an officer's report accurately report the entire situation regarding a citation for unlawful visitation interference.

B. Cases involving elderly victims and victims with disabilities

Many victims of domestic violence are elderly adults or people with disabilities. Statutory provisions recognize that such victims may need greater protections as they are less likely or able to protect themselves or flee from domestic violence. Elderly and disabled victims are likely to be reluctant to participate in a prosecution of domestic violence because they depend so heavily on the offender for their daily needs. When making charging decisions, prosecutors should consider additional offenses or enhancements which are aimed at providing additional protections. In addition to crimes of physical abuse, there are also crimes against neglect and financial exploitation of the elderly and disabled that may be appropriate.

Prosecutors, together with all persons and agencies involved with crimes against the elderly or disabled, should be cognizant of the special needs of the victims. Issues of physical and mental infirmity can make communication difficult and affect the testimony of such victims as well as the perceptions of juries. Special fears lead to emotional distress and can affect willingness to testify. The impact or consequences of convictions can also lead to special needs. Most communities have agencies serving the needs of the elderly and disabled. Again, in any community where a coordinated community response to domestic violence team has been constituted, agencies and personnel serving the needs of the elderly and disabled should be encouraged to become partners in the team effort.

1. Family or household member

In Illinois, the definition for family or household member includes caregivers and personal assistants. A key point in this definition of caregiver or personal assistant is that it includes strangers who visit the home to provide care, if that person is doing so as part of their employment, in exchange for any type of consideration or because they have been appointed to take care of the older person or person with a disability by a court or public or private agency. 750 ILCS 60/103(6) and 725 ILCS 5/112A-3(3).

2. Enhanced penalties

The law establishes additional protections for the elderly and persons with disabilities in the form of enhanced penalties where abuse is proven. These statutes do not require a family or household relationship between the offender and the victim and should be used to charge abuse even when such a relationship exists because conviction results in greater penalties than are available in charges of domestic violence

3. Aggravated battery

What may be a misdemeanor domestic battery involving bodily harm or physical contact of an insulting or provoking nature in a normal situation can be enhanced to a Class 3 felony aggravated battery when the victim is age 60 or over or has a physical disability. 720 ILCS 5/12-3.05

In *People v. Jordan*, case law held that when the victim is 60 years of age or older, it was not required that the defendant know the victim's age for the crime to be enhanced. 102 Ill. App. 3d 1136, 1139 (4th Dist. 1983).

C. Criminal abuse or neglect of an elderly person or person with a disability

720 ILCS 5/12-3.05 provides: "A caregiver commits criminal abuse or neglect of an elderly person or person with a disability when he or she knowingly does any of the following: (A) performs acts that cause the person's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate; (B) fails to perform acts that he or she knows or reasonably should know are

necessary to maintain or preserve the life or health of the person, and that failure causes the person's life to be endangered, health to be injured, or pre-existing physical or mental condition to deteriorate; (C) abandons the person; (D) physically abuses, harasses, intimidates, or interferes with the personal liberty of the person; or (E) exposes the person to willful deprivation." The crime is a class 3 felony unless it results in the person's death in which case it is a class 2 felony. If the offender is sentenced to incarceration, the term is from three to fourteen years.

1. Evidence

Many of this Protocol's recommendations for evidence based prosecution are especially important in domestic violence cases involving elderly victims or victims with disabilities.

a. Photographs are vital

- **Photographs of the injuries**

Older adults may not recall or describe on the witness stand the bruise on their face or how they were injured. Even the officer's most vivid and graphic verbal description won't have the same effect that a good picture will have.

- **Photographs of the home**

Photographs of the home will often dispute the defense put up by many abusers that they were working so hard to care for the older adult or person with a disability and that the victim was just inadvertently injured. Photographs of a filthy or disheveled home dispute the "overburdened caretaker" defense. It is also advisable to take picture of mobility devices in relation to the location of a victim with a disability, as the abuser may have moved it out of reach of the victim.

b. Interviews

Interviews with the victims who are older or have a disability that are video- or audio-taped are most useful in prosecution. If the victim cannot remember, or refuses to testify, the relevant portion of the tape may be introduced as substantive evidence. A signed statement is second best to a tape.

2. "Hearsay exception regarding elder adults" which reads:

"(a) In a prosecution for a physical act, abuse, neglect, or financial exploitation perpetrated upon or against an eligible adult, as defined in the Elder Abuse and Neglect Act, who has been diagnosed by a physician to suffer from

(i) any form of dementia, developmental disability, or other form of mental incapacity or

- (ii) any physical infirmity, including but not limited to violations of [large list of included crimes], the following evidence shall be admitted as an exception to the hearsay rule:
- (1) Testimony by an eligible adult, of an out of court statement made by the eligible adult, that he or she complained of such act to another; and
 - (2) Testimony of an out of court statement made by the eligible adult, describing any complaint of such act or matter or detail pertaining to any act which is an element of an offense which is the subject of a prosecution for a physical act, abuse, neglect, or financial exploitation perpetrated upon or against the eligible adult.
- (b) Such testimony shall only be admitted if:
- (1) The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and
 - (2) The eligible adult either:
 - (A) testifies at the proceeding; or
 - (B) is unavailable as a witness and there is corroborative evidence of the act which is the subject of the statement.
- (c) If a statement is admitted pursuant to this Section, the court shall instruct the jury that it is for the jury to determine the weight and credibility to be given the statement and that, in making the determination, it shall consider the condition of the eligible adult, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.
- (d) The proponent of the statement shall give the adverse party reasonable notice of his or her intention to offer the statement and the particulars of the statement.” 725 ILCS 5/115-10.3
- Interviews conducted by the prosecutor’s office should be conducted in a place where the victim feels safe, without the presence of the offender. If the home is not safe, a senior center, disability organization or religious institution may feel more comfortable to the victim. Having a large print calendar available for the interview may be of assistance in reminding the victim of specific dates.
 - The victim should be interviewed alone. Adult children or caregivers (those other than the offender) often speak for the person who is older or has a disability. A tape of the victim saying, “My son hit me in the face.” may be admissible. A tape of the victim’s daughter saying, “Mom told me my brother hit her in the face.” is not.
 - Like other victims of domestic violence, older victims and victims with disabilities may not want to cooperate. The perpetrator may be a

beloved child or grandchild. Victims may blame themselves for the abuse.

- Interviews of neighbors, mail carriers, the paper deliverer, meter reader or any other who comes to the home on a regular basis may provide valuable information or admissible evidence.

D. Intimate partner sexual assault

When most people think about sexual assault, they think about a stranger attacking a woman walking home alone late at night. In reality, 73% of sexual assaults are committed by someone the victim knows – from acquaintances to current or former intimate partners.

Historically, it was believed that a woman could not be sexually assaulted by her husband. In every state, husbands were excluded from prosecution. In Illinois, until 1984, rape (now called sexual assault/abuse) was “intercourse with a woman, not his wife, by force and against her will”. Courts found that a man could not take his wife against her will as “consent to sexual relations with her husband was implicit in the marital contract”. **The law in Illinois now makes no distinctions between sexual assault by a stranger or by a husband.** Sexual assault and sexual abuse can happen to anyone.

In multiple studies, 10-14% of married women in the general population reported being sexually assaulted by their husbands at least once. Of those women, half reported being attacked five or more times and 1/3 reported being attacked 20 or more times. In 18% of the cases, the attacks were witnessed by children.

When we look at the issue of sexual assault within the context of domestic violence, the numbers are even more staggering. **Approximately 50% of battered women reported being sexual assaulted at least once by their abusers.**

Types of Abusers

There are two primary types of abusers (rapists) in intimate relationships. The “Battering Type” uses sexual assault as one more type of power and control over the victim in a domestic violence situation. There tends to be much more physical and verbal abuse generally, and more force is used than is necessary to overpower the victim. **This type of abuser is viewed as being particularly dangerous and more likely to severely injure or kill their victims, compared to abusers who do not sexually assault. They are also more likely to batter when their wife or partner is pregnant compared to other abusers.**

Interestingly, battered women who are sexually assaulted more than 20 times are more likely than other battered women to kill their abusers.

The “Non-Battering Type” uses only as much force as is necessary to accomplish the attack. These individuals usually have consensual sex but have long term disagreements over the frequency or type of sex. He sees her “withholding” sex as her trying to control him. The assertion of dominance and control over sex is the primary motive and this type is not usually controlling in other aspects of the relationship.

Sexual assaults by current or former intimate partners can be just as violent as attacks by strangers. The following physical consequences were reported in a medical study of intimate partner sexual assaults:

• Painful intercourse	72%
• Vaginal pain	64%
• Vaginal bleeding	37%
• Anal bleeding	30%
• Leaking urine	32%
• Miscarriage of stillbirth within days of attack	20%
• Unwanted pregnancy	18%

Victims of intimate partner sexual assaults are just as likely to suffer psychological distress and suffer the same problems as women assaulted by strangers, including:

• Anxiety	• Fear of men
• Depression	• Other social phobias
• Lack of sleep	• Substance abuse
• Eating disorders	• Suicidal ideation
• Lack of interest in sex	• Post Traumatic Stress Disorder

They are also slightly more likely to report believing that they would be killed during the assault.

Special Considerations

There are a number of special considerations in domestic violence cases that require particular attention from the courts. Stalking, strangulation, firearms, and sexual assault are signs of a potentially very dangerous situation. The following section lists elements of these considerations and best practice policies that will assist prosecutors in identifying these elements of danger:

A. Stalking

Stalking, including cyberstalking is different from other crimes. First, stalking is not a single act, but a series of behaviors, causing repeated victimization. Second, stalking is partly defined by its effect upon the victim (National Center for Victims of Crime, 2002). Stalking is a sign of extreme danger for a victim. While stalking cases do not always involve physical violence, stalking is frequently found as a precursor to homicide of women (National Center for Victims of Crime, 2002).

Prior to January 1, 2010, the Stalking Statute in Illinois (720 ILCS 5/12-7.3) prohibited following and/or surveillance, coupled with a threat element. This definition was very limited and failed to take into account the fact that most stalkers engage in a variety of actions that cause distress or fear to victims. The law also failed to adequately deal with the use of stalking technology.

Under the newer provision, a person commits stalking when he or she knowingly engages in a course of conduct directed at a specific person and knows or should know that the conduct would cause a reasonable person to:

1. Fear for their own safety or the safety of another person; or
2. Suffer emotional distress, defined in the statute as “significant mental suffering, anxiety or alarm.”

Course of conduct means 2 or more acts including, but not limited to, acts in which a defendant directly or indirectly or through third parties by any action, method, device or means:

References and Resources

Information and helpful tools can be found on the **Stalking Resource Center** and **The Department of Justice, Office of Violence Against Women** websites:

- <http://victimsofcrime.org/our-programs/stalking-resource-center>
- <https://www.justice.gov/sites/default/files/ovw/legacy/2013/01/31/tips-for-law-enforcement.pdf>
- <https://victimsofcrime.org/docs/default-source/src/tips-for-prosecutors-2015.pdf?sfvrsn=2>

1. Follows, monitors, observes, and surveils the victim;
2. Threatens or communicates to the victim or about the victim;
3. Interferes with or damages the victim's property or pet; or
4. Engages in other non-consensual contact initiated without the victim's consent, including but not limited to:
 - a. Being in the physical presence of the victim;
 - b. Appearing within the sight of the victim;
 - c. Approaching or confronting the victim in a public place or on private property owned, leased or occupied by the victim, or
 - d. Placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

The wording "method or device" allows for charges when the offender communicates via electronic communication or uses technology to track or monitor the victim.

"Reasonable person" in the statute means a "person in the victim's situation" which clarifies that courts can consider the prior history between the parties and other factors that contribute to the victim's fear or emotional distress. It is helpful for officers to document in the narrative of their report statements made by victims regarding their fear or distress and/or reasons for their fear or distress. It is also helpful to document actions the victim has taken to avoid the stalker, such as changing phone numbers or email addresses, changing the routes they travel, moving their residence, or changing jobs. These changes help to show that the offender's conduct was non-consensual and upsetting to the victim.

Under the older section of the Stalking statute, a person commits stalking when he or she, knowingly and without legal justification:

1. Follows the victim at least twice; or
2. Places the victim under surveillance at least twice; or
3. Engages in a combination of following or surveillance on at least two separate occasions;

AND

4. Transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that the victim or the victim's family member; or
5. Places the victim in reasonable apprehension of bodily harm, sexual assault, confinement or restraint; or
6. Places the victim in reasonable apprehension that a family member will receive immediate or future bodily harm, sexual assault, confinement or restraint.

A person who has been convicted of stalking need only engage in one act of following or surveillance, coupled with a threat of immediate or future bodily harm, sexual assault, confinement or restraint to the victim or the victim's family to be charged with a new offense of stalking. 720 ILCS 5/12-3

Stalking is a Class 4 felony. A second or subsequent conviction for Stalking is a Class 3 felony.

B. Aggravated Stalking

A person commits Aggravated Stalking when he or she commits Stalking **and**:

1. Causes bodily harm to the victim;
2. Confines or restrains the victim; or
3. Violates a temporary restraining order, an order of protection, a Stalking No Contact Order, a Civil No Contact Order or an injunction prohibiting the abuse as defined by the Illinois Domestic Violence Act. 720 ILCS 5/12-7.3.

A person can also be charged with Aggravated Stalking when he or she is or previously was required to register as a sex offender and stalks the same victim as in the sex offense.

Aggravated Stalking is a Class 3 felony. A second or subsequent conviction is a Class 2 felony.

C. Bond provisions

A court may deny the defendant bond in a Stalking case where the "proof is evident or the presumption great that the defendant has committed" stalking and:

1. The State proves by clear and convincing evidence that the "defendant poses a real and present threat to the physical safety of the ... victim ...";
2. The denial of release is "necessary to prevent fulfillment of the threat upon which the charge is based"; and

3. The court finds that no condition or combination of conditions of bond "can reasonably assure the physical safety of the ... victim ..." 725 ILCS 5/110-6.3(b)

D. Cyberstalking

A person commits cyberstalking when he or she engages in a course of conduct using electronic communication directed at a specific person, and he or she knows or should know that would cause a reasonable person to:

1. fear for his or her safety or the safety of a third person; or
2. suffer other emotional distress.

A person commits cyberstalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions, harasses another person through the use of electronic communication and:

1. at any time transmits a threat of immediate or future bodily harm, sexual assault, confinement, or restraint and the threat is directed towards that person or a family member of that person; or
2. places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or
3. at any time knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

A person commits cyberstalking when he or she, knowingly and without lawful justification, creates and maintains an Internet website or webpage which is accessible to one or more third parties for a period of at least 24 hours, and which contains statements harassing another person and:

1. which communicates a threat of immediate or future bodily harm, sexual assault, confinement, or restraint, where the threat is directed towards that person or a family member of that person; or
2. which places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint; or
3. which knowingly solicits the commission of an act by any person which would be a violation of this Code directed towards that person or a family member of that person.

E. Definitions for purposes of this Section

1. Course of conduct

Course of conduct means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person's property or pet. The incarceration in a penal institution of a person who commits the course of conduct is not a bar to prosecution under this Section.

2. Electronic communication

Electronic communication means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

3. Emotional distress

Emotional distress means significant mental suffering, anxiety or alarm.

4. Harass

Harass means to engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person.

5. Non-consensual contact

Non-consensual contact means any contact with the victim that is initiated or continued without the victim's consent, including but not limited to being in the physical presence of the victim; appearing within the sight of the victim; approaching or confronting the victim in a public place or on private property; appearing at the workplace or residence of the victim; entering onto or remaining on property owned, leased, or occupied by the victim; or placing an object on, or delivering an object to, property owned, leased, or occupied by the victim.

6. Reasonable person

Reasonable person means a person in the victim's circumstances, with the victim's knowledge of the defendant and the defendant's prior acts.

7. Third party

Third party means any person other than the person violating these provisions and the person or persons towards whom the violator's actions are directed.

Telecommunications carriers, commercial mobile service providers, and providers of information services, including, but not limited to, Internet service providers and hosting service providers, are not liable under this Section, except for willful and wanton misconduct, by virtue of the transmission, storage, or caching of electronic communications or messages of others or by virtue of the provision of other related telecommunications, commercial mobile services, or information services used by others in violation of this Section.

A defendant who directed the actions of a third party to violate this Section, under the principles of accountability set forth in Article 5 of this Code, is guilty of violating this Section as if the same had been personally done by the defendant, without regard to the mental state of the third party acting at the direction of the defendant. 720 ILCS 5/12-7(d-10)

8. Sentencing

- a. Stalking is a Class 4 felony and carries a penalty of one to three years for a first offense. 720 ILCS 5/12-7.3(b) and 730 ILCS 5/5-4.5-45.
- b. A second or subsequent conviction for stalking is a class 3 felony.
- c. Aggravated stalking is a Class 2 felony and carries a penalty of two to five years. A subsequent conviction for stalking or aggravated stalking carries higher penalties. 720 ILCS 5/12-7.4(b) and 730 ILCS 5/5-4.5-35.

9. Policy

Solid policy for prosecutors on stalking and cyberstalking is needed in order to increase the use of the stalking law in Illinois. A best practices prosecution policy includes the following:

- a. Treat all domestic violence cases as potential stalking cases.
- b. The prosecutor should request that bail not be granted when the threat of violence was the basis of arrest. As appropriate, the prosecutor may request preventive detention or referral for a psychiatric evaluation. Intensive pretrial supervision is another option. Evidence that helps support a request for no release include a history of violating court orders, dangerousness assessment findings, and testimony from a detective experienced in stalking, a mental health expert, or a domestic violence and stalking expert. If the court refuses a request for no bail, a prosecutor should then request that the offender be required to wear a GPS tracking device as a condition of bail.

- c. Seek to issue a no-contact order relating specifically to the facts of the case and pattern of stalking. It is always best to request an order of protection if the offender qualifies as a household or family member of the victim, as any violation of an order of protection may require the offender to wear a GPS tracking device. A stalking no contact order should be sought only when the stalking is perpetrated by an acquaintance or stranger.
- d. If bail is granted, the prosecutor should seek to ensure that the victim is contacted by the jail upon release of the offender.
- e. The prosecutor should re-interview the victim early in the case using patience to give the victim the opportunity and feeling of safety to reveal all elements of the stalking behavior. The prosecutor should ask a domestic violence advocate or victim witness specialist to be available to assist the victim in creating a safety plan and locating other useful resources. The advocate can also assist the victim in obtaining an order of protection.
- f. The prosecutor should ensure that the victim has information on obtaining an order of protection.
- g. The prosecutor should decide what non-stalking charges to file and should include all those having sufficient evidence to prosecute. Potential charges include felonies and misdemeanors. The prosecutor should also consider using an expert witness to testify about stalking and “a course of conduct” so that jurors understand that seemingly innocent behaviors can comprise elements of the crime of stalking.
- h. In a prosecution for stalking or attempted stalking, the prosecutor should consider seeking the forfeiture of any vessel, vehicle or aircraft used with the knowledge and consent of the owner in the commission of said offense pursuant to 720 ILCS 5/36-1. It is more difficult to commit crimes if the things they use to commit the crimes are taken away. This can be a powerful tool in preventing further harassment and/or abuse of the victim.
- i. The prosecutor’s office should maintain periodic contact with the victim post sentencing to see if any further episodes of stalking occur, or whether the stalker has been incarcerated or placed on probation. Stalking is one of the few crimes that incarceration does not necessarily end. The offender can continue to stalk through letters and phone calls.
- j. Work collaboratively with other elements of the courts to create a

comprehensive stalking policy and to enact that policy.

F. **Strangulation**

Strangulation has been identified as one of the most lethal forms of domestic violence. As a result, more than half of the states in this country have passed criminal laws specifically dealing with strangulation. In 2010, Illinois amended the Aggravated Battery and Aggravated Domestic Battery statutes to allow for strangulation incidents to be charged as felonies.

Definitions

Victims reporting strangulation often say “I was choked.” It is very important for a victim to describe what happened in their own words, but it is just as important to understand the difference between “choking” and “strangulation” and to use the proper terminology in police reports. “Choking” occurs when a person swallows something that blocks the person’s airway. It is usually accidental.

Under Illinois law, “Strangulation” is intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual.

References and Resources

Information and helpful tools can be found on **the Training Institute on Strangulation Prevention** website:

<https://www.strangulationtraininginstitute.com/strangulation-concerning-type-domestic-abuse/>

Strangulation as a predictor of homicide in domestic violence cases

In several studies of domestic violence homicides, evidence showed that the victim had suffered at least one strangulation episode in the year prior to her death. It is important to note that while only 10% of murders nationally were by strangulation, 90% of those murders by strangulation were domestic violence-related. **Many of those victims died without a single visible mark to the victim’s neck.**

The San Diego study

The San Diego City Attorney’s Office conducted a study of 300 strangulation cases submitted for prosecution in San Diego in 1995. The research reviewed the existing evidence, including 911 recordings, police and medical reports and photographs, and found that in 50% of cases, officers reported seeing no physical injury when responding to the scene and in 35% of cases the injury was too minor to photograph. Only 15% of cases had a photograph of sufficient quality to be used in court as physical evidence of strangulation.

While visible injury may not be present at the time of police response, there may be other physical signs of strangulation which include the following:

- Neck or throat pain
- Difficulty swallowing

- Hoarseness, change in voice or coughing
- Breathing changes
- Pain to ear or headaches
- Loss of consciousness, lightheadedness, seeing “black spots”
- Hyperventilation
- Nausea or vomiting
- Incontinence or defecation
- Uncontrollable shaking
- Pupils not the same size
- Trouble walking or moving neck
- Loss of memory
- Red spots in the eye
- Miscarriage

One physical sign not well understood until this study was the appearance of pinpoint hemorrhages (red spots), called petechiae, which can be found in the eye, under the eyelids, around the eye, on the face or scalp or, generally, anywhere above the area of constriction.

Disruption of oxygen to the brain may result in behavioral changes in the victim, such as aggressiveness or a combative demeanor.

The medical examiner noted that a victim of strangulation may die from unseen internal injuries days, and in some cases weeks, after the incident. It is important to encourage victims of strangulation to seek medical attention.

Illinois’ Strangulation Law

Illinois has amended the Aggravated Battery and Aggravated Domestic Battery statutes to allow what would otherwise be a misdemeanor battery to be charged as a felony.

Strangulation is defined as:

Intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual. 720 ILCS 5/12-3.05 (5)

G. Aggravated Battery

A person who commits a battery against another person by strangulation may be charged with Aggravated Battery. 720 ILCS 5/12-3.05 (a)(5) (Formerly: 720 ILCS 5/12-4) Aggravated Battery is typically a Class 3 felony, carrying a penalty of 2 - 5 years.

The sentence can be enhanced for Aggravated Battery by strangulation to a Class 1 felony, carrying a penalty of not less than 4 years and up to 15 years, if any of the following conditions apply:

1. The person used or attempted to use a dangerous instrument while committing the offense;
2. The person caused great bodily harm or permanent disability or disfigurement to the other person while committing this offense;
3. The person has been previously convicted of this violation under the laws of this State or similar laws of another state. 720 ILCS 5/12-3.05 (h)

H. Aggravated Domestic Battery

A simple battery against a family or household member as defined by the Illinois Domestic Violence Act (Domestic Battery) can be charged with Aggravated Domestic Battery when the battery was committed by strangulation. 720 ILCS 5/12-3.3(a-5) Aggravated Domestic Battery is a Class 2 felony.

1. **Take follow-up photos**

Because photos taken by law enforcement may not show evidence that becomes visible later, take photos of any injuries identified during victim interviews.

2. **Obtain medical records**

Many victims show no signs of external injury. However, due to lack of oxygen to the brain, the victim may suffer minor symptoms or even major symptoms, such as stroke, miscarriage or death up to several weeks later. Obtain medical records of the victim prior to and post strangulation.

3. **Aggressor identification**

Look for documentation of an aggressor identification performed by law enforcement at the time of the initial call. It is common for there to be mutual claims of violence in strangulation cases. Due to the nature of strangulation, the victim frequently fights back or uses physical means to try to get away. Since strangulation injuries are often not physically visible, the aggressor may be the only one with visible injuries. If aggressor identification was not performed at the time of the initial law enforcement investigation, and both parties are claiming to be victims, perform aggressor identification at this time to determine what charges to pursue. The type of injuries reported by both parties will assist with this investigation. The aggressor in a strangulation case may have defensive injuries. If the strangulation was committed from behind, the aggressor may have bite marks and scratches on the arms. If the strangulation was committed from the front, the aggressor may have scratch marks on the face, arms, eyes, and chest, signs of hair pulled, bite marks on the chest, injuries from kicks, or other defensive wounds.

4. **Obtain the 911 call tape**

The 911 call may be the best evidence of changes in the victim's voice due to strangulation.

5. **Tape record victim interviews**

Prosecutors can often record evidence of voice changes by tape recording victim interviews.

6. **Consider the use of forensic experts**

Forensic nurses or investigators can examine victims, take photographs, and identify injuries due to strangulation. The use of a forensic nurse or other forensic expert during investigation can strongly enhance the prosecution of a case.

7. **Use expert testimony**

Expert testimony is important for use in prosecution to educate the judge and jury on the seriousness of strangulation, especially in light of the limited physical evidence available in many of these cases. This is true whether or not the victim received medical attention for injuries due to strangulation.

8. **Firearms**

The possession of firearms increases the risk of homicide in relationships where domestic violence is occurring. Firearms were used in 65 percent of all domestic violence homicides between the years of 1976 and 1996 (Greenfield and Rand, 1998). Law enforcement, prosecutors and judges are in a unique position to ensure that laws, policies, and procedures are implemented to decrease the use and possession of firearms by abusers.

Chapter 4:

DOMESTIC VIOLENCE IN CULTURAL CONTEXT:

Responding to Victims of Domestic Violence

Produced by:
Illinois Family Violence Coordinating Council
at the
Illinois Criminal Justice Information Authority

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Chapter 4: Domestic Violence in Cultural Context

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Intersection of Domestic Violence and Culture

Establishing and maintaining power and control over a partner is common across abusive intimate partner relationships. It can take many forms including but not limited to physical, emotional, and verbal abuse, economic abuse, isolation, and gaslighting.

A victim's experience of domestic violence is heavily influenced by the context, particularly, the cultural backgrounds of the victim and the offender. Culture shapes an individual's world view, their values, behaviors, and ways of life. It influences attitudes and affects how individuals and communities experience and respond to domestic violence as well as how a perpetrator may choose to harm a victim. Context can include:

- demographic identities of the victim/offender
- geographical location (neighborhoods)
- environment (home, house of worship, cultural center)
- previous life experiences
- personal, familial and community values regarding relationships
- tactics employed by the abuser
- resources available

Though every victim of domestic violence has unique experiences, those with vulnerabilities rooted in societal forms of discrimination such as racism, ableism, ageism, and heterosexism may have needs that can be particularly difficult to navigate because systems are not designed to deal with them fully. The result is often that:

1. individuals are separated from traditional safety nets;
2. stigma can be used by batterers against their victims; and
3. this can render victim assistance a less trusted or useful option.

Abuser tactics and context

Abusers know their victims and they use that knowledge to customize their control tactics. The experiences of stigma and discrimination of people belonging to certain groups such as immigrants, people with disabilities, youth and seniors, communities of color, and LGBTQ individuals, across their lifespans results in an array of vulnerabilities. These may include issues such as school bullying, health disparities, job and food insecurities, housing bias, family rejection, and systems based profiling. Batterer tendencies to exploit knowledge that can make intimate partner violence very difficult to interrupt and stop. It is

also what can make IPV even more dangerous and prolonged than violence at the hands of a stranger. [See Comparison of Violence in _____ section of the appendix/protocol.](#)

This opens multiple ways batterers. From greater isolation of victims and fear of systems to low self-worth, batterers can use social stigma to their advantage to inflict greater harm, particularly when systems are not fully equipped or trained to work within marginalized communities. This chapter will highlight abuser tactics that are commonly used in violent relationships as they are influenced by the victim's lived experiences, culture and identity.

Multiple Identities

An individual may identify with one or several identities or cultures. The violent experience of victims may be compounded for people who live at the intersections of identities such as survivors of domestic violence who are Asian and gay or who have a disability and are undocumented. The key for law enforcement and prosecutors is to filter information from the viewpoint and life experiences of the victim and to not create potentially more dangerous situations for the victim.

Response

Though seemingly admirable, several issues ripple out from the 'we treat everyone equally' approach. If law enforcement and prosecutors do not know to look for culturally specific forms of a batter's targeting tactics or a victim's coping strategies, they might:

1. mislabel/mis-categorize violence;
2. misidentify the primary aggressor;
3. offer counseling that may distance victims from safety and healing due to feelings of stigma and shame;
4. offer safety planning measures that put the victim in harm's way;
5. miss an opportunity for victims compensation and hate crimes documentation;
6. misunderstand how a coping strategy makes sense in a cultural context;
7. miss patterns of assaults that should be reported to and explained to law enforcement; and
8. reinforce the notion that 'treating all victims the same' is an effective approach.

Whether a fact or an assumption, victims from many marginalized groups either feel they cannot access justice or services or that they will be helped by law enforcement, prosecutors and service providers.

Response Guidelines for Criminal justice professionals include:

1. **Listen and learn from victims.**

Regardless of how much training or understanding a criminal justice professional has on culture, it doesn't translate into knowing the specific individual victim. The expert is the victim. Listen, ask questions and learn from the victim about how culture and identity impact their situation.

2. **Avoid stereotyping**

Do not allow stereotypes of any kind to interfere with decisions to arrest or prosecute. Train your officers in areas such as:

- a. implicit bias
- b. microaggressions
- c. intergenerational trauma
- d. the history of policing
- e. the history of neighborhood development

Related to this, Engage in Culture Shift Trainings Work with trainers that integrate impact evaluation tools as part of a longitudinal engagement.

3. **Service provider accessibility**

Work with programs designed specifically to serve people from various cultural and ethnic groups, especially when domestic violence programs that work with specific cultural and religious groups are available, and refer victims to these programs.

4. **Listen to the community**

Listen to the voices of people from marginalized cultural and religious groups in their communities and together design policies that meet the needs of those populations. This fits well with community policing strategies.

5. **Diverse personnel**

Hire criminal justice professionals that represent the communities that they serve.

Law enforcement officers, prosecutors and judges must approach cultural competency with open mindedness toward learning about cultures other than one's own, exploring one's own biases and the willingness to see each person, regardless of what community they come from, as a unique individual.

VAWA

The Violence Against Women Act (VAWA), which was passed in 1994 and reauthorized in 2000, 2005 and 2013, includes several provisions which acknowledge that the context

of domestic violence has profound implications upon victims. The provisions address the barriers faced by many victims due to age, disability, sexual orientation, and/or immigration status. Additionally, VAWA recognizes the tactics employed by perpetrators to exert power and control and to keep their victims from leaving, reporting violence or seeking services.

For example, to ensure that immigrant victims of domestic violence could report violence to law enforcement without the fear of deportation, VAWA includes remedies of self-petitioning to become a citizen, which allows immigrant victims of domestic violence who have been “battered or subject to extreme cruelty” by their citizen or lawful permanent resident spouse to petition to become a citizen without the assistance of their abuser. U visas and T visas give protection from deportation to immigrant victims of certain violent crimes and trafficking when they participate in investigations and prosecutions of these crimes.

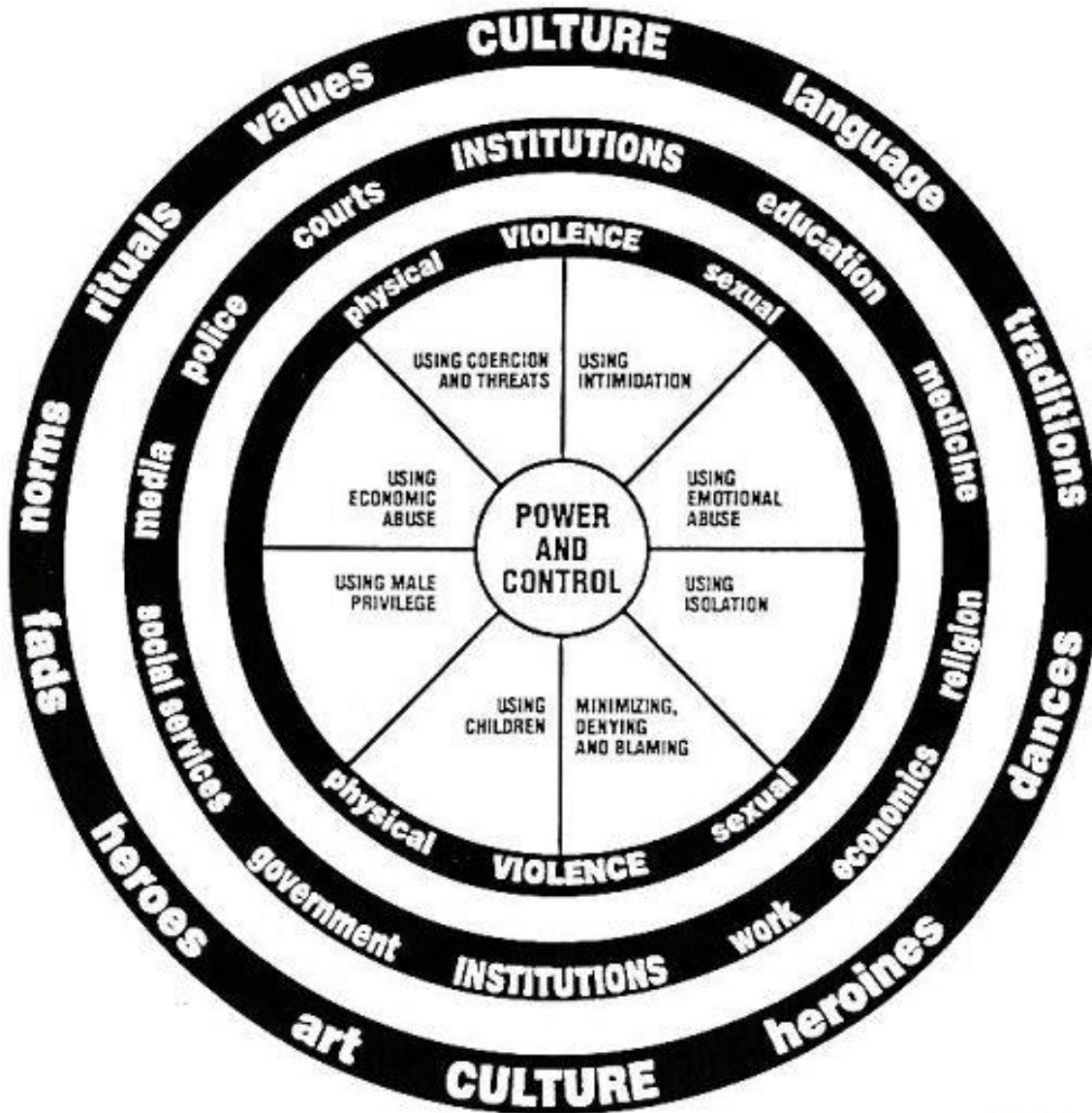
References and Resources

Violence Against Women Act

For more information go to:

<https://www.thehotline.org/resources/vawa/>

The political landscape also has a significant impact on LGBTQ experiences of domestic violence and access to services. In 2013, the Violence Against Women Act (VAWA) reauthorization included LGBT protections. This is the first time that sexual orientation and gender identity were explicitly named in anti-discrimination protections in federal law. While VAWA is important because of the explicit protections, there continues to be concern for LGBTQ victims regarding services as LGBTQ protections are being stripped at the federal and state levels. Most recently, the Department of Health and Human Services new office, called the Conscience and Religious Freedom Division, allows medical professionals to refuse treatment to a patient because of deeply held religious or moral reasons. If an LGBTQ victim is able to go through the often-dangerous process of seeking medical attention, there is now the added fear that they may be denied services based on bias.



DOMESTIC ABUSE INTERVENTION
PROGRAMS
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Duluth, Minnesota 55802
218-722-2781
www.theduluthmodel.org

Cultural and Religious Considerations

Prevalence and Dynamics

Many cultural and religious groups hold strong values around family and community integrity and may also hold to strict gender roles. These values can create additional pressures on victims of domestic violence to maintain a marriage at all costs or not violate the community's image within the larger mainstream culture, creating additional barriers for people from these communities to seeking help from the courts. However, being a member of a particular cultural or religious group can also be a great strength for many battered people, providing understanding supports or personal values that help a victim hold a sense of self. Social service agencies that specialize in working with particular cultural or religious groups will often take into account particular community values when offering services, safety and support.

Barriers

People from diverse cultural or religious groups, particularly those marginalized from mainstream culture, risk experiencing a lack of understanding and stereotyping when turning to law enforcement for assistance, causing many to refrain from seeking such services. Men from marginalized cultures may not be held as accountable, and people from certain groups may not be offered complete services because of negative and false stereotypes that violence is normal within certain cultural and religious groups¹. The reverse is also true. People of color and poor people sometimes turn to law enforcement for help because they lack other resources. Men of color and poor men will then be more likely to receive consequences from the system because they lack the resources for an attorney²

Abuser Tactics

Male power and dominance over women and children as an expected way of life is deeply connected to the values of some cultures and religious communities. Abusers employ a variety of strategies to establish and maintain control over their partners which may include the following tactics:

- Manipulating scriptures or religious doctrine to justify their controlling tactics ("head of the household") and the partner's role of submissiveness.
- Making the victim feel guilty for not living up to religious standards.
- Citing scripture as an excuse or mandate for abuse.

¹ DOMESTIC VIOLENCE AND PROBATION, Fernando Mederos, Denise Gamache and Ellen Pence, Battered Women's Justice Project, Minneapolis, MN.

² Domestic Violence and Probation, Fernando Mederos, Battered Women's Justice Project, Minneapolis, MN.

- Pressuring victim to remain in the relationship to preserve respect of the religious community and avoiding sinning, i.e. divorce is a sin.
- If partner is a leader in the religious community, pressuring victim to stay silent and accept suffering as an act of faith.
- Asking for forgiveness as an expectation of faith.
- Isolating victim from faith community, i.e. not allowing attendance for services or controlling interaction with others when participating in faith activities.
- Forcing the victim to participate in the faith community.
- Enlisting the support of faith leaders to pressure victim to work things out and stay in relationship.
- Using scripture to force sex or unprotected sex.

Guidance and Considerations

It is important for both law enforcement and prosecutors to understand the impact of culture and religion in a victim's life. The following resources provide more information about culture, religion and domestic violence:

- VAWNet – a project of National Resource Center on Domestic Violence
 - Faith-Based and Multi-Cultural Resources
<https://vawnet.org/sc/faith-based-and-multi-cultural-resources>
 - Race, Ethnicity and Culture as Critical Factors in Accessing Domestic Violence Resources
<https://vawnet.org/sc/race-ethnicity-and-culture-critical-factors-accessing-domestic-violence-resources>
 - Role of Faith Leaders and Laity in Domestic Violence Prevention and Intervention
<https://vawnet.org/sc/role-faith-leaders-and-laity-domestic-violence-prevention-and-intervention>
- Universal Life Church
 - Culturally Sensitive Resources for Victims of Domestic Violence
<https://www.ulc.org/ulc-blog/culturally-sensitive-resources-for-victims-of-domestic-violence>

Adolescent victims

Prevalence

Adolescent (teen) dating violence describes a range of abusive behaviors, including physical and sexual violence, stalking and psychological abuse that preteens and adolescents experience in the context of a past or present dating relationship.³ Teen dating violence is widespread as some research shows that about one in three U.S. adolescents ages 14 to 20 have been victims of dating violence and about one in four say they have committed relationship violence themselves.⁴ A 2011 U.S. Centers for Disease Control and Prevention nationwide survey found that 23% of females and 14% of males who ever experienced rape, physical violence, or stalking by an intimate partner, first experienced some form of partner violence between 11 and 17 years of age.

In Illinois in 2017, about 1 in 10 high school students reported they had experienced physical dating violence and 1 in 12 students reported experiencing sexual dating violence in the past 12 months. It is important to note that adolescents who identified as LGBTQ were three times more likely than their heterosexual peers to report both physical and sexual dating violence. .⁵

Barriers

Research shows that only 33% of adolescent dating abuse victims ever tell anyone about the abuse.⁶ Teens who are in an abusive relationship may have a difficult time requesting help for many reasons. Children who have grown up witnessing or experiencing violence in their home may believe that dating violence is acceptable or not a real problem. Some teens may believe that the positive aspects of their relationship outweigh the risks and may be afraid of hurting their dating partner's feelings. On the flip side, if they are ready to end the relationship, they may fear retaliation from the abusive partner and/or they don't know how and where to get confidential help.

Many teens are especially reluctant to tell their parents about their abusive relationship because they are afraid their parents will make them break up or take away privileges,

³ Marina M Mendoza, PhD and Carrie Mulford, PhD, "Relationship Dynamics and Teen Dating Violence," *Research in Brief*, National Institute of Justice, February 2018

⁴ "National Rates of Adolescent Physical, Psychological, and Sexual Teen-Dating Violence," Michele Ybarra PhD, MPH, Center for Innovative Public Health Research; Dorothy L. Espelage, PhD University of Illinois at Urbana-Champaign; Jennifer Langhinrichsen-Rohling, PhD, University of South Alabama; Josephine D. Korchmaros, PhD, University of Arizona; Danah Boyd, PhD, New York University; and Kathleen Basile, PhD, Centers for Disease Control and Prevention.

⁵ Laura Kann, PhD; Tim McManus, MS; William A. Harris, MM; et al., *Youth Risk Behavioral Surveillance—United States, 2017. MMWR 2018;67(No. 8; pages 22-24; Tables 39,40). Centers for Disease Control and Prevention.*

⁶ Ackard, D. M. & Neumark-Sztainer, D. (2002). Date violence and date rape among adolescents: Associations with disordered eating behaviors and psychological health. *Child Abuse & Neglect*, 26(), 455-473.

like being able to stay out late. They may be convinced that it is their fault or that their parents will blame them or be disappointed in them. They may also be concerned that their parent will not believe them or take them seriously. Parents and other adults should be aware of the warning signs of teen dating violence, including:

- Sudden changes in clothes or make-up
- Bruises, scratches, burns, or other injuries
- Failing grades or dropping out of school activities
- Avoiding friends
- Difficulty making decisions
- Sudden changes in mood or personality, becoming secretive
- Changes in eating or sleeping habits, avoiding eye contact, having “crying jags”
- Constantly thinking about dating partner
- Having to respond immediately to any text or call from dating partner
- Using drugs or alcohol
- Pregnancy-some teenagers believe that having a baby will help make things better;⁷

Abuser Tactics

“Here are some warning signs that you can look for when trying to determine whether you are experiencing teen dating violence:

- Checking cell phones, emails or social networks without permission
- Extreme jealousy or insecurity
- Constant belittling or put-downs
- Explosive temper
- Isolation from family and friends

⁷http://eap.partners.org/WorkLife/Domestic_Abuse/What_Parents_need_to_know/What_parents_need_to_know.asp

- Making false accusations
- Erratic mood swings
- Physically inflicting pain
- Possessiveness
- Telling someone what to do
- Repeatedly pressuring someone to have sex”⁸
- Sabotaging birth control, pressuring to become pregnant (Reproductive coercion).
- Embarrassing or humiliating in front of friends or in public areas.
- Constantly texting, requiring victim to always be reachable.
- Demanding account for all time.
- Posting sensitive pictures on social media.
- Using peer pressure to control, such as, spreading rumors if partner refuses to have sex or telling malicious lies to peer group.
- Coercive sexting

As was mentioned earlier, teen dating violence affects youth identifying as LGBTQ at significantly higher rates than non-LGBTQ youth. One additional barrier to seeking help and reporting abuse is the fear for some of these youth that they will be discriminated against or outed as LGBTQ. Resources/Intervention

Guidance and Considerations

The following is information that will assist law enforcement agencies in increasing their accessibility to adolescents:

1. IDVA and minor victims

The IDVA in several sections address the accessibility of the act to minors. The following sections have application to minors and their use of the IDVA:

- a. The definition of family or household members includes those who have or have had a dating or engagement relationship. 750 ILCS 60/103(6) and 725 ILCS 5/112A-3(6).

⁸ <https://beckysfund.org/resources/teen-dating-violence/>

- b. A petitioner cannot be denied an order of protection because the petitioner or respondent is a minor. 750 ILCS 60/214(a) and 725 ILCS 5/112A-14(a).
- c. A minor has the power to waive the privilege of their communication with a domestic violence advocate if the court feels that the minor can knowingly do so. 750 ILCS 60/227(e).

2. **Orders of protection against minors**

Orders of protection can be entered against minors. A minor is a family or household member as defined in the statute. *Wright v. Wright*, 221 Ill. App. 659, 662 (4th Dist. 1991). The act protects those that are being abused by family or household members. Id.

3. **Service provider accessibility**

Law enforcement officers should work with domestic violence programs and rape crisis centers and refer victims to these programs. Minors 12 years or older, may receive eight 90-minute sessions of services without parental consent.⁹

Tips & Tools

What Law Enforcement Should Know Before Interviewing Adolescent Victims of Domestic Violence

Do's

- Encourage and support their choice to get help.
- Mirror the adolescent's choice of words, tone and body language.
- Be honest about your ability to keep information confidential.
- Be direct about your legal responsibilities, especially regarding parental involvement.
- Help the adolescent be in control and make their own decisions as much as possible.
- Provide information on local resources and encourage the adolescent to seek help.

Don't

- Don't be judgmental about the adolescent's relationship or choices.
- Don't show shock or disapproval if the adolescent tells you about his/her sexual activities.
- Don't assume that abuse in a new or causal relationship is not serious.
- Don't assume that the abusive partner is also an adolescent.
- Don't share a youth's private information unnecessarily.

⁹ 405 ILCS 5/3-501, from Ch. 91 1/2, par. 3-501 Mental Health and Developmental Disabilities Code

Adolescent Domestic Battery

Prevalence and Dynamics

The term “adolescent domestic battery (ADB)” is a ***non-legal term*** an act of domestic violence perpetrated by an adolescent against another family or household member.

ADB is a key driver of youth involvement in the juvenile justice system. If not addressed effectively, ADB can result in repeated law enforcement calls to the adolescent’s home and can contribute to a cycle of juvenile justice system involvement. Most importantly, serious cases of ADB can result in harm and trauma to all family members. In Illinois, over a ten-year span, 10% of all juvenile arrests were for domestic battery-related charges. It is important to note that of those arrests, 65% did not include any injury and 34% included only minor injury.

In the absent of an adolescent-specific domestic violence response protocol, law enforcement has relied primarily on the adult intimate partner violence protocol to inform its response to adolescents. The relationship between an adolescent and his or her parent varies and is different from the relationship of IPV. Parents are expected to have a natural authority over their child which may be temporarily or permanently disrupted by ADB. Adolescents may use violence against a family member for a variety of reasons, other than establishing power and control. Reasons may include:

1. Unusual Stressors, such as:

- Death of a loved one
- School or relational stress
- Other traumatic event
 - Self-Defense (or defense of others)
- Desire to get his/her own way

It is important to remember that adolescent behavior is impacted by brain development--teens are more impulsive than adults, more emotionally volatile and less able to self-regulate and solve problems with long term consequences in mind. Child abuse, neglect or trauma (including that caused by exposure to domestic violence in the home) can significantly affect healthy adolescent brain development and influence youth and family conflict. Gender is an important factor too; girls and boys may respond differently to prior abuse or trauma and they may interact very differently with law enforcement officers.

To determine which system responses will be most effective in keeping youth, families and communities safe, the law enforcement officer must examine the context in which the violence occurred and the adolescent’s motivation for using violence. The officer must weigh the potential danger that can be caused by serious and escalating cases of ADB against the risk of harm to an adolescent brought into the juvenile justice system for minor

offenses. When appropriate, the officer has the discretion to use diversionary response, such as station adjustment, and/or make a referral to a social service agency.

Barriers

Many parents will not seek help or report their adolescent's abusive behavior because they are embarrassed, afraid that they may be judged or feel as though they are to blame for their adolescent's behavior. They may also fear retribution from their child or are concerned that they themselves may be charged with an offense.

Other parents do not report the abuse because they do not wish to criminalize their adolescent, or they do not believe reporting will do any good. The lack of community resources to respond to these families has been a barrier both for families and for law enforcement. Without an effective program to which a law enforcement officer can refer the family, the officer may believe that arresting the adolescent is the only way the family can access help.

Adolescent Behaviors

Police receive calls to respond to a wide range of inappropriate and/or abusive adolescent behaviors, from name-calling and swearing at a parent to pushing or shoving the parent to causing physical harm. The law enforcement response should emphasize safety and crisis de-escalation prior to making an arrest/diversion decision

Guidance and Considerations

1. **The Illinois Juvenile Court Act (Article V)**, governs delinquency charges against youth and provides for specialized procedural, diversion and sentencing strategies to hold youth appropriately accountable for behaviors, protect community safety and promote youth "competencies" to live responsibly and productively. (705 ILCS 405/5-101 et seq.)
2. **The Illinois Adolescent Domestic Battery Response Toolkit**, provides an adolescent-specific domestic battery response protocol as well as additional resources on ADB, adolescent development, the

Tips & Tools

Interviewing Adolescents and Parents

- Maintain a neutral demeanor
- Interview parties separately
- Withhold judgment regarding the incident;
- Don't assume the youth is automatically in the wrong
- Don't assume the parent is ineffective or a "bad parent" because this incident has occurred
- Use developmentally-informed strategies
- Be aware that adolescent's (especially girls) or parent's behavior may be a reaction to current or past traumatic events
- Do not ask the parents if they want the adolescent to be arrested
- Look for other types of abuse that may be occurring in the home
- Be direct about your legal responsibilities, especially if a DCFS hotline call is required
- Provide information on local resources and encourage the family to seek help

impact of trauma, gender responsiveness and safety planning.

3. **Service provider accessibility:** The Comprehensive Community-Based Youth Services Program (CCBYS) is Illinois' primary crisis response system to prevent young people from entering the child welfare or delinquency systems unnecessarily. Law enforcement agencies, schools, families, hospitals and others can refer eligible youth in crisis to the program rather than arresting, detaining or referring the youth to the justice system for services.

(See <http://www.dhs.state.il.us/page.aspx?item=30768> or call 1-877-870-2663.)

Homeless Victims

Prevalence

According to multiple studies examining the causes of homelessness, among mothers with children experiencing homelessness, more than 80% had previously experienced domestic violence.¹⁰

Barriers

The abuser's efforts at isolating the victim can leave few, if any, options for support and housing from friends or family. Some victims go to domestic violence shelters, but because beds are so scarce and there are accessibility issues for many victims, many end up in homeless shelters. Policies adopted by landlords and public housing facilities that allow zero tolerance for crime result in eviction notices for victims who experience violence at the hands of a partner in their home (Chicago Homeless Coalition, 2005). Such landlord policies give victims of domestic violence a difficult choice of calling law enforcement for assistance and possibly ending up homeless or not seeking assistance and keeping their apartment. 765 ILCS 750

References and Resources

**U.S. Department of Housing
and Urban Development (HUD)**

<https://www.hud.gov/>

Illinois workNet Service Finder

<https://www.illinoisworknet.com/>

Abuser Tactics

It is not uncommon for a victim of domestic violence to flee the abuser and find themselves and their children homeless; however, sometimes homelessness is a direct result of the abuser tactics. Tactics may include some of the following:

- Getting victim evicted from housing due to lease violation, i.e. abuser is not listed on lease, but living in residence.
- Employing abusive tactics which jeopardize stable housing, such as, noise disturbances, destruction of property.
- Sabotaging employment resulting in victim being unable to pay rent or mortgage.
- Taking rent money away from victim.
- Hiding bills to set the victim up for discontinuation of utilities.

¹⁰ Aratani, Y. (2009). Homeless Children and Youth, Causes and Consequences visit disclaimer page. New York, NY: National Center for Children in Poverty.

- Putting housing exclusively in their own name.
- Putting housing and credit in victim's name and intentionally destroying credit.
- Utilizing any tactics of economic abuse.

Guidance and Considerations

Homelessness is often a result of domestic violence, and homeless women are at particularly high risk to violence. The courts should consider the needs of homeless victims in seeking safety through law enforcement and prosecution.

765 ILCS 750 Safe Homes Act 735 ILCS 5/9-106.2

Illinois has enacted the following laws regarding survivors' housing rights:

- Eviction defense for victims of domestic violence, dating violence, stalking, or sexual violence. 735 ILL. COMP. STAT. ANN. 5/9-106.2
- Early lease termination. 765 ILL. COMP. STAT. ANN. 750/15
- Lock changes. 765 ILL. COMP. STAT. ANN. 750/20

In reauthorizing the **Violence Against Women Reauthorization Act of 2013 (VAWA)**, Congress recognized that families are being discriminated against, denied access to, and even evicted from housing because of their status as survivors. VAWA is intended to encourage survivors who are receiving housing subsidies to report and seek help for the abuse committed against them, without being afraid of being evicted.

- VAWA protects individuals applying for or living in federally subsidized housing from being discriminated against because of acts of domestic violence, sexual assault, dating violence, and stalking committed against them.
- Applies to men and women.
- Applies to lesbian, gay, bisexual, and transgender (LGBT) individuals.
- Only applies to federal housing programs.

Law enforcement officers and prosecutors should keep the temporary housing locations, such as a domestic violence shelter, homeless shelter, or the residence of a family member, confidential. **If the victim is staying in a safe location, such as a shelter, whether it is a confidential location or not, or the residence of a friend or family member, officers should not reveal that location to the abuser under any circumstances.**

Immigrant Victims and Communities

Prevalence and Dynamics

The National Domestic Violence Hotline reports that they answer approximately 7,000 calls, chats and text messages from victims and survivors of domestic violence facing issues related to immigration.¹¹

Barriers

Immigrant victims of domestic violence face numerous barriers to reaching out to law enforcement for safety from domestic violence, making abusers within these communities less likely to be held accountable for their crimes. These barriers include a lack of knowledge about and fear of law enforcement, language barriers, and fear of deportation for self or for the abuser, coming from a country with abusive and corrupt police, cultural, religious, and gender barriers, and economic barriers.

Though these barriers can seem insurmountable to a victim at times, there is much law enforcement can do to create a system that is accessible to immigrant victims of domestic violence (Pendleton, 2003). This section describes steps law enforcement departments can take to encourage the reporting of domestic violence and to build trust within immigrant communities. This allows law enforcement to become more adept at protecting immigrant victims of violence and at holding abusers from immigrant communities accountable for their actions.

Abuser Tactics

Due to the victim's immigration status, abusive partners have additional ways to exert power and control over their victims, including, but not limited to:

- Isolation: Preventing the victim from learning English or communicating with friends, family or others from their home countries.
- Threats: Threatening deportation or withdrawal of petitions for legal status.
- Intimidation: Destroying legal documents or papers needed in this country such as passports, resident cards, health insurance or driver's licenses.
- Manipulation Regarding Citizenship or Residency: Withdrawing or not filing papers for residency; lying by threatening that the victim will lose their citizenship or residency if they report the violence.

¹¹ National Domestic Hotline: We Stand With Immigrants <https://www.thehotline.org/2017/02/17/we-stand-with-immigrant-survivors/>

- Economic Abuse: Getting the victim fired from their job or calling employers and falsely reporting that the victim is undocumented.
- Children: Threatening to hurt children or take them away if the police are contacted.¹²

Guidance and Considerations

The Violence Against Women Act (VAWA), which was passed in 1994 and reauthorized in 2000 and 2005, includes several provisions designed to ensure that immigrant victims of domestic violence could report violence to law enforcement without the fear of deportation. Included in these remedies is self-petitioning to become a citizen, which allows immigrant victims of domestic violence who have been “battered or subject to extreme cruelty” by their citizen or lawful permanent resident spouse to petition to become a citizen without the assistance of their abuser. U visas and T visas give protection from deportation to immigrant victims of certain violent crimes and trafficking when they participate in investigations and prosecutions of these crimes.

1. Immigration status

Federal law does not require law enforcement to ask about a victim’s immigration status. Victims or witnesses of crimes are not required to state their immigration status or place of birth when contacting law enforcement to file a complaint or police report. The victim’s immigration status has no legal relevance for obtaining:

- a. Law enforcement assistance;
- b. Orders of protection;
- c. Shelter services;
- d. Emergency medical care;
- e. Child custody or child support.

It is recommended that law enforcement agencies develop a policy that allows immigrant victims to report violence without fear that their immigration status will be revealed. The enactment of such a policy will allow immigrant victims to feel safe in reporting any abuse

Domestic violence is a crime against society, not just a crime against an individual. Law enforcement officers must use all resources available to them to enforce domestic violence laws, regardless of the status of the victim. It is in the best interest of victim safety and abuser accountability for law enforcement to refrain from asking victims their immigration status when responding to domestic violence calls. This is absolutely necessary if immigrant victims of violence are to seek

¹² National Domestic Hotline: Abuse and Immigrants <https://www.thehotline.org/is-this-abuse/abuse-and-immigrants/>

assistance from law enforcement. Law enforcement must uphold the laws of the state and locality first and foremost. Doing the work of U.S. Immigration and Customs Enforcement (ICE, formerly INS) can interfere with law enforcement's ability to enforce state domestic violence laws. The practice of asking about immigration status and reporting to ICE results in immigrant victims of violence not seeking help from law enforcement in the future, and allows abusers to use law enforcement as another tool to control and abuse victims. This undermines law enforcement's primary role of enforcing state domestic violence laws to ensure victim safety and offender accountability.

2. Make referrals

Provide the victim with referral information to local agencies that can assist battered immigrants and/or immigrants in general. In rural areas, such agencies may not be available. Law enforcement officers should then refer the victim to the closest available services.

3. Language accessibility

Proper investigation of a crime involving victims and/or perpetrators that speak a language other than English requires that law enforcement have access to interpreters in all languages spoken by persons living in their communities. In rural areas, locating language translation services for many languages may be difficult or impossible. Consider looking for such services at colleges or universities, or set up telephone translation services with a service provider such as AT&T Language Bank. Additionally, there are several non-profit victim advocacy groups that have victim advocates that are fluent in several languages and may be contacted for translation services.

Older Adults and People with Disabilities

Prevalence and Dynamics

People with disabilities experience domestic and sexual violence more often than people without disabilities. Women with disabilities, compared to women without disabilities, are more likely to experience violence that is more severe victimization, experience it for longer duration, be survivors of multiple episodes of abuse, and be survivors of a larger number of perpetrators.

According to Bureau of Justice Statistics (2016), people with disabilities experience sexual assault at rates 3x higher than those without disabilities. A survey conducted by the Spectrum Institute Disability and Abuse Project found that 70% of respondents with disabilities experienced some form of abuse by an intimate partner, family member, caregiver, acquaintance or stranger. Of those respondents, 41.6% experienced sexual abuse. Several factors may influence why some people with disabilities are at greater risk:

References and Resources

For more information about the **Forensic Exam and an illustrated guide for people with disabilities** see:

Illinois Imagines Materials
<https://icasa.org/resources/illinois-imagines>

Barriers

Options to escape the abuse are far fewer for women with disabilities leaving them essentially trapped in the cycle of violence¹³.

Barriers for people with disabilities may include: dependence on others for daily living activities, fear of institutionalization or loss of services, isolation, not knowing where or how to report, fear of not being believed because of their disability, lack of access to services and supports due to communication, physical or attitudinal barriers and a culture of compliance. Abusers may be caregivers, family members or other support people or they may be intimate partners.

Tips & Tools

See handout **Perpetrator Tactics** for a list of types of abuse and tactics that perpetrators use to abuse people with disabilities and older adults.

It is also known that victims with disabilities rarely access victim services and most of the time, their offenders are not held accountable in the criminal justice system. Sometimes this is a result of these systems not being readily accessible.

Abuser Tactics

Tactics used against these victims often target their disability and/or age or their disability or age is used to cover or excuse the abuse.

¹³ Young, et. All, 1997

Guidance and Considerations

To improve access, it is helpful to consider the following:

1. **Physical Accessibility**

Plan ahead to ensure ability to transport a victim of violence with specific accessibility needs, such as a wheel chair.

2. **Language Accessibility**

American Sign Language translation should be available, as needed. Provide important information in a variety of formats, i.e. large print, Braille, pictures. Whenever possible, use plain, simple, concise language to promote understanding. Trauma makes it difficult for anyone to process information.

References and Resources

The following resources can assist with enhancing accessibility:

Illinois Network of Centers for Independent Living (INCIL)

www.incil.org

Illinois Deaf and Hard of Hearing Commission Interpreter Directory

<https://www2.illinois.gov/idhhc/icensure/pages/directoryhome.aspx>

The best way to determine what supports or accommodations may be needed, is to ask the older adult or person with a disability what they need. They're the experts on what works best. Other resources available are:

1. **Coordinating Investigations**

There are multiple reporting entities for abuse and neglect of people in Illinois who have disabilities. The chart below provides guidance to state authorities responsible for investigation of abuse, neglect and exploitation against people with disabilities and older adults.

Who Do You Call?

Reporting abuse of a person is an important role, but it isn't always clear who you should call to report abuse. The following chart can be utilized to clear up the distinctions of who should be contacted to make a report.

In cases of sexual violence and domestic violence, contact information for local programs is listed below.

Who was abused?	Where did the Abuse Happen?	Report To
Person 60 years or Older	If Yes → Community or Domestic Setting	Then Call → Adult Protective Services 1-866-800-1409
Person with a disability 18-59 years old	If Yes → Community or Domestic Setting	Then Call → Adult Protective Services 1-866-800-1409
Person 60 years or older or a person with a disability 18-59 years old	If Yes → Licensed Long Term Care Facility	Then Call → Illinois Department of Public Health 1-800-252-4343
Person with a disability 18-59 years old	If Yes → Licensed Facility	Then Call → Office of Inspector General 1-800-368-1463

Rape Crisis Centers are also available to assist victims of sexual violence. Services at rape crisis centers are free and confidential. You can reach your local center by visiting www.icasa.org or call 800-656-4673.

Domestic Violence Centers are available to assist victims of domestic violence. Services at domestic violence centers are free and confidential. Local centers can be reached by visiting www.ilcadv.org or call 877-863-6338.

Remember: All crimes may be reported to the police. If the victim would like to contact law enforcement, please assist them with the process.

2. Local health and housing code enforcement departments

Cultivating relationships with local health and housing code enforcement departments can be helpful. These departments may be able to help - victims who are older adults or people with disabilities with medical or housing issues that isolate or otherwise endanger the victim. Solving these problems may prevent

future victimization of the older adult or person with a disability and may lessen the number of assistance and/or welfare status check calls officers will need to make.

3. **Centers for Independent Living**

Law enforcement officers should cultivate relationships with local Centers for Independent Living who can help with accessing personal assistants, sign language interpreters, and a variety of services and supports for people with diverse kinds of disabilities. These Centers also provide advocacy services and can be a tremendous help to victims of domestic violence who have disabilities.

What you need to know about people with disabilities and older adults

- A. Interviews conducted by the state's attorney's office should be conducted in a place where the victim feels safe, without the presence of the offender. If the home is not safe, a senior center, disability service agency, social club, or religious institution may feel more comfortable to the victim. Having a large print calendar available for the interview may be of assistance in reminding the victim of specific dates. The Illinois Imagines "Who, What, Where, When" Symbol Communication Book can support the interview process.
- B. The victim should be interviewed alone. Adult children, caregivers and disability services staff often speak for the person rather than allowing the person to speak for themselves. A tape of the victim saying, "My son hit me in the face," may be admissible. A tape of the victim's daughter saying, "Mom told me my brother hit her in the face," is not.

References and Resources

Illinois Imagines website and Communication Book

<http://www.icasa.org/index.aspx?PageID=1045>

Prostituted and Trafficked Victims

Prevalence and Dynamics

The findings of the U.S. Department of Justice's 2011 report, "Characteristics of Suspected Human Trafficking Incidents, 2008-2010," include:

From 2008 to 2010, Federal anti-trafficking task forces opened 2,515 suspected cases of human trafficking:

- 82% of suspected incidents were classified as sex trafficking and nearly half of these involved victims under the age of 18.
- Approximately 10% of the incidents were classified as labor trafficking.
- 83% of victims in confirmed sex-trafficking incidents were identified as U.S. citizens, while most confirmed labor-trafficking victims were identified as undocumented immigrants (67%) or legal immigrants (28%).
- 25% of the confirmed victims received a "T visa," part of a federal program designed to aid victims of trafficking.

While the findings represent the government's best estimate, the authors caution that "the data described in this report reflect the information that was available to, and entered by, these state and local law enforcement agencies," and such data systems are still being established and are likely not recording all incidents.¹⁴ Reliable data on trafficking are difficult to obtain owing to its illegal, often invisible, nature; the range and severity of trafficking activities; and variations in how trafficking is defined.¹⁵

Barriers

Trafficking victims often do not feel that they can contact law enforcement or the courts due to fears of arrest or not being believed. Undocumented victims who have been trafficked for commercial sex or for forced labor often fear contacting the courts for help due to a fear of deportation. In addition, they may have already had negative experiences with law enforcement and social service providers, may not speak English, may not understand the complicated court system and may be isolated, leaving them under identified and underserved. In Illinois, anyone who is prostituted under the age of 18 is considered to be a victim of human trafficking.

U visas and T visas were created to give protection to immigrant victims of certain violent crimes. The T-visa provides immigration protection to victims of human trafficking,

¹⁴ Banks, Duren, Kyckelhahn, Tracey. "Characteristics of Suspected Human Trafficking Incidents, 2008-2010," U.S. Department of Justice, April, 2011.

¹⁵ Oram S et al. International law, national policymaking and the health of trafficked people in the UK. Health and Human Rights, 2011, 13(2):7-12.

allowing victims to remain in the United States and to assist in the investigation of human trafficking crimes.

Abuser Tactics

Human trafficking often involves the very same dynamics of power and control as domestic violence and sexual assault. Intimate partner trafficking occurs when an abuser “[compels] their partner to engage in commercial sex, forced labor, or involuntary servitude.” Alternatively, trafficked individuals sometimes live with their trafficker and are subjected to the physical violence, emotional manipulation, and overbearing control that are hallmarks of domestic violence.¹⁶

- Creating debts that can’t be paid off.
- Normalizing experience of selling sex and sexual violence.
- Setting quotas for earnings.
- Threatening to tell the police, social services and family about involvement in trafficking.
- Openly having sexual relationships with others.
- Disregarding the impact of trafficking on victim.
- Forcing participation in pornography.
- Forcing termination of pregnancy.

Guidance and Considerations

Victims of domestic violence who are prostituted and trafficking victims rarely seek assistance from law enforcement. The following are some beginning steps officers and prosecutors can take to assist these victims:

1. Collect evidence

As with all domestic violence calls, law enforcement officers should collect evidence at the scene that demonstrates the violence without the victim’s testimony. A victim of domestic violence who has been prostituted or trafficked may not be believed as a witness. A case that relies on the evidence rather than the victim’s testimony can still be prosecuted whether or not the victim makes a good witness.

¹⁶ Domestic & Sexual Violence Intersections with Trafficking Issue Brief
http://www.ncdsv.org/images/DSVintersectionsWithTraffickingANDTraffickingWheel_2012.pdf

2. **Evidence based prosecution**

Evidence-based prosecution relies on the use of evidence rather than being dependent on the victim's testimony. This method of prosecution has long been used in the prosecution of homicide and gang-related cases. Evidence-based prosecution is a successful strategy that can be used to prosecute a case whether or not the victim testifies. In evidence-based prosecution, the prosecutor focuses on the criminal behavior of the defendant and on the evidence available rather than on the testimony of the victim.¹⁷

3. **Concentrate on domestic violence or trafficking case**

It is in the best interest of the safety of the victim and the accountability of the abuser for law enforcement to concentrate their efforts on the domestic violence or trafficking case rather than investigating and charging the victim for prostitution. A victim of domestic violence who has been prostituted or trafficked is unlikely to contact law enforcement unless the situation is highly dangerous. Officers must respond accordingly.

¹⁷ (Viswanathan, 2003; King-Reis, 2005; Markarian, 2003).

Rural Victims

Prevalence and Dynamics

The National Domestic Violence Hotline reports that they answer approximately 7,000 calls, chats and text messages from victims and survivors of domestic violence facing issues related to immigration.¹⁸ According to the United State Department of Agriculture Department of Research Service 2017 data, 1,468,572 people in Illinois live in a rural area¹⁹

Barriers

Domestic violence crosses all geographic lines, but victims of domestic violence face numerous additional barriers to seeking safety when experiencing domestic violence. Issues such as poverty, lack of public transportation and limited access to resources (such as jobs, education and childcare) and services (such as domestic violence programs, counseling and children's programming) make escape from an abusive relationship difficult for rural victims. Cultural values such as strong allegiances to the land, kinship ties and traditional gender roles, as well as geographic isolation, add to the barriers. People who own, live or work on a farm are faced with even harder decisions since their personal and business lives are often tied together.

Additional risks and danger are present with the increase in the likelihood that weapons, such as firearms and hunting knives, are present in rural households. Further, rural law enforcement, prosecutors, judges, health care providers and domestic violence or other social service providers are more likely to be neighbors, relatives or acquaintances of the victim and/or the abuser, making confidentiality and objectivity difficult.²⁰ Finally, the response time by law enforcement or emergency medical services may be longer, increasing the lethality of the assault as well as phone and Internet service is often spotty in remote areas.²¹

For women living in rural areas, this isolation is exacerbated because they may live far from services, shelter, jobs, health care, neighbors, families and friends. There is little access to public transportation or childcare. There may not be an extra vehicle. Cell phone coverage is spotty and many victims may not have access to a landline phone.²²

Abuser Tactics

¹⁸ National Domestic Hotline: We Stand With Immigrants <https://www.thehotline.org/2017/02/17/we-stand-with-immigrant-survivors/>

¹⁹ USDA, <https://data.ers.usda.gov/reports.aspx?StateFIPS=12&StateName=Florida&ID=17854>, accessed January 3, 2019

²⁰ The Pennsylvania Coalition Against Domestic Violence, 2018

²¹ Domesticviolenceshelters.org, A Rural Barrier: Escaping domestic violence in a rural setting offers unique challenges, accessed January 3, 2019.

²² Pennsylvania Coalition Against Domestic Violence <http://www.pcadv.org/Learn-More/Domestic-Violence-Topics/Rural-Communities/>

In rural areas, abusers may use the dynamics and cultural norms of rural communities as a means to exert power and control in relationships. Tactics may include some of the following:

- Isolating partners from any type of emotional or social support, i.e. family, friends.
- Controlling access to communication (no landline and taking cell phone away).
- Disabling vehicles or monitoring mileage.
- Re-locating to remote places.
- Limiting access to information or services.
- Locking partner in house.
- Refusing to transport victim to health services.
- Abusers also limit access to information about help that may be available.

Guidance and Considerations

Law enforcement officers must be additionally creative and sensitive when serving rural areas. Law enforcement policies to assist rural victims of domestic violence include:

1. Referrals and safety

Law enforcement officers will need to be creative to find safety and resources for victims of domestic violence in rural communities. Officers should provide victims with referrals to the closest domestic violence services if there are none available within the community. Officers can assist victims in finding safety by driving them to safe places, or driving them to county lines and acquiring assistance from law enforcement within the next county to continue transporting a victim to a safe place. With limited resources and few transportation options, rural victims are particularly dependent upon law enforcement officers to find safety when faced with a dangerous situation.

Prosecutors must be particularly attuned to the safety needs of victims of domestic violence in rural communities, such as if the victim is living with the offender during a case, if the victim has other options, if the victim is obtaining domestic violence advocacy services, and what the victim's thoughts are about prosecution of the domestic violence offense. These and other safety factors should be considered when deciding upon prosecution options, the victim should be provided with referrals to the closest domestic violence services if there are none available within the community. When practicable, the domestic violence advocate should come to the courthouse to support the victim.

2. **Objective response**

When faced with a domestic violence incident involving a family known to the law enforcement officer or prosecutor, they should seek peer and supervisor support to ensure that they are responding objectively.

3. **Firearms**

Training and policy on firearms and domestic violence is a must in rural communities. Law enforcement officers should ask about firearms on every domestic violence call and confiscate and store weapons as appropriate.

4. **Coordinated response**

Nowhere is a coordinated response to domestic violence more important than in a rural community with limited resources.

Victims Involved with Gangs

Prevalence and Dynamics

There is little information about the prevalence of domestic violence victims involved with gang. Girls and women typically become involved in gang activity as a result of developing a romantic relationship with a gang member²³ Victims involved with gangs face complex dynamics as the groups with which they are associated often have an interest in controlling and silencing them. Gang members may be threatened by the victim's ability to divulge information to the police about illegal activities of the group.

Barriers

Victims of domestic violence who are involved with gang-affiliated partners have particularly challenging safety issues. A victim whose partner is in a gang knows that the partner can carry out violence against them through other gang members regardless of whether the partner is in jail. This victim is in extreme danger and is unlikely to seek the help of or cooperate with law enforcement or the courts. The victim also may be enduring forced involvement by the abusive partner in illegal activities.

Abuser Tactics

Victims of domestic violence are particularly vulnerable, not only to the abuser, but to the entire gang network. "Since the power and control at the root of all domestic violence is intensified by the gang culture, gang members who abuse their intimate partners often utilize specific tactics to groom and entrap their victims. These abusers not only promise to provide victims with basic living necessities such as shelter, food, clothing, and safety, they also manipulate and coerce victims to prostitute themselves with promises of drugs and alcohol, and they recruit other members to do the same."²⁴

Guidance and Considerations

As with other victims of domestic violence, law enforcement officers should assist victims in creating a safety plan and seeking shelter or another safe place. Victims whose abusers are involved with gangs may still be in danger from gang members after the abuser is arrested. Prosecutors should take very seriously the fears of victims of gang members and only pursue charges when extreme safety measures are being pursued on behalf of the victim. Victims of gang members may need to relocate and pursue extensive measures to not be found by their abuser.

²³ Gangs, violence and the role of women and girls: Emerging themes and policy and programme options drawn from interviews with female gang members in Cape Town. Mark Shaw and Luke Lee Skywalker. March 2017. Accessed <http://www.unodc.org> on March 11, 2019.

²⁴ New York State Office for the Prevention of Domestic Violence
http://www.opdv.ny.gov/public_awareness/bulletins/fall2013/gangsdv.html

Victims who are Lesbian, Gay, Bisexual, Transgender or Questioning

Prevalence and Dynamics

Lesbian, gay, bisexual, transgender and questioning people experience domestic violence at similar rates as heterosexual people (Baum, 2000). There are about 500,000 LGBTQ people living in communities across Illinois²⁵. According to a recent Centers for Disease Control report, LGBTQ people experience domestic and sexual violence at higher rates than heterosexual populations, with bisexual identified people experiencing the highest rates²⁶. LGBTQ populations are the third most likely to experience hate crimes in Illinois. Quite often perpetrators of interpersonal violence and hate violence share common tactics of abuse. Both can rely upon societal stigma against their victims to help cover up the violence.

Barriers

Within the lesbian, gay, bisexual and transgender community, victims of domestic violence often find a lack of understanding of domestic violence and the belief that it is only an issue for heterosexual people. They have fewer legal options than heterosexual married couples. Another reason cited for avoiding law enforcement and the courts is the fear of being “outed.” Lesbian, gay, bisexual, transgender and questioning victims who have not told family, friends, employers, landlords and others in their lives of their sexual orientation or gender identity may be extremely fearful of the consequences and discrimination they might experience upon revelation of a law enforcement report or court case. Consequences for reporting abuse and pursuing a court case may include the loss of family and friends, a job or a place to live.

Victims who are lesbian, gay, bisexual or transgender often find law enforcement and the courts less accessible and may be fearful of calling law enforcement or reaching out to the courts for assistance. Lesbian, gay, bisexual and transgender people find that their relationships are misunderstood and taken less seriously by many within these systems and fear exposure to homophobia and insensitivity. Domestic violence among lesbian, gay, bisexual and transgender people offers special challenges to law enforcement to identify the aggressor within the relationship, leading to a greater likelihood that the victim may be arrested rather than the perpetrator.

Male victims of domestic violence and sexual assault are most often assaulted by other men (for sexual assault, this is true regardless of sexual orientation). Domestic violence victims who identify as transgender face unique challenges seeking safety. A transgender person is one whose gender identification does not match the sex they were born with or assigned at birth. Transgender victims may be in homosexual or heterosexual relationships. They are uniquely at risk for isolation because of an extreme lack of

²⁵ <http://www.gallup.com/poll/160517/lgbt-percentage-highest-lowest-north-dakota.aspx>

²⁶ Walters, M.L., Chen J., & Breiding, M.J. (2013). The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Findings on Victimization by Sexual Orientation. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

understanding within society. Transgender victims of domestic violence often have fewer safety options. Agencies must consult with the victim to determine how to provide safe shelter if requested. No domestic violence victim regardless of gender identification can be refused services.

While LGBTQ victims require the same options as heterosexual victims, the ways they may be harmed, their access to services, and overall health and wellness disparities create different vulnerabilities which cannot be resolved by 'treating everyone the same'. Similarly, within the category LGBTQ, there are differences in experiences of victimization and interactions with law enforcement, first responders, and victim services. For instance, a Transgender heterosexual woman seeking shelter or help from law enforcement is likely to have experiences that do not mirror those of a cis gender²⁷, feminine presenting lesbian. Transgender women, for instance, are often met with discomfort or suspicion based on transphobia and fewer resources.

The ripple effect of stigma through an LGBTQ person's life crosses their lifespans and is experienced internally, interpersonally, societally, and culturally. For those whose lives are at the intersections of identity, such as a gay, undocumented, man of color, the vulnerabilities around both domestic violence and limited access to services increase, resulting in a significant degree of minority stress²⁸. One result of Minority Stress is that the resulting behaviors and belief systems that arise impact their help seeking. For instance, a distrust of law enforcement based on stories that circulate in the community and on media or not seeing their lives represented in outreach materials in victim services, may result in delaying help seeking.

At times, the bias that LGBTQ victims experience when reporting or seeking services is not overt or intentional and in these situations, training is usually enough to help correct the situation. In others, there is implicit bias or good intentions that still reflect bias. For instance, the well-intentioned idea that providers 'treat everyone equally' results in services that may actually end up discriminating, turning people away, or providing services that may endanger a victim.

What are some of the LGBTQ-related sociocultural factors to keep in mind when working with LGBTQ victims?

- LGBTQ individuals have often learned how to hide their identities to avoid stigma. These vary skills are also used to deny abuse in order to not further stigmatization.
- Many LGBTQ believe that they will be revictimized if they try to report.

²⁷ Cis gender refers to a person whose sense of personal identity and gender corresponds with their sex assigned at birth.

²⁸ Underlying the concept of minority stress are assumptions that stressors are unique (not experienced by nonstigmatized populations), chronic (related to social and cultural structures) and socially based (social processes, institutions and structures) (Meyer, 2003).

- Bisexual people often feel their sexuality is not understood or considered by providers.
- Polyamorous and pansexual individuals feel their sexuality is blamed for their victimization or that their relationships are not fully understood, leaving them vulnerable.

In addition to this short list of examples, most LGBTQ trainings and research focus on urban experiences. Rural LGBTQ individuals face a host of additional barriers regarding DV. For instance, the number of other people with whom they can be in a relationship can be very low. Also, they may less likely be public about their sexuality and/or gender identity and there is the fear that seeking help will likely result in being outed.

Abuser Tactics

- Outing is still a fear for many LGBTQ people and can happen on a number of levels from outing to families and workplaces to houses of worship and friend networks.
- Telling the victim that no will help them because s/he is lesbian, gay, bisexual or transgender and therefore, the partner “deserves” the abuse.
- “Justifying the abuse with the notion that a partner is not “really” lesbian, gay, bisexual or transgender (i.e. the victim may once have had/may still have relationships, or express a gender identity, inconsistent with the abuser’s definitions of these terms). This can be used both as a tool in verbal and emotional abuse as well as to further the isolation of a victim from the community.”
- “Monopolizing support resources through an abusive partner’s manipulation of friends and family supports and generating sympathy and trust in order to cut off these resources to the victim. This is a particular issue to members of the LGBTQ community where they may be fewer specific resources, neighborhoods or social outlets.”²⁹

Guidance and Considerations

Members of the lesbian, gay, bisexual and transgender communities experience domestic violence at a similar rate as does the heterosexual community, but with far less access to services for safety and assistance (Wright, 2005). Law enforcement officers and prosecutors can increase the safety of lesbian, gay, bisexual, and transgender victims of domestic violence by incorporating the following:

²⁹ The National Domestic Violence Hotline. LGBTQ Relationship Violence. <https://www.thehotline.org/is-this-abuse/lgbt-abuse/> Accessed January 3, 2019.

1. **Do not make assumptions**

Do not assume that every victim is heterosexual. In situations in which the abuser has already fled the scene, officers should use non-gender-specific language until the victim has identified the gender of their partner. Be sensitive to the victim's word choices, such as "lover," "partner," "spouse," or "roommate," and their use of gender pronouns. Echo the language used by the victim.

2. **Aggressor identification**

Aggressor identification can appear challenging with lesbian, gay, bisexual, and transgender individuals in violent relationships, especially if both partners claim the other used violence. Officers should address these incidents as they would any other DV incident and identify the primary aggressor. Officers should be aware that an aggressor in these situations has a powerful psychological tool in "outing" their partner to the community or work or in isolating them from contacts within the LGBTQ community and in that regard these incidents may require more in-depth investigation and knowledge. Law enforcement should complete a thorough aggressor assessment when responding to domestic violence calls involving those in the lesbian, gay, bisexual, and transgender community.

3. **Service provider accessibility**

Law enforcement officers should provide the victim with a referral to both an agency within the community that provides services to lesbian, gay, bisexual, and transgender individuals, as available, and to a domestic violence agency. When an agency that provides services to lesbian, gay, bisexual, and transgender individuals does not exist within the community, a referral to an appropriate statewide, regional, or national organization that works with lesbian, gay, bisexual, and transgender individuals may be made. Law enforcement agencies can also obtain training and resource information from local, statewide, regional, or national organizations that work with issues concerning lesbian, gay, bisexual, and transgender individuals.

References and Resources

The National Coalition of Anti Violence Programs is a member network of over 40 programs in the United States dedicated to tracking and addressing LGBTQ domestic violence. In Illinois, there are services that specifically for LGBTQ victims and more mainstream organizations are being trained to work with the community.

<https://avp.org/ncavp/>

Victims who Abuse Substances

Prevalence and Dynamics

Forty to sixty percent of domestic violence incidents involve substance abuse, and 56 percent of abused women have psychiatric problems, and victims of intimate partner violence are vulnerable to alcohol and marijuana use according to the American Society of Addiction Medicine.³⁰

Barriers

People who abuse substances and are victims of domestic violence present unique challenges to the courts. “For many survivors who use substances, it is a way to cope with the traumatic effects of abuse. Others are coerced into using by an abusive partner.”³¹ Some abusers purposefully addict their partners to substances or sabotage their partner’s recovery efforts to make them more dependent and further prevent the victim’s ability to leave.

Women who abuse substances often find themselves with less financial and social resources to leave an abusive partner and find that they are not believed when they do try to seek safety and assistance. Women who abuse substances tend to be more likely to fight back against their abusers, making an assessment of the situation far more complicated for law enforcement professionals.³² The effects of use may prevent the victim from assessing the level of danger posed by the abuser. Substance use may deter victims from seeking help due to fear of arrest or involvement of child welfare. Agencies providing services – including shelter – to victims of domestic violence who are experiencing substance abuse and/or mental illness work with other resources in their community to respond appropriately, including substance abuse service providers and health care.

Abuse Tactics

Heavy substance use is a major risk factor for domestic violence. Abusing drugs or alcohol may exacerbate an abuser’s pre-existing violent tendencies, but no concrete evidence has shown that using drugs or alcohol causes domestic abuse. Abusers use substance abuse to control and abuse their partners, including:

- Introducing partners to substances of abuse.
- Forcing partners to carry, sell or buy drugs.

³⁰ DrugRehab.com <https://www.drugrehab.com/guides/domestic-abuse/>

³¹ Rivera, E. A., Phillips, H., Warshaw, C., Lyon, E., Bland, P. J., Kaewken, O. (2015). An applied research paper on the relationship between intimate partner violence and substance use. Chicago, IL: National Center on Domestic Violence, Trauma & Mental Health.

³² Bennett, L. W. Substance Abuse and Woman Abuse by Male Partners (1997).

- Encouraging substance use as a form of control over partners.
- Prostituting partners in exchange for drugs or money.
- Preventing partners from seeking and receiving substance abuse treatment.
- Incapacitating their partner so they can perform sexual acts that their partner would otherwise not agree to.³³
- Shifting responsibility of abusive behavior (saying victim caused the abuse with their drug use).

Guidance and Considerations

Substance abusing victims of domestic violence provide unique challenges to the court system.

1. **Separate the issues**

It is necessary for law enforcement officers and prosecutors to separate the issues of domestic violence from the issue of substance abuse in the victim. While substance-abusing victims may be more difficult for law enforcement to assist, they are still victims who deserve respect and protection.

2. **Aggressor identification**

Since victims who use substances are more likely to fight back, the issue of who is the abuser and who is the victim can sometimes be clouded. Further, since substance use is a coping mechanism for some victims of domestic violence, this issue may frequently be present on domestic violence calls. Law enforcement officers should conduct thorough aggressor identification in any situation involving alcohol and violence on the part of both parties. Law enforcement officers should ensure that they are arresting the abuser, and not the victim.

3. **Collect evidence**

As with all domestic violence calls, law enforcement officers should collect evidence at the scene that demonstrates the violence without the victim's testimony. An intoxicated victim, particularly one who has an ongoing substance abuse problem, often does not make a reliable witness. **A case that relies on the evidence rather than the victim's testimony can still be prosecuted whether or not the victim is a reliable witness.**

³³ DrugRehab.com <https://www.drugrehab.com/guides/domestic-abuse/>

Literacy and Language

Victims of domestic violence, who are unable to read or write, or have limited reading and writing skills, need access to the full services of the courts. A victim who is unable to read court documents or instructions will not always reveal this to court personnel or a domestic violence advocate. It is important to verbally explain that domestic violence advocates or victim service personnel are available to verbally read all court documents given to victims, including orders of protection, notification of court dates, subpoenas, and other important documentation.

Conclusions Regarding Cultural Context

Law enforcement officers, prosecutors, and judges should develop policies that respect the varying needs of victims from different cultural backgrounds. The wide diversity and experiences of victims of domestic violence challenge law enforcement and the courts to develop best practices that leave room for individualized responses based upon the specific needs and experiences of each victim. The tactics of power and control used by abusers are surprisingly similar across demographic lines, age, race, ethnicity, economic status, education, employment status or occupation, religious affiliation, urban, suburban or rural residency, immigration status, sexual orientation, gender identity, physical and mental disabilities and marital status. However, the way in which a domestic violence victim experiences abuse can be greatly impacted by how the system, family and community responds, how the abuse is identified, what barriers are faced by the victim and what resources are available to the victim.

While learning about the barriers to justice and safety for various groups is useful and necessary, assuming that all members of a particular culture or group will react the same when confronted by domestic violence or when interacting with law enforcement or the courts is not helpful. Stereotyping will cloud the ability of criminal justice professionals to hear the individual experiences of the victim and adequately pursue the accountability of the abuser. The most helpful way to address the needs of all victims is to listen to each victim's story and needs and ensure that resources are available.

Chapter 5:

RESOURCES

Responding to Victims of Domestic Violence

Produced by:
Illinois Family Violence Coordinating Council
at the
Illinois Criminal Justice Information Authority

This project was supported by Grant No.2014-WE-AX-0025 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Chapter 5: Resources

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 - Lesbian, Gay, Bisexual, Transgender, Questioning
- Materials for Law Enforcement
 - Risk Assessments
 - Domestic Violence Checklists & Reports
- Materials for Prosecutors
- Materials for Victims

HOW TO USE RESOURCES

The resources in this chapter are intended to compliment the protocols as well as expand the knowledge and resources available to the reader. Resources can be used in the following ways:

- Professional learning tools,
- Training handouts,
- Handouts for victims,
- Examples for implementation of protocol.

Additionally, there are links to helpful websites and web-based documents/articles included in this chapter.

NATIONAL, STATE AND LOCAL RESOURCES

National Resources for Victims

National Domestic Violence Hotline
1-800-799-SAFE (7233) 1-800-787-3224 (TTY)
<http://www.thehotline.org/>

National Sexual Assault Hotline – RAINN
1-800-656-HOPE (4673)
<https://rainn.org/>

National Center on Elder Abuse
1-800-677-1116
<http://www.ncea.aoa.gov/>

National Child Abuse Hotline
1-800-422-4453
<https://www.childhelp.org/>

National Center on Criminal Justice and Disabilities
National Network to End Domestic Violence
www.nnedv.org

National Human Trafficking Hotline
888-373-7888
or text HELP or INFO to BeFree (233733)
To report suspected human trafficking to Federal law enforcement:
1-866-347-2423

National Teen Dating Abuse Helpline
1-866-331-9474 1-866-331-8453 (TTY)
<http://www.loveisrespect.org/>

Stalking Resource Center
<https://www.victimsofcrime.org/our-programs/stalking-resource-center>

National Suicide Prevention Lifeline
1-800-273-TALK (8255) [24/7 hotline]
1-888-628-9454 (Spanish)
1-800-799-4889 (TTY)
<http://www.suicidepreventionlifeline.org/>

The National Teen Domestic Violence Hotline
1-800-799-SAFE (7233)
Video phone 1-855-812-1001 (Monday to Friday, 9 a.m.—5 p.m. PST)
TTY 1-800-787-3224.
<http://www.thehotline.org>

Vera Institute of Justice
<https://www.vera.org/>

Training Institute on Strangulation Prevention
<https://www.strangulationtraininginstitute.com/>

State Resources for Victims

Illinois Statewide Domestic Violence
Help Line
1-877-TO END DV (1-877-863-6338)
1-877-863-6339-TTY

The Illinois Coalition Against Domestic
Violence (ICADV)
<https://www.ilcadv.org/>

The Illinois Coalition Against Sexual
Assault (ICASA) <http://icasa.org/>

Illinois Attorney General's Office
<http://www.illinoisattorneygeneral.gov/>

To report suspected abuse, financial
exploitation or neglect of an older
person or a person with disabilities age
18-59 call the statewide, 24-hour Adult
Protective Services Hotline: 1-866-800-
1409, 1-888-206-1327 (TTY).

For residents who live in nursing
facilities, call the Illinois Department of
Public Health's Nursing Home
Complaint Hotline: 1-800-252-4343.

For residents who live in Supportive
Living Facilities (SLFs), call the Illinois
Department of Healthcare and Family
Services' SLF Complaint Hotline: 1-800-
226-0768.

Local Resources for Victims

Family Violence Services

Local Domestic Violence Shelter/Victim
Services
Local Rape Crisis Centers
Local Adult Protective Services
Local Center for Independent Living –
Services for Persons with Disabilities

Support Services

Local Center for Independent Living –
Services for Persons with Disabilities
Care Coordination Units – Service
Assessments
Disability Service Providers

Criminal Justice Services

Local State's Attorney's Office
Local Sheriff's Office
Local Police Department
Local Circuit Clerk's Office

DYNAMICS OF DOMESTIC VIOLENCE: Power & Control Wheels

“Battering is one form of domestic or intimate partner violence. It is characterized by the pattern of actions that an individual uses to intentionally control or dominate his intimate partner. That is why the words “power and control” are in the center of the wheel. A batterer systematically uses threats, intimidation, and coercion to instill fear in his partner. These behaviors are the spokes of the wheel. Physical and sexual violence holds it all together—this violence is the rim of the wheel... The wheel makes the pattern, intent and impact of violence visible.”¹

There are several types of Power & Control Wheels:

- Power and Control
- Equality
- Using Children Post Separation
- Abuse of Children
- Nurturing Children
- Culture
- Creator



DOMESTIC ABUSE INTERVENTION PROJECT
202 East Superior Street
Duluth, Minnesota 55802
218-722-2781
www.duluth-model.org

These Power & Control Wheels can be found at the Duluth Model website:
<https://www.theduluthmodel.org/wheels/>

¹ <https://www.theduluthmodel.org/wheels/faqs-about-the-wheels/>

Defendant Tactics

Below are the types of abuse and the defenses that defendants will use to avoid suspicion and guilt.



Physical Abuse

- Self-defense
- Victim fell
- Accident
- Victim's injuries were self-inflicted
- Not abuse but caused by medications, underlying medical conditions, skin breakdown



Sexual Abuse

- Thought there was consent (victim unable to give legal consent)
- Victim misinterpreted normal necessary care for sexual abuse



Caregiver Neglect

- I'm not the legal caregiver
- Even if I am the legal caregiver, this was not my responsibility (e.g., facility cases)
- Doing the best I can
- Victim's condition due to underlying medical condition, not neglect
- Lack of resources
- What the victim wanted



Emotional/Psychological Abuse

- No intent to cause suffering
- Not the level of conduct required to cause suffering
- Misinterpreted what was said
- Caregiver stress
- Victim is unstable and overacts



Financial Exploitation

- Consent
- Gift
- Loan
- Quid pro quo (value for services rendered)
- Acting within legal authority (e.g., power of attorney, trustee, guardian/conservator)



All Forms

- Victim imagined or misunderstood events due to dementia or intellectual disability
- Identity of the perpetrator
- Defendant is not legally responsible (insanity)

Adapted from: The Prosecutors' Resource Elder Abuse April 2017

<http://www.aequitasresource.org/Prosecutors-Resource-on-Elder-Abuse.pdf>

DYNAMICS OF DOMESTIC VIOLENCE: Stalking



Comparison Between Stranger Violence, Stalking and Domestic Violence

STRANGER VIOLENCE	STALKING	DOMESTIC VIOLENCE
Often a Single Event	Multiple Events	Multiple Events
Limited Time Period	Occurs Over Time	Occurs Over Time
Socially Condemned	Socially Minimized	Socially Minimized
Offenders are Blamed	Victims are Blamed	Victims are Blamed
Usually Single Intensity Level	Differing/Accelerating Levels of Intensity	Differing/Accelerating Levels of Intensity
Motive May be Identifiable	Motive May or May not be Identifiable	Motive is Always Power and Control
Often Random	Can Be Random	Never Random
Not Always a Prior Relationship with Victim	May or May not have a relationship	Some Type of Dating or Intimate Relationship
No Children in Common	May Have Children in Common	Often Children in Common
No Economic Ties Necessary	May or May not have Economic Interdependence	Economic Interdependence
Next Victim Unknown	Next Victim May Be Known	Next Victim Known
Uncertain and Variable Rate of Recidivism	High Rate of Recidivism	High Rate of Recidivism
No Post Crime Contact with Victim	Ongoing Contact with Victim	Ongoing Contact with Victim
Victim Usually Supports Prosecution	Victim May Oppose Prosecution	Victim May Oppose Prosecution

Source: New York State Probation Domestic Violence Intervention Project. (2001, August 2). *Effective Management of Domestic Violence Cases: Probation's New Approach to Victim Services and Offender Accountability* (Handout material for presentation at the American Probation and Parole Association's Annual Training Institute, St. Paul, MN.)

09/2017

The Stalking Resource Center has valuable resources:

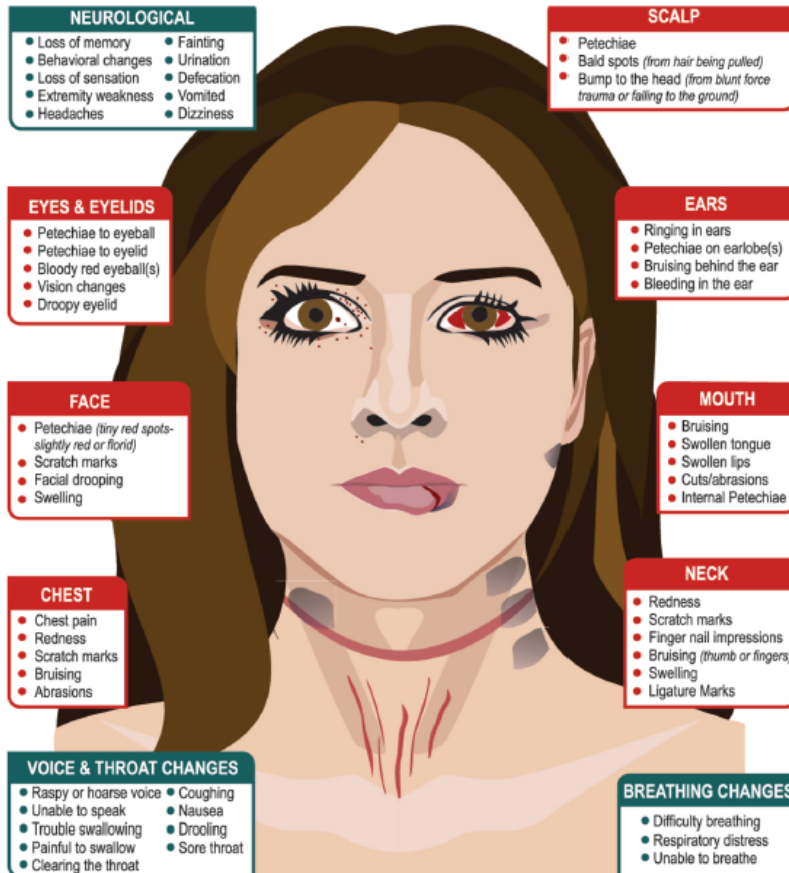
<https://victimsofcrime.org/our-programs/past-programs/stalking-resource-center>

DYNAMICS OF DOMESTIC VIOLENCE: Strangulation

STRANGULATION

SIGNS AND SYMPTOMS⁸

CONSEQUENCES⁷



PSYCHOLOGICAL INJURY

PTSD, depression, suicidal ideation, memory problems, nightmares, anxiety, severe stress reaction, amnesia, and psychosis.

DELAYED FATALITY

Death can occur days or weeks after the attack due to carotid artery dissection and respiratory complications such as pneumonia, ARDS and the risk of blood clots traveling to the brain (embolization).

Today,
45 States
have legislation
AGAINST
STRANGULATION⁶

VAWA 2013
added strangulation
and suffocation to
FEDERAL LAW



a program of Alliance for HOPE International

101 W. Broadway, Suite 1770,
San Diego, CA 92101
1-888-511-3522

StrangulationTrainingInstitute.com

1 Strack, G.B., McClane, G.E., & Hawley, D. (2001). A review of 300 attempted strangulation cases: Part I: Criminal Legal Issues. *Journal of Emergency Medicine*, 21(3), 303-309.

2 Shields et al. (2010). Living victims of strangulation: A 10-year review of cases in a metropolitan community. *American Journal of Forensic Medical Pathology*, 31, 320-325.

3 Plattner, T. et al. (2005). Forensic assessment of survived strangulation. *153 Forensic Science International* 202

4 Wilbur, L. et al. (2001). Survey results of women who have been strangled while in an abusive relationship. *21J. Emergency Medicine* 297.

5 Glass et al. (2008). Non-fatal strangulation is an important risk factor for homicide of women. *The Journal of Emergency Medicine*, 35(3), 329-335.

6 Mack, M. States with strangulation legislation. A product of the Training Institute on Strangulation Prevention. www.strangulationpreventioninstitute.com

7 Funk, M. & Schuppel, J. (2003) Strangulation injuries. *Wisconsin Medical Journal*, 102(3), 41-45.

8 Taliaferro, E., Hawley, D., McClane, G.E. & Strack, G. (2009). *Strangulation in Intimate Partner Violence. Intimate Partner Violence: A Health-Based Perspective*. Oxford University Press, Inc.

The Illinois Criminal Justice Information Authority gratefully acknowledges Alliance for HOPE International for allowing us to reproduce, in part or in whole, the Strangulation in Intimate Partner Violence Fact Sheet. The documents were accessed through the online Resource Library hosted by the Training Institute on Strangulation Prevention. Certain documents and products were supported in part with funding from the Office on Violence Against Women in the U.S. Department of Justice. This website and a portion of the documents in this Resource Library are supported in part by Grants No.2014-TA-AK-K008 and No.2016-TA-AK-K067 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

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The Training Institute on Strangulation Prevention has a Resource Library with more information: <https://www.familyjusticecenter.org/downloads/training-institute-on-strangulation-prevention/>

DYNAMICS OF DOMESTIC VIOLENCE: Human Trafficking

Indicators of Human Trafficking¹

Recognizing key indicators of human trafficking is the first step in identifying victims and can help save a life. Here are some common indicators to help recognize human trafficking. You can also download or order the Blue Campaign [indicator card](https://www.dhs.gov/blue-campaign/materials/indicator-card), which is a small plastic card that lists common signs of trafficking and how to report the crime: <https://www.dhs.gov/blue-campaign/materials/indicator-card>

- Does the person appear disconnected from family, friends, community organizations, or houses of worship?
- Has a child stopped attending school?
- Has the person had a sudden or dramatic change in behavior?
- Is a juvenile engaged in commercial sex acts?
- Is the person disoriented or confused, or showing signs of mental or physical abuse?
- Does the person have bruises in various stages of healing?
- Is the person fearful, timid, or submissive?
- Does the person show signs of having been denied food, water, sleep, or medical care?
- Is the person often in the company of someone to whom he or she defers? Or someone who seems to be in control of the situation, e.g., where they go or who they talk to?
- Does the person appear to be coached on what to say?
- Is the person living in unsuitable conditions?
- Does the person lack personal possessions and appear not to have a stable living situation?
- Does the person have freedom of movement? Can the person freely leave where they live? Are there unreasonable security measures?

Not all indicators listed above are present in every human trafficking situation, and the presence or absence of any of the indicators is not necessarily proof of human trafficking.

¹ Department of Homeland Security, Blue Campaign: One Voice. One Mission. End Human Trafficking
<https://www.dhs.gov/blue-campaign/indicators-human-trafficking>

Resources for Human Trafficking:

- Office for Victims of Crime: <https://ovc.ncjrs.gov/humantrafficking/>
- National Human Trafficking Hotline: <https://humantraffickinghotline.org/>
 - The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation: <https://humantraffickinghotline.org/resources/crime-human-trafficking-law-enforcement-guide-identification-and-investigation>
 - Prosecuting Human Trafficking Cases: <https://humantraffickinghotline.org/resources/prosecuting-human-trafficking-cases>



<https://www.unicefusa.org/stories/domestic-violence-and-human-trafficking/33601>

DYNAMICS OF DOMESTIC VIOLENCE: Teen Dating Violence



Empowering Youth to End
Domestic Violence

DO's AND DON'Ts **LAW ENFORCEMENT** SHOULD KNOW BEFORE INTERVIEWING TEEN VICTIMS OF DATING VIOLENCE

DOCUMENTING TECH ABUSE

Teens experiencing dating violence frequently report receiving threats, admissions of abuse, or controlling behavior in text messages or over the internet. Evidence of tech-based abuse can be invaluable for your case. Ask youth victims to preserve this evidence by:

- Printing out all emails that contain any evidence or information about the incident. Make sure the printout includes the sender, recipient, date, and time.
- Printing out text messages. If that's not possible, take a picture of the cell phone displaying the message and contact information.
- Printing screen shots of social media that contain evidence, such as admissions of abuse, threats of violence, or pictures of the victim that were not consented to. Remember to check both the victim's and the alleged perpetrator's sites.
- Recording voicemails onto a digital voice recorder and include the time/date stamp.

Suggest that the teen victim change any online passwords that may have been discovered by the perpetrator and monitor email accounts and social media closely.

DO:

- Encourage and support their choice to get help.
- Mirror the teen's choice of words, tone and body language.
- Use age- and developmentally-appropriate language when asking about the incident, evidence, or injuries.
- Be honest about your ability to keep information confidential.
- Be direct about your legal responsibilities, especially regarding parental involvement.
- Help the teen be in control and make their own decisions as much as possible.
- Provide information on local resources and encourage the teen to seek help

DON'T:

- Don't be judgmental about the teen's relationship or choices.
- Don't show shock or disapproval if the teen tells you about his/her sexual activities.
- Don't minimize the abuse or the importance of the relationship.
- Don't assume that abuse in a new or casual relationship is not severe.
- Don't assume that the youth is heterosexual.
- Don't assume that the abusive partner is also a teen.
- Don't share a youth's private information unnecessarily.

WORKING WITH PARENTS

When referring or transporting a minor victim to receive additional services (e.g., forensic exams), the minor's parent/guardian may need to consent to the services. Educate yourself on your state's laws so that you will know in advance if the teen's parent/guardian must be involved and not risk violating either the minor's or the parent/guardian's rights. If you must seek the minor's parent/guardian's consent, first let the teen know and give them the opportunity to contact their parent/guardian first. If you have questions about your state's laws on minor consent, call the local State's Attorney's Office.

BEING AN ALLY

Teen victims need to feel that the police take their experiences of abuse seriously. Youth depend a great deal on their peer group and are likely to share their experiences with one another. Taking the extra time to be supportive and compassionate with teen victims will encourage more teens to seek out the help they need in the future.

Law enforcement officers are allies in a community response to dating violence. Make sure the schools in your precinct know who you are, particularly the names of officers who have specialized training in teen dating violence. Be sure to include the colleges and universities! Partner with community organizations and local schools to implement education programs with middle school, high school, and college students and collaborate with local community organizations to cross-train staff and officers on teen dating violence and police response.

5200 W. CENTURY BLVD., SUITE 300
LOS ANGELES, CA 90045

PO BOX 21034
WASHINGTON, DC 20009

www.breakthecycle.org
www.thesafespace.org

This project was supported by Grant No. 2007-TA-AX-K024 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.

Teen Dating Violence Resources:

- **Love is Respect:** <https://www.loveisrespect.org>
Call 1-866-331-9474, chat at loveisrespect.org or text “loveis” to 22522, any time, 24/7/365.
- **Break the Cycle:** <https://www.breakthecycle.org/learn-about-dating-abuse>

DYNAMICS OF DOMESTIC VIOLENCE: Lesbian, Gay, Bisexual, Transgender, Questioning



DOMESTIC VIOLENCE AND LESBIAN, GAY, BISEXUAL AND TRANSGENDER RELATIONSHIPS

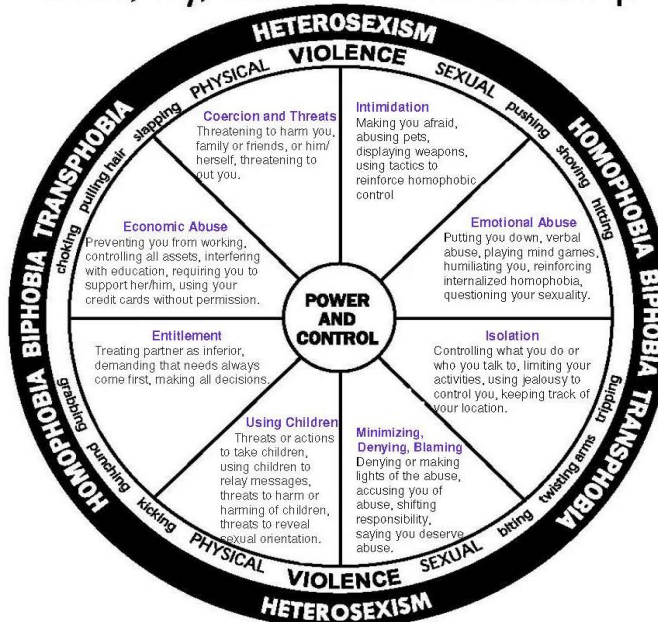
WHY IT MATTERS

Domestic violence is defined as a pattern of behaviors utilized by one partner (the batterer or abuser) to exert and maintain control over another person (the survivor or victim) where there exists an intimate and/or dependent relationship. Experts believe that domestic violence occurs in the lesbian, gay, bisexual and transgender (LGBT) community with the same amount of frequency and severity as in the heterosexual community. Society's long history of entrenched racism, sexism, homophobia and transphobia prevents LGBT victims of domestic violence from seeking help from the police, legal and court systems for fear of discrimination or bias.¹

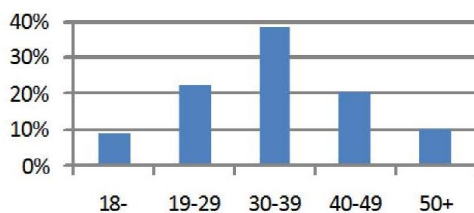
DID YOU KNOW?

- In ten cities and two states alone, there were 3,524 incidents of domestic violence affecting LGBT individuals, according to the National Coalition of Anti-Violence Programs 2006 Report on Lesbian, Gay, Bi-Sexual and Transgender Domestic Violence.¹
- LGBT domestic violence is vastly underreported, unacknowledged, and often reported as something other than domestic violence.¹
- Delaware, Montana and South Carolina explicitly exclude same-sex survivors of domestic violence from protection under criminal laws. Eighteen states have domestic violence laws that are gender neutral but apply to household members only.²
- 30 states and DC have domestic violence laws that are gender neutral and include household members as well as dating partners.²

Power and Control Wheel for Lesbian, Gay, Bisexual and Trans Relationships



Age of Victims of Reported Cases of
LGBT Domestic Violence³



SURVIVORS

- Gay and bisexual men experience abuse in intimate partner relationships at a rate of 2 in 5, which is comparable to the amount of domestic violence experienced by heterosexual women.³
- Approximately 50% of the lesbian population has experienced or will experience domestic violence in their lifetimes.¹
- In one year, 44% of victims in LGBT domestic violence cases identified as men, while 36% identified as women.¹
- 78% of lesbians report that they have either defended themselves or fought back against an abusive partner. 18% of this group described their behavior as self-defense or "trading blow for blow or insult for insult."⁴

NCADV Public Policy Office · 1633 Q St NW # 210 · Washington, DC 20009 · (202) 745-1211 · Fax: (202) 745-0088 publicpolicy@ncadv.org

TYPES OF ABUSE⁵

- **Physical:** the threat of harm or any forceful physical behavior that intentionally or accidentally causes bodily harm or property destruction.
- **Sexual:** any forced or coerced sexual act or behavior motivated to acquire power and control over the partner. It is not only forced sexual contact but also contact that demeans or humiliates the partner and instigates feelings of shame or vulnerability – particularly in regards to the body, sexual performance or sexuality.
- **Emotional/Verbal:** any use of words, voice, action or lack of action meant to control, hurt or demean another person. Emotional abuse typically includes ridicule, intimidation or coercion.
- **Financial:** the use or misuse, without the victim's consent, of the financial or other monetary resources of the partner or of the relationship.
- **Identity Abuse:** using personal characteristics to demean, manipulate and control the partner. Some of these tactics overlap with other forms of abuse, particularly emotional abuse. This category is comprised of the social "isms", including racism, sexism, ageism, able-ism, beauty-ism, as well as homophobia. Includes threats to "out" victim.

TRANSGENDER ABUSE¹

Specific forms of abuse occur in relationships where one partner is transgender, including:

- ⇒ using offensive pronouns such as "it" to refer to the transgender partner;
- ⇒ ridiculing the transgender partner's body and/or appearance;
- ⇒ telling the transgender partner that he or she is not a real man or woman;
- ⇒ ridiculing the transgender partner's identity as "bisexual," "trans," "femme," "butch," "gender queer," etc.;
- ⇒ denying the transgender partner's access to medical treatment or hormones or coercing him or her to not pursue medical treatment.

HIV/AIDS RELATED ABUSE¹

The presence of HIV/AIDS in an abusive relationship may lead to specific forms of abuse, which include:

- ⇒ "outing" or threatening to tell others that the victim has HIV/AIDS;
- ⇒ an HIV+ abuser suggesting that she or he will sicken or die if the partner ends the relationship;
- ⇒ preventing the HIV+ partner from receiving needed medical care or medications;
- ⇒ taking advantage of an HIV+ partner's poor health status, assuming sole power over a partner's economic affairs, create the partner's utter dependency on the abuser;
- ⇒ An HIV+ abuser infecting or threatening to infect a partner.

BARRIERS TO SEEKING SERVICES¹

Barriers to addressing LGBT intimate partner violence (both for service providers and survivors) include:

- The belief that domestic violence does not occur in LGBT relationships and/or is a gender based issue;
- Societal anti-LGBT bias (homophobia, biphobia and transphobia);
- Lack of appropriate training regarding LGBT domestic violence for service providers;
- A fear that airing of the problems among the LGBT population will take away from progress toward equality or fuel anti-LGBT bias.
- Domestic violence shelters are typically female only, thus transgender people may not be allowed entrance into shelters or emergency facilities due to their gender/genital/legal status.

FOR MORE INFORMATION

National Coalition of Anti-Violence Programs
212-714-1184
www.ncavp.org

GLBT National Help Center
1-888-843-4564
www.glbtnationalhelpcenter.org

Gay Men's Domestic Violence Project
1-800-832-1901
www.gmdvp.org

For more information or to get help, please call the
National Domestic Violence Hotline at 1-800-799-SAFE
National Sexual Assault Hotline at 1-800-656-HOPE

SOURCES

¹ National Coalition of Anti-Violence Programs. (2006) "Anti-Lesbian, Gay, Bisexual and Transgender Violence in 2006." www.ncavp.org

² National Gay and Lesbian Task Force. (2005) "Domestic Violence Laws in the U.S." www.thetaskforce.org

³ Greenwood, Gregory, et. al. (2002) "Battering and Victimization Among a Probability-Based Sample of Men Who Have Sex With Men." *American Journal of Public Health*, 92 (12).

⁴ Renzetti, C.M. (1992). "Violent betrayal: Partner abuse in lesbian relationships." *Violence Against Women*. Sage Publications.

⁵ Gay Men's Domestic Violence Project. "Types of Abuse." www.gmdvp.org



The Public Policy Office of the National Coalition Against Domestic Violence (NCADV) is a national leader in the effort to create and influence Federal legislation that positively affects the lives of domestic violence victims and children. We work closely with advocates at the local, state and national level to identify the issues facing domestic violence victims, their children and the people who serve them and to develop a legislative agenda to address these issues. NCADV welcomes you to join us in our effort to end domestic violence.

² http://www.mmgconnect.com/projects/userfiles/file/dce-stop_now/ncadv_lgbt_fact_sheet.pdf

MATERIALS FOR LAW ENFORCEMENT: Risk Assessments

DANGER ASSESSMENT

Jacquelyn C. Campbell, Ph.D., R.N.
Copyright, 2003: www.dangerassessment.com

Several risk factors have been associated with increased risk of homicides (murders) of women and men in violent relationships. We cannot predict what will happen in your case, but we would like you to be aware of the danger of homicide in situations of abuse and for you to see how many of the risk factors apply to your situation.

Using the calendar, please mark the approximate dates during the past year when you were abused by your partner or ex partner. Write on that date how bad the incident was according to the following scale:

1. Slapping, pushing; no injuries and/or lasting pain
2. Punching, kicking; bruises, cuts, and/or continuing pain
3. "Beating up"; severe contusions, burns, broken bones
4. Threat to use weapon; head injury, internal injury, permanent injury
5. Use of weapon; wounds from weapon

(If **any** of the descriptions for the higher number apply, use the higher number.)

Mark **Yes** or **No** for each of the following. ("He" refers to your husband, partner, ex-husband, ex-partner, or whoever is currently physically hurting you.)

- ___ 1. Has the physical violence increased in severity or frequency over the past year?
- ___ 2. Does he own a gun?
- ___ 3. Have you left him after living together during the past year?
3a. (If have *never* lived with him, check here___)
- ___ 4. Is he unemployed?
- ___ 5. Has he ever used a weapon against you or threatened you with a lethal weapon?
(If yes, was the weapon a gun?___)
- ___ 6. Does he threaten to kill you?
- ___ 7. Has he avoided being arrested for domestic violence?
- ___ 8. Do you have a child that is not his?
- ___ 9. Has he ever forced you to have sex when you did not wish to do so?
- ___ 10. Does he ever try to choke you?
- ___ 11. Does he use illegal drugs? By drugs, I mean "uppers" or amphetamines, "meth", speed, angel dust, cocaine, "crack", street drugs or mixtures.
- ___ 12. Is he an alcoholic or problem drinker?
- ___ 13. Does he control most or all of your daily activities? For instance: does he tell you who you can be friends with, when you can see your family, how much money you can use, or when you can take the car? (If he tries, but you do not let him, check here: ___)
- ___ 14. Is he violently and constantly jealous of you? (For instance, does he say "If I can't have you, no one can.")
- ___ 15. Have you ever been beaten by him while you were pregnant? (If you have never been pregnant by him, check here: ___)
- ___ 16. Has he ever threatened or tried to commit suicide?
- ___ 17. Does he threaten to harm your children?
- ___ 18. Do you believe he is capable of killing you?
- ___ 19. Does he follow or spy on you, leave threatening notes or messages, destroy your property, or call you when you don't want him to?
- ___ 20. Have you ever threatened or tried to commit suicide?
- ___ Total "Yes" Answers

Thank you. Please talk to your nurse, advocate or counselor about what the Danger Assessment means in terms of your situation.



DOMESTIC VIOLENCE LETHALITY SCREEN FOR FIRST RESPONDERS



Officer:	Date:	Case #:
Victim:	Offender:	
<input type="checkbox"/> Check here if victim did not answer any of the questions.		
▶ A "Yes" response to any of Questions #1-3 automatically triggers the protocol referral.		
1. Has he/she ever used a weapon against you or threatened you with a weapon?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
2. Has he/she threatened to kill you or your children?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
3. Do you think he/she might try to kill you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
▶ Negative responses to Questions #1-3, but positive responses to at least four of Questions #4-11, trigger the protocol referral.		
4. Does he/she have a gun or can he/she get one easily?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
5. Has he/she ever tried to choke you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
6. Is he/she violently or constantly jealous or does he/she control most of your daily activities?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
7. Have you left him/her or separated after living together or being married?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
8. Is he/she unemployed?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
9. Has he/she ever tried to kill himself/herself?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
10. Do you have a child that he/she knows is not his/hers?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
11. Does he/she follow or spy on you or leave threatening messages?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
▶ An officer may trigger the protocol referral, if not already triggered above, as a result of the victim's response to the below question, or whenever the officer believes the victim is in a potentially lethal situation.		
Is there anything else that worries you about your safety? (If "yes") What worries you?		
Check one: <input type="checkbox"/> Victim screened in according to the protocol <input type="checkbox"/> Victim screened in based on the belief of officer <input type="checkbox"/> Victim did not screen in		
If victim screened in: After advising her/him of a high danger assessment, <input type="checkbox"/> Yes <input type="checkbox"/> No did the victim speak with the hotline counselor?		

Note: The questions above and the criteria for determining the level of risk a person faces is based on the best available research on factors associated with lethal violence by a current or former intimate partner. However, each situation may present unique factors that influence risk for lethal violence that are not captured by this screen. Although most victims who screen "positive" or "high danger" would not be expected to be killed, these victims face much higher risk than that of other victims of intimate partner violence.

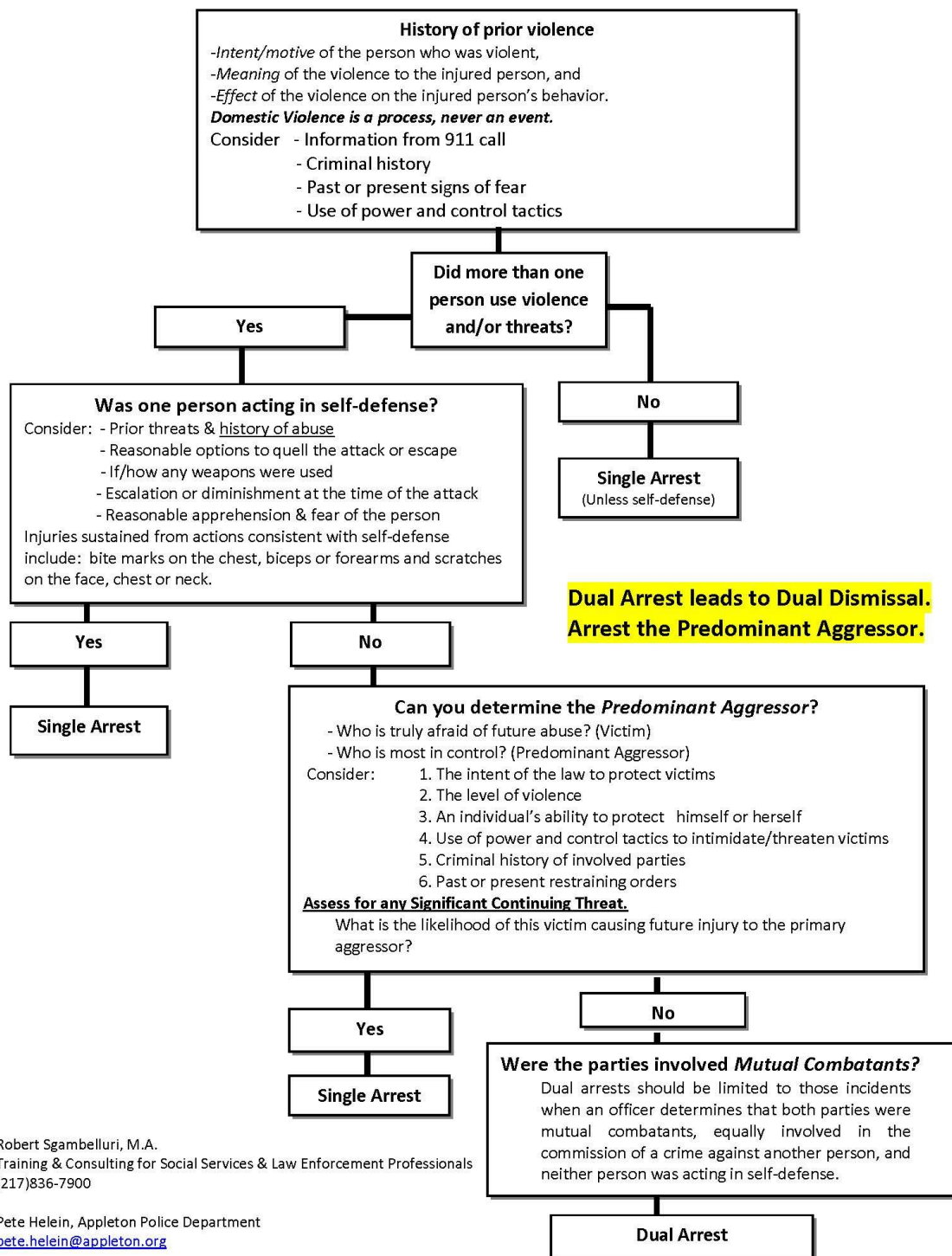
MNADV 08/2005

Resources for Danger and Risk Assessment:

- Accounting for Risk and Danger Practice Checklists: Coordinating Risk Assessment in Domestic Violence Cases: <https://www.bwjp.org/resource-center/resource-results/accounting-for-risk-and-danger-checklists.html>
- Tools & Strategies for Assessing Danger or Risk of Lethality: <https://vawnet.org/sc/tools-strategies-assessing-danger-or-risk-lethality>

MATERIALS FOR LAW ENFORCEMENT: Domestic Violence Checklists & Reports

PREDOMINANT AGGRESSOR “DECISION TREE”



Robert Sgambelluri, M.A.
 Training & Consulting for Social Services & Law Enforcement Professionals
 (217)836-7900

Pete Helein, Appleton Police Department
pete.helein@appleton.org

Domestic Violence Checklists

- 11 If an incident which involves ANY of the 11 "family or household member"
 +5 relationships...
 23 and ANY of the 5 behaviors with constitute "abuse" are present, then...
 ALL 23 mandated responsibilities appropriate to the incident must be fulfilled.

Mandated Responsibilities for the Responding Officer:

1. Arrest the primary aggressor when probable cause exists.
 2. Act to prevent further abuse.
 3. Seize weapons used or whose use was threatened
 4. Accompany the victim to remove personal belongings.
 5. Inform the victim to remove personal belongings.
 6. Inform the victim of their right to sign a criminal complaint.
 7. Advise victim to seek medical attention and preserve evidence.
 8. Refer the victim to a social service agency.
 9. Inform victim of the officer's name, ID number, district address and phone number.
 10. Provide for transportation for the victim and dependents to a safe place.
 11. Complete a report which indicates number, frequency and severity of prior calls.
-
12. Provide victim with a completed Domestic Violence Information Form.
 13. Provide victim with a completed Victim/Witness Assistance Notification.
 14. Notify the appropriate state agency when abuse or neglect is suspected.
 15. Photograph injuries and damage, or obtain photos.
 16. Notify Juvenile Officer when a child is a victim or has witnessed the incident.
 17. Notify a sworn supervisor if the alleged primary aggressor is an employee.
-
18. Obtain 9-1-1 tape.
 19. Notify the local police agency and state police district in the victim's home jurisdiction.
 20. Notify the command of any police agency employing the alleged primary aggressor.
 21. Notify the Chief/Sheriff employing the alleged primary aggressor.
 22. Follow-up with the victim after 24 and within 72 hours of the incident; provide brochure, Victim/Witness Assistance form, and re-contact as appropriate.
 23. Notify victim/witness of the arrest of the suspect, the charges and custody status.

Officer Name/ID # _____ # _____

Aggressor's Name (LMF) _____

Victim's Name (LMF) _____

Agency Case Number _____

State's Attorney's File Number _____

Report Checklist

An officer's report will contain all relevant information necessary to prosecute the case without the cooperation of the victim. Relevant information includes a detailed description or explanation of the following items for the victim, aggressor, children and witnesses.

1. Location upon arrival.
2. Description of scene and damages.
3. Emergency medical care rendered at the scene and medical treatment sought.
4. Excited utterances.
5. Emotional state/appearance of all persons involved (including changes in behavior during interview.)
6. Physical condition.
7. Injuries (appearance, size, location, coloration, age: existing and past).
8. Relationship of victim and aggressor.
9. Person through whom the victim can be contacted.
10. Summary of statements taken.
11. Address/phone/pager numbers or personal contacts of victim/witness.
12. Evidence and weapons seized.
13. Photographs.
14. EMT, nurse, and physician witness (name/address/phone): what they observed.
15. Elements of criminal offences whether or not an arrest was made.
16. Actions taken to fulfill mandated responsibilities.

Response Checklist:

In addition to the mandated responsibilities, the following actions will be taken by officers who respond to or come upon an incident of abuse between family or household members.

1. Interview victim, aggressor, children and witnesses separately.
2. For each subject involved, check for warrants and current order of protection.
3. Take written statements from the victim, aggressor, older children and witnesses.
4. Attempt to locate an aggressor who has left the scene.

Limited Law Enforcement Liability:

750 ILCS 60/305

Any act of omission or commission by any law enforcement officer acting in good faith in rendering emergency assistance or otherwise enforcing (the Illinois Domestic Violence Act of 1986) shall not impose civil liability upon the law enforcement officer or his or her supervisor or employer, unless the act is a result of willful or wanton misconduct.

Domestic Violence Addendum – 9th Judicial Circuit

(Use separate sheet for each victim)

Number:	Case:
---------	-------

INCIDENT DATE: / / **TIME:** **LOCATION:**

VICTIM'S NAME

Last Name:	First:	Middle:	Birth date: / /	Sex: <input type="checkbox"/> M <input type="checkbox"/> F
Address:			Phone: ()	

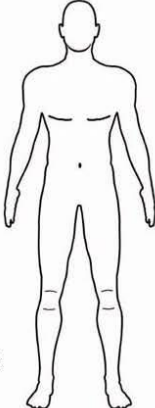
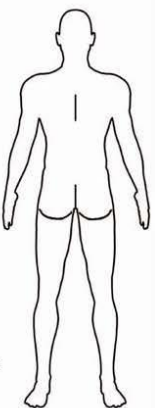

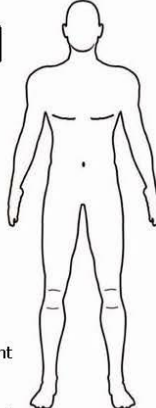
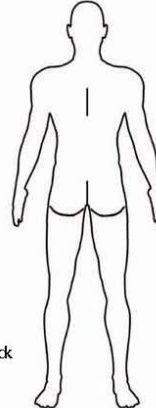

AGGRESSOR'S NAME

Last Name:	First:	Middle:	Birth date: / /	Sex: <input type="checkbox"/> M <input type="checkbox"/> F
Address:			Phone: ()	

OFFICER OBSERVATIONS	Aggressor	RELATIONSHIP	Current	Former
Alcohol/Drugs	<input type="checkbox"/>	Married	<input type="checkbox"/>	<input type="checkbox"/>
Angry	<input type="checkbox"/>	Cohabitants	<input type="checkbox"/>	<input type="checkbox"/>
Apologetic	<input type="checkbox"/>	Dating/Engaged	<input type="checkbox"/>	<input type="checkbox"/>
Calm	<input type="checkbox"/>	Parent/Step Parent and Child	<input type="checkbox"/>	<input type="checkbox"/>
Crying	<input type="checkbox"/>	Personal Assistant of Disabled	<input type="checkbox"/>	<input type="checkbox"/>
Excited Utterances*	<input type="checkbox"/>	Recently Separated	<input type="checkbox"/>	<input type="checkbox"/>
Profanity	<input type="checkbox"/>	<input type="checkbox"/> Other*		
Hysterical	<input type="checkbox"/>	Length of Relationship	Years	Months
Shaking	<input type="checkbox"/>	Names of minor children under 18 :		
Nervous	<input type="checkbox"/>		Residing in home <input type="checkbox"/> Yes <input type="checkbox"/> No	Age:
Threatening	<input type="checkbox"/>		Residing in home <input type="checkbox"/> Yes <input type="checkbox"/> No	Age:
Abuse of Pets	<input type="checkbox"/>		Residing in home <input type="checkbox"/> Yes <input type="checkbox"/> No	Age:
Other	<input type="checkbox"/>		Residing in home <input type="checkbox"/> Yes <input type="checkbox"/> No	Age:
Forcible Entry? <input type="checkbox"/> YES <input type="checkbox"/> NO			Residing in home <input type="checkbox"/> Yes <input type="checkbox"/> No	Age:
Duration of Incident:			Residing in home <input type="checkbox"/> Yes <input type="checkbox"/> No	Age:

INJURIES	Victim		Aggressor		MEDICAL TREATMENT	Victim	Aggressor
	Reported	Observed	Reported	Observed			
1. Report of Pain	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	None	<input type="checkbox"/>	<input type="checkbox"/>
2. Bruises	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Seek Own	<input type="checkbox"/>	<input type="checkbox"/>
3. Abrasions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Refused	<input type="checkbox"/>	<input type="checkbox"/>
4. Minor Cuts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	First Aid	<input type="checkbox"/>	<input type="checkbox"/>
5. Lacerations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Paramedic/EMS	<input type="checkbox"/>	<input type="checkbox"/>
6. Sexual Assault	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Hospital	<input type="checkbox"/>	<input type="checkbox"/>
7. Strangulation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Hospital/Physician:		
8. Other*	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Release for Medical Records signed <input type="checkbox"/> YES <input type="checkbox"/> NO		
Victim Pregnant	<input type="checkbox"/> YES <input type="checkbox"/> NO How Far Along?		Form #				

Show all injuries on diagrams below. Use corresponding numbers 1 through 8

Victim			Aggressor		
					
Front	Back		Front	Back	

Note: Make sure diagrams are consistent with photos used in evidence.

*Describe in notes/comments or report narrative.

WITNESSES – (COMPLETE IDENTIFIERS AND CONTACT INFORMATION)		TYPE OF STATEMENTS	
Witness Name:	Statement Taken: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Written	<input type="checkbox"/> Audio <input type="checkbox"/> Video
Witness Name:	Statement Taken: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Written	<input type="checkbox"/> Audio <input type="checkbox"/> Video
Witness Name:	Statement Taken: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Written	<input type="checkbox"/> Audio <input type="checkbox"/> Video

EVIDENCE	<i>Make sure photos are consistent with diagrams on reverse side.</i>	
Photos Taken of Victim	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Photos Taken of Suspect	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Photos Taken of Scene/Children	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Photos Taken By (Name):		
Victim Statement	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Type of Statement	<input type="checkbox"/> Written	<input type="checkbox"/> Audio <input type="checkbox"/> Video
Aggressor Statement	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Type of Statement	<input type="checkbox"/> Written	<input type="checkbox"/> Audio <input type="checkbox"/> Video
Evidence Collected	<input type="checkbox"/> YES	<input type="checkbox"/> NO
9-1-1 Tape Requested	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Sexual Assault Kit	<input type="checkbox"/> YES	<input type="checkbox"/> NO
In-Car Video # []	<input type="checkbox"/> YES	<input type="checkbox"/> NO

NOTIFICATION	
Investigations	<input type="checkbox"/> YES <input type="checkbox"/> NO
Crime Scene Services	<input type="checkbox"/> YES <input type="checkbox"/> NO
DCFS/Human Services	<input type="checkbox"/> YES <input type="checkbox"/> NO
Juvenile Officer	<input type="checkbox"/> YES <input type="checkbox"/> NO
Domestic Violence Victim Packet	<input type="checkbox"/> YES <input type="checkbox"/> NO
Domestic Violence/Sexual Assault Advocate	<input type="checkbox"/> YES <input type="checkbox"/> NO
Local Law Enforcement Agency	<input type="checkbox"/> YES <input type="checkbox"/> NO
Other*	<input type="checkbox"/> YES <input type="checkbox"/> NO

PRIOR HISTORY (Actual and Alleged)			
Prior Domestic Violence Incidents (Number, Frequency, Severity)	<input type="checkbox"/> YES*	<input type="checkbox"/> NO	<input type="checkbox"/> YES*
Prior Incidents Reported to Police (Agencies Involved)	<input type="checkbox"/> YES*	<input type="checkbox"/> NO	<input type="checkbox"/> YES*
Reports Stalking, Surveillance, Isolation	<input type="checkbox"/> YES*	<input type="checkbox"/> NO	<input type="checkbox"/> YES*
Criminal History Information Attached?	<input type="checkbox"/> YES*	<input type="checkbox"/> NO	<input type="checkbox"/> YES*

WEAPONS	
Type of Weapon Used?	
Aggressor – Access to Weapons?	<input type="checkbox"/> YES <input type="checkbox"/> NO
What Kind? _____	
Aggressor – History of Weapons Use	
Aggressor – FOID Card	<input type="checkbox"/> YES <input type="checkbox"/> NO

ORDER OF PROTECTION	
<i>Check All that Have or Do Apply</i>	
Served:	<input type="checkbox"/> YES <input type="checkbox"/> NO Date/Time: _____
Type:	<input type="checkbox"/> Emergency <input type="checkbox"/> Interim <input type="checkbox"/> Plenary
Status:	<input type="checkbox"/> Current <input type="checkbox"/> Expired
Previous Orders Issued?	<input type="checkbox"/> YES <input type="checkbox"/> NO
History of Violating Orders, OP or Other (Stalking, Parole, Sexual, No Contact Order)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Issuing Court(s): _____	

MENTAL HEALTH	
History of Mental Health Issues	<div style="display: inline-block; width: 40px; text-align: center;">Aggressor</div> <div style="display: inline-block; width: 40px; text-align: center;">YES*</div> <div style="display: inline-block; width: 40px; text-align: center;">NO</div>
What Kind? _____	<input type="checkbox"/> <input type="checkbox"/>
Medications?	<input type="checkbox"/> <input type="checkbox"/>
Expressed suicidal/homicidal thoughts	<input type="checkbox"/> <input type="checkbox"/>
History of Alcohol/Drugs	<input type="checkbox"/> <input type="checkbox"/>
What Kind? _____	

List all children under 18 present in the current incident: (check all that apply)

1. Name:	Age:	DOB:
Address:	City/State/Zip:	Phone:
Current Incident: <input type="checkbox"/> Witness <input type="checkbox"/> Victim <input type="checkbox"/> Injured <input type="checkbox"/> Other		
Legally related to: <input type="checkbox"/> Victim <input type="checkbox"/> Aggressor <input type="checkbox"/> Neither		
2. Name:	Age:	DOB:
Address:	City/State/Zip:	Phone:
Current Incident: <input type="checkbox"/> Witness <input type="checkbox"/> Victim <input type="checkbox"/> Injured <input type="checkbox"/> Other		
Legally related to: <input type="checkbox"/> Victim <input type="checkbox"/> Aggressor <input type="checkbox"/> Neither		
Division of Child and Family Services Hotline Called? <input type="checkbox"/> YES <input type="checkbox"/> NO		
PLEASE USE ADDITIONAL PAGES IF NECESSARY		
Follow Up – How does victim want to be contacted?		
Name of Contact Person:	Address:	Phone:
Victim Access to Transportation: <input type="checkbox"/> Yes <input type="checkbox"/> No	Victim Access to Phone: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Reporting Officer:	Date/Time:	ID Number
	Reviewing Officer's Initials	ID Number

PLEASE NOTE: This information will be provided to the Judge in setting bond

*Describe in notes/comments or report narrative.

FVCC 9th Judicial Circuit (6/10)

Domestic Violence Supplemental Report Form

Report Number: _____

Victim's Name:	Location of Incident:
----------------	-----------------------

Witness Information: (Circle) Witness information must be listed on the offense report

Were there witnesses present during the incident?	Yes	No	
Statements taken:	Oral statement	Written statement	Both
Were children present during the incident?	Yes	No	
Statements taken:	Oral statement	Written statement	Both

Medical Treatment Provided to Victim:

<input type="checkbox"/> None needed <input type="checkbox"/> Will see own doctor Doctor's name and telephone:	<input type="checkbox"/> Paramedics called/treated on scene <input type="checkbox"/> Paramedics transported to hospital Hospital Name:
--	--

Offender's Actions (circle number of all that apply)

1. Injured victim (specify) 2. Threatened victim (specify) 3. Threatened witnesses/children (specify)	4. Disabled phone 5. Prevented victim/witnesses from seeking assistance 6. Forced entry 7. Took property	8. Damaged property 9. Followed/stalked 10. Sexual assault 11. Other (specify)
---	---	---

Evidence: Evidence collected by: _____ Location collected (hospital/on scene) _____

Were photos of the victim's injuries taken:	Photos of offender's injuries taken?
Type of weapon used:	Photos of the crime scene taken?
Victim's statement:	Was the weapon retained?
Oral statement	Written statement
Both	Both
Offender's statement:	Oral statement
Written statement	Both
Both	
911 tapes:	Requested
Copied to ASA	

Crime Scene Description

Victim (circle all that apply)			Offender (circle all that apply)		
1. Angry 2. Apologetic 3. Crying 4. Fearful 5. Hysterical 6. Calm	7. Afraid 8. Irrational 9. Nervous 10. Threatening 11. Complaint of pain	12. Bruises 13. Abrasions 14. Cuts 15. Lacerations 16. Fractures 17. Other	1. Angry 2. Apologetic 3. Crying 4. Fearful 5. Hysterical 6. Calm	7. Afraid 8. Irrational 9. Nervous 10. Threatening 11. Complaint of pain	12. Bruises 13. Abrasions 14. Cuts 15. Lacerations 16. Fractures 17. Other

Officer's Signature: _____

Badge Number: _____

Supervisor's Signature: _____

Date: _____

DOMESTIC VIOLENCE CASE INVESTIGATION FORM			
Officer Name: _____		Officer #: _____	Officer Agency: _____
Suspect name and DOB: _____		Victim name and DOB: _____	
THE SCENE			
EVIDENCE Physical evidence collected: (ex: torn clothing, broken objects) <input type="checkbox"/> Yes <input type="checkbox"/> No Location collected: <input type="checkbox"/> Crime Scene <input type="checkbox"/> Hospital <input type="checkbox"/> Other Photos taken: <input type="checkbox"/> Victim <input type="checkbox"/> Suspect <input type="checkbox"/> Crime Scene <input type="checkbox"/> Physical Evidence <input type="checkbox"/> Witness <input type="checkbox"/> Other: _____ Property damage present? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what is the approximate value: _____ Witnesses present during incident: <input type="checkbox"/> Yes <input type="checkbox"/> No Witness statements taken: <input type="checkbox"/> Yes <input type="checkbox"/> No All witness identifying info in report: <input type="checkbox"/> Yes <input type="checkbox"/> No Suspect identified by: <input type="checkbox"/> Victim <input type="checkbox"/> Witness <input type="checkbox"/> Suspect on scene <input type="checkbox"/> Photo ID completed/collected		CHILDREN Were children present? <input type="checkbox"/> Involved <input type="checkbox"/> Intervened <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Injured <input type="checkbox"/> Interviewed How many? _____ DHS called for this incident? <input type="checkbox"/> Yes <input type="checkbox"/> No Child: _____ DOB: _____ Location during incident: _____ Emotional demeanor: _____ Child: _____ DOB: _____ Location during incident: _____ Emotional demeanor: _____ Use separate sheet for additional children	
RISK ASSESSMENT			
OFFICER INSTRUCTIONS: Please ask the following questions about the current assault. If this incident was not an assault but the suspect has been physically violent toward the victim in the past, answer the questions based upon the last time the suspect was violent towards the victim.			
O D A R A	Does the suspect have a prior domestic assault that was reported to police (against a partner or the children)?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
	Does the suspect have a prior non domestic assault that was reported to police (against any person other than a partner or the children)?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
	Has the suspect ever been sentenced to 30 days or more of incarceration (full 30 days need not have been served)?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
	Has the suspect violated a prior or current protection order, bond, parole, or probation?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
	Did the suspect threaten to physically harm or kill you or anyone else during this incident?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
	What was the threat?		
	Did the suspect do anything to prevent you from leaving during this incident?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
	Describe:		
	Are you concerned the suspect will assault you or the children in the future?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
	Total number of biological and adopted children (including adult children or children living out of the home):		
	Together _____		
	Suspect _____ NOT including shared children <input type="checkbox"/> Unknown		
	Victim _____ NOT including shared children		
	(If more than 1 mark "yes")		<input type="checkbox"/> Yes <input type="checkbox"/> No
	Do you have a biological child from another relationship?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the suspect violent to people other than you and/or the children?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Did the suspect drink alcohol just before or during this assault?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Did the suspect use drugs just before or during this assault?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Did the suspect abuse alcohol or drugs in the few days or weeks before this assault?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Did the suspect abuse alcohol or drugs more than usual in the few days or weeks before the assault?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Is the suspect more angry or violent when using drugs or alcohol?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Has the suspect ever been charged for something s/he did when drinking or using drugs?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Has the suspect had an alcohol problem at any time since s/he was 18 that resulted in problems in his/her life? (ex: legal, financial, work, relationships, health)		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Has the suspect had a drug problem at any time since s/he was 18 that resulted in problems in his/her life? (ex: legal, financial, work, relationships, health)		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Were you pregnant at the time of the incident?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
If yes, did the suspect know/have reason to know?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
Did the suspect ever assault you when you were pregnant?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Do you have any children at home ages 18 or younger?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Do you lack access to a telephone?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Do you lack access to transportation?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Do you lack neighbors nearby?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Were you using alcohol or drugs when this incident occurred?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Have alcohol or drugs ever caused any problems in your life?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> Suspect possesses or has access to weapons <input type="checkbox"/> Guns <input type="checkbox"/> Knives <input type="checkbox"/> Other: _____ Describe: _____ <input type="checkbox"/> Weapon used during incident Describe Weapon: _____ <input type="checkbox"/> Threats with weapons Describe: _____ <input type="checkbox"/> Suspect has threatened or attempted suicide If so, when? _____ <input type="checkbox"/> Suspect has made death threats in the past <input type="checkbox"/> Victim <input type="checkbox"/> Pets <input type="checkbox"/> Others When? _____		<input type="checkbox"/> Separation (recent or past) If yes, when? _____ <input type="checkbox"/> Suspect is jealous or obsessive about victim <input type="checkbox"/> Suspect states he will not let victim go <input type="checkbox"/> Suspect has in the past been restrained from contacting victim or children <input type="checkbox"/> Suspect is enraged or feels betrayed by victim efforts to leave <input type="checkbox"/> Abuse has become more frequent <input type="checkbox"/> Suspect controls victim's daily activities <input type="checkbox"/> Victim broken bones (prior) <input type="checkbox"/> Victim hospitalization/ER (prior) <input type="checkbox"/> Pet Abuse (prior) <input type="checkbox"/> Child Abuse (prior)	
		Suspect not: <input type="checkbox"/> Sleeping <input type="checkbox"/> Eating <input type="checkbox"/> Working Suspect loss of: <input type="checkbox"/> Housing <input type="checkbox"/> Job <input type="checkbox"/> Loved one <input type="checkbox"/> Other: _____ <input type="checkbox"/> Suspect suffers from mental/emotional conditions (ex: depression) <input type="checkbox"/> Is taking medication <input type="checkbox"/> Has taken medication <input type="checkbox"/> Compliant with prescription Diagnosis: _____	
		<div style="border: 1px solid black; padding: 5px; display: inline-block;"> PTS use only </div>	
		<div style="border: 1px solid black; padding: 5px; display: inline-block;"> SCORE </div>	

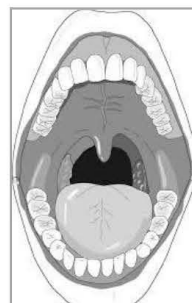
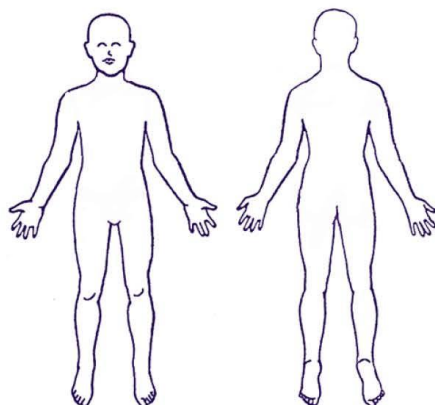
Suspect:	Victim:	CR:	Agency:
VICTIM INFORMATION			
VICTIM BEHAVIOR (as witnessed by officer): <input type="checkbox"/> Calm <input type="checkbox"/> Crying <input type="checkbox"/> Minimizing <input type="checkbox"/> Agitated <input type="checkbox"/> Numb <input type="checkbox"/> Nervous <input type="checkbox"/> Afraid <input type="checkbox"/> Angry <input type="checkbox"/> Apologetic <input type="checkbox"/> Distraught <input type="checkbox"/> Reluctant <input type="checkbox"/> Flat affect <input type="checkbox"/> Threatening <input type="checkbox"/> Other: _____		VICTIM INJURIES? <input type="checkbox"/> Yes <input type="checkbox"/> No SBI Form? <input type="checkbox"/> Yes If yes, <input type="checkbox"/> Complaint of Pain <input type="checkbox"/> Minor Cuts <input type="checkbox"/> Fractures <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Lacerations <input type="checkbox"/> Concussion <input type="checkbox"/> Abrasions <input type="checkbox"/> Other: _____ Medical Evaluation <input type="checkbox"/> EMS <input type="checkbox"/> Hospital <input type="checkbox"/> Declined <input type="checkbox"/> Medical Release signed by victim <input type="checkbox"/> Medical witness info in report	
Involved? <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs			
RELATIONSHIP TO SUSPECT <input type="checkbox"/> Spouse <input type="checkbox"/> Former cohabitants <input type="checkbox"/> Same sex partner <input type="checkbox"/> Former spouse <input type="checkbox"/> Dating/Engaged <input type="checkbox"/> Emancipated minor <input type="checkbox"/> Cohabitants <input type="checkbox"/> Former dating <input type="checkbox"/> Child in common Length of Relationship: _____ Years _____ Months If applicable, date relationship ended: _____ <input type="checkbox"/> Victim has pets: _____		DESCRIPTION OF INCIDENT <input type="checkbox"/> Kicking <input type="checkbox"/> Slapping-open hand <input type="checkbox"/> Throwing objects <input type="checkbox"/> Pushing <input type="checkbox"/> Grabbing <input type="checkbox"/> Hitting-closed fist <input type="checkbox"/> Violation of PO <input type="checkbox"/> Biting <input type="checkbox"/> Strangulation <input type="checkbox"/> Suffocation/Restricted Breathing <input type="checkbox"/> Stalking <input type="checkbox"/> Non consent sex <input type="checkbox"/> Fear for Life <input type="checkbox"/> Weapons <input type="checkbox"/> Other: _____ Suspect Demeanor: _____	
EMERGENCY CONTACT: Tell victim info NOT confidential Name: _____ Phone: _____ Email: _____		AT RISK ADULTS: (18-65-102) Is the victim 70 years or older? <input type="checkbox"/> Yes <input type="checkbox"/> No Does the victim have a disability? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe: _____	
SUSPECT INFORMATION			
Suspect Behavior (as witnessed by officer) <input type="checkbox"/> Calm <input type="checkbox"/> Crying <input type="checkbox"/> Minimizing <input type="checkbox"/> Agitated <input type="checkbox"/> Numb <input type="checkbox"/> Nervous <input type="checkbox"/> Afraid <input type="checkbox"/> Angry <input type="checkbox"/> Apologetic <input type="checkbox"/> Distraught <input type="checkbox"/> Reluctant <input type="checkbox"/> Flat affect <input type="checkbox"/> Threatening <input type="checkbox"/> Other: _____		SUSPECT INJURIES? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, <input type="checkbox"/> Complaint of Pain <input type="checkbox"/> Minor Cuts <input type="checkbox"/> Fractures <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Lacerations <input type="checkbox"/> Concussion <input type="checkbox"/> Abrasions <input type="checkbox"/> Other: _____ Medical Evaluation <input type="checkbox"/> EMS <input type="checkbox"/> Hospital <input type="checkbox"/> Declined	
Involved? <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs			
SUSPECT PRIOR DV BEHAVIORS			
<input type="checkbox"/> Isolation <input type="checkbox"/> Coercion <input type="checkbox"/> Threatens to take children <input type="checkbox"/> Controls money <input type="checkbox"/> Name calling <input type="checkbox"/> Intimidation <input type="checkbox"/> Throwing things <input type="checkbox"/> Hitting <input type="checkbox"/> Damage property <input type="checkbox"/> Biting <input type="checkbox"/> Kicking <input type="checkbox"/> Pushing/grabbing <input type="checkbox"/> Strangulation <input type="checkbox"/> Stalking <input type="checkbox"/> Non Consent Sex <input type="checkbox"/> Violation of PO <input type="checkbox"/> Prior DV witnessed by children <input type="checkbox"/> Prevented report <input type="checkbox"/> Other: _____ Approximate number of prior incidents (reported and unreported): _____ Number of prior incidents reported to Law Enforcement: _____			
STALKING			
Is there a current Protection Order protecting victim from suspect: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes: <input type="checkbox"/> Civil <input type="checkbox"/> Criminal <input type="checkbox"/> Repeated communication, repeatedly following, approaching, contacting or surveying <u>plus</u> at least one of the following: <input type="checkbox"/> Resulting in serious emotional distress <u>and/or</u> <input type="checkbox"/> Credible threat (credible threat = threat, physical action or repeated conduct causing fear) The victim has changed his/her phone, address, job, normal routine, etc.: <input type="checkbox"/> Yes <input type="checkbox"/> No			
STRANGULATION/SUFFOCATION			
STRANGULATION METHOD: <input type="checkbox"/> One hand: Circle Right or Left <input type="checkbox"/> Both Hands <input type="checkbox"/> Forearm <input type="checkbox"/> Knee/Foot <input type="checkbox"/> Choke-hold <input type="checkbox"/> Object: _____ <input type="checkbox"/> Suffocation/Restricted Breathing using: _____ <input type="checkbox"/> Other: _____ Did the suspect put anything on your face, neck or chest to prevent your breathing? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown Describe: _____ How many times do you remember being strangled (this incident only)? _____ Pressure of strangulation (on a scale of 1-10, 10 being the most pressure, how hard was the suspect's grip?): _____ Approximate length of strangulation: _____ What did you think was going to happen? _____ What caused the suspect to stop? _____ Position of the suspect in relation to the victim (ex: face to face, from behind, on the ground, sat on chest, etc.): _____ Position of the victim during the strangulation (ex: on the ground, standing up, against a wall, etc.): _____ Words spoken by suspect before strangulation: _____ Words spoken by suspect during strangulation: _____ Words spoken by suspect after strangulation: _____ Suspect facial expression and demeanor during strangulation: _____ What else did the suspect do while strangling you? _____ Were you able to speak during the strangulation? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what did you say? _____ Were you able to do anything physical to stop the strangulation? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what? _____			
LOCATION OF INJURIES: <input type="checkbox"/> Scalp <input type="checkbox"/> Behind ears <input type="checkbox"/> Jaw <input type="checkbox"/> Face <input type="checkbox"/> Eyelids <input type="checkbox"/> Eyes <input type="checkbox"/> Nose <input type="checkbox"/> Lips <input type="checkbox"/> In mouth/throat <input type="checkbox"/> Chin <input type="checkbox"/> Under Chin <input type="checkbox"/> Neck <input type="checkbox"/> Shoulder <input type="checkbox"/> Chest <input type="checkbox"/> Other: _____		DESCRIPTION OF INJURIES: <input type="checkbox"/> Redness <input type="checkbox"/> Swelling on neck <input type="checkbox"/> Scrapes <input type="checkbox"/> Finger/hand marks <input type="checkbox"/> Lumps on neck <input type="checkbox"/> Scratch marks <input type="checkbox"/> Ligature marks <input type="checkbox"/> Bruising <input type="checkbox"/> Hair missing <input type="checkbox"/> Blood in eyeball <input type="checkbox"/> Eyelid droop <input type="checkbox"/> Other: _____ <input type="checkbox"/> Tiny red marks (petechiae) Where? _____	
THE VICTIM EXPERIENCED:			
<input type="checkbox"/> Thrown against the wall/floor/etc. <input type="checkbox"/> Hyperventilation <input type="checkbox"/> Dizziness <input type="checkbox"/> Numbness <input type="checkbox"/> Shaken by suspect <input type="checkbox"/> Need to clear throat <input type="checkbox"/> Faintness <input type="checkbox"/> Tingling in lips, arms or legs <input type="checkbox"/> Physical pain <input type="checkbox"/> Changing pitch of voice <input type="checkbox"/> Blurry vision <input type="checkbox"/> Nausea <input type="checkbox"/> Pain/tender throat/neck <input type="checkbox"/> Raspy voice <input type="checkbox"/> Balance/coordination changes <input type="checkbox"/> Vomiting/dry heaving <input type="checkbox"/> Headache/head throb <input type="checkbox"/> Hoarseness <input type="checkbox"/> Memory Loss <input type="checkbox"/> Involuntary urination <input type="checkbox"/> Pain/trouble when swallowing <input type="checkbox"/> Coughing <input type="checkbox"/> Felt limp <input type="checkbox"/> Involuntary defecation <input type="checkbox"/> Trouble breathing <input type="checkbox"/> Loss of consciousness/blackout <input type="checkbox"/> Hearing changes <input type="checkbox"/> Other: _____ <input type="checkbox"/> Trouble catching breath <input type="checkbox"/> "Saw Stars" <input type="checkbox"/> Disoriented			

Suspect:	Victim:	CR:	Agency:
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INJURIES – THIS PAGE TO BE COMPLETED BY THE VICTIM

1. I have physically pointed out to the officer where I was injured
2. I have also indicated on the diagram where I was injured
3. I was able to physically point out to the officer who injured me
 - a. If no, I have shown a photo of the suspect to the officer
4. I have physically pointed out to the officer the object used to injure me
5. Do you understand all of the questions?

- | | |
|------------------------------|-----------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |



BODY DIAGRAMS <i>Draw all injuries observed</i>		
Top of Head 	Front 	Neck & Chin
Left Side 	Right Side 	Back of Head

Victim Signature: _____ Date: _____ Time: _____ am/pm

Officer: _____ Badge #: _____ Date: _____ Time: _____

☐ Officer indicated victim's responses because victim unable to mark this portion

MATERIALS FOR PROSECUTORS

The blueprint^{for}safety

Supplement

Training Memo: How a Prosecutor Reads a Domestic Violence-Related Report

Adapted from *Domestic Violence: The Law Enforcement Response*, a training curriculum from The Domestic Abuse Intervention Project, Duluth, MN (218) 722-2781 (www.theduluthmodel.org)

BACKGROUND INFORMATION	
INFORMATION	PURPOSE: A prosecutor needs...
<ul style="list-style-type: none"> • Time of incident • Time of dispatch • Time of first contact with victim 	...the time of the incident and the time the officer arrived to determine whether the intervening time is brief enough that the victim may still legally be considered to be “under the stress or excitement of the event.” If so, these may be non-testimonial statements and that may allow the prosecutor at trial to ask the officer to testify to any excited utterances or spontaneous statements the victim made.
<ul style="list-style-type: none"> • Location of incident 	...the city and county where the incident occurred to be documented in order to prove that a particular court has jurisdiction over the matter.
<ul style="list-style-type: none"> • Relationship between victim and suspect 	...the relationship between the victim and suspect documented in order to charge and prove a domestic abuse crime or to label other crimes as ones that occurred within the context of domestic abuse; and to argue for admission of evidence as part of the “history of the relationship.”

WITNESSES AND WITNESS STATEMENTS	
INFORMATION	PURPOSE: A prosecutor needs...
<ul style="list-style-type: none"> • Name, birth date and contact information 	<p>...to know who was present during the event in order to identify witnesses to the elements of the crime charged, which the prosecutor must prove at trial.</p> <p>The prosecutor needs their names and birthdates in order to run criminal history checks and thereby prepare for a defense strategy of attacking witness credibility, which can be done by impeaching witnesses with certified copies of their criminal convictions.</p> <p>The prosecutor also needs witness contact information to reach them in order to prepare for trial and send subpoenas for the trial itself. For victims who may move or change phones for safety reasons, contact information also includes a person who will know how to reach the victim.</p>

WITNESSES AND WITNESS STATEMENTS (cont.)	
INFORMATION	PURPOSE: A prosecutor needs...
<ul style="list-style-type: none"> Emotional state of victims and their children 	<p>...documentation of the complainant's emotional state to determine if he/she appeared to be "under the stress or excitement of the event." If so, this may allow the trial prosecutor to ask the officer to testify to the victim's excited utterances or spontaneous statements. The prosecutor needs documentation of what the officer observed (e.g., "She was crying and wringing her hands. When she spoke, her lower lip quivered and her voice trembled."); not just documentation of the officer's opinion ("She seemed upset.").</p> <p>This documentation also helps a jury picture what it was like during the event, as opposed to seeing only how witnesses behave in court.</p>
<ul style="list-style-type: none"> Emotional state of suspects 	<p>...documentation of the suspect's emotional state in order to be prepared to show intent at trial, show motivation (e.g., jealousy) at trial, counter any defenses (e.g., accident) at trial, or counter any mitigation (e.g., remorse) offered at sentencing.</p>
<ul style="list-style-type: none"> Alcohol or drug impairment of the parties 	<p>...to know if and how a person was impaired by alcohol or drugs. Impairment can affect witnesses' perceptions and thus their credibility at trial.</p> <p>Under certain circumstances, alcohol or drug impairment may provide somewhat of a defense for the suspect (e.g., he/she admits causing the injury, but says it was an accident or he/she was too intoxicated to form specific intent, etc.).</p> <p>Any impairment should be noted so that a prosecutor is aware of it before trial. Simply saying that both parties were drinking does not help. Was the officer able to obtain a coherent statement? If not and the person was unable to track the questions, the prosecutor needs to know that.</p> <p>The absence of alcohol or drug impairment can be helpful in countering defenses. While the officer is not expected to note the absence of impairment ("victim not drunk"), if the officer has a practice of noting impairment, he/she can testify that the absence of any information about drug/alcohol means there were no signs of impairment observed.</p>

WITNESSES AND WITNESS STATEMENTS (cont.)

<ul style="list-style-type: none"> • Existence of language, communication or cognition barriers 	<p>...to know if there was a barrier to clear communication. Language, communication, or cognition differences can affect the comprehensiveness of the information provided by witnesses and can affect how the court may perceive the quality of the interview if the interviewer has no skill or ability in these areas. Any potential barrier or issue of this type should be noted so that the prosecutor is aware of it before trial. The prosecutor needs to know if there might be a claim that the officer did not get the information correct because the witness did not understand what was being said.</p> <p>This information may also be helpful in explaining to a jury a statement that might otherwise appear to be a prior inconsistent statement.</p>
<ul style="list-style-type: none"> • Connections, if any, between parties and witnesses 	<p>...to know the family ties, friendship, and employment connections of people present. Such relationships can sometimes bias or prejudice a person for or against another. The bias or prejudice of a witness for or against one of the parties is something both the prosecutor and defense attorney are entitled to show at trial.</p> <p>Relationships, such as gang affiliations, can also be called upon to intimidate witnesses. Therefore, such relationships should be documented in police reports so that the prosecutor is aware of them before trial.</p>
<ul style="list-style-type: none"> • Statements by victims and/or witnesses, including children 	<p>...to know who can testify to what at a trial. The more witnesses, the stronger the case. Statements of witnesses other than the victim help a prosecutor corroborate the victim's or suspect's versions of the event and evaluate the strength and seriousness of the case. Such statements can address the number one problem in domestic violence cases: the victim not wanting to testify.</p> <p>If the witnesses are children, their statements may help a prosecutor determine if any intervention in addition to the criminal process is needed.</p> <p>At trial, the prosecutor may be able to use a detailed witness statement to refresh the recollection of a forgetful witness or impeach the testimony of a witness who is testifying differently than his/her statement to police.</p>

CRIME SCENE	
INFORMATION	PURPOSE: A prosecutor needs...
<ul style="list-style-type: none"> • Pictures taken and physical evidence gathered at the scene or in follow-up investigation 	<p>...photos and physical evidence. Photos of a victim's visible injuries or damage to property, and physical evidence (e.g., pulled hair, broken picture frames, blood on the floor, etc.) are proof of elements of crimes (e.g., an injury, damage to property over a certain dollar amount, etc.).</p> <p>Photos also provide the prosecutor one of the bases upon which to assess heightened risk and thus recommend to the court heightened bail.</p> <p>Photos and physical evidence can support requests for restitution for medical care and repair or replacement of damaged or stolen property at sentencing.</p> <p>Photos of both the victim's and the suspect's injuries and physical impairments will help a prosecutor corroborate the victim's or suspect's versions of the event, and help a prosecutor evaluate the strength and seriousness of the case. A victim who has been reluctant to testify may be more ready to testify when looking at photos of the injuries weeks after the event.</p> <p>Finally, photos and physical evidence make the incident more real to a jury.</p> <p>The name of the officer taking the photos or collecting the evidence should be documented, as the prosecutor will need to subpoena that officer to trial in order to lay the foundation for the photos or items to be admitted into evidence (for example: "Did you take this photo? Does it accurately represent Mary Jones' arm as you observed it that evening?" or, "Did you find the hair that had been pulled from Mary Jones' head? Did you collect it?").</p>

GONE ON ARRIVAL (GOA) INFORMATION

INFORMATION	PURPOSE: A prosecutor needs...
<ul style="list-style-type: none"> • Suspect's possible locations and if suspect was eventually located, where and when this took place 	<p>...information to help prioritize GOA cases. Suspects who avoid arrest and prosecution by fleeing the scene present more danger to victims, who don't know where the suspect is or when the suspect may accost them again. Research indicates that many will soon reoffend. Prosecutors will prioritize these cases, as well as those involving violence with injury and repeat offenders, for issuing warrants.</p> <p>Additionally, flight can be evidence of guilt. Therefore, details about where the suspect might have gone and where he/she lives or stays when not at the address of the incident could be important clues for investigators and prosecutors to more quickly locate the suspect at well as to provide additional evidence of or additional witnesses to the suspect's guilt. Where and when the suspect was located may tend to negate a claim that someone else did it.</p>

MEDICAL TREATMENT

INFORMATION	PURPOSE: A prosecutor needs...
<ul style="list-style-type: none"> • At the scene and at the medical facility. NOTE: A medical release without a date and Social Security Number will not be honored by any medical facility. 	<p>...medical records. Medical records of the victim's injuries and physical impairments help a prosecutor corroborate the victim's or suspect's versions of the event and evaluate the strength and seriousness of the case. These records can back up the officer's description of injury and thus help the prosecutor prove the required element of injury or disprove any defenses the suspect may offer.</p> <p>Medical records of the victim's injury support requests for restitution for medical care, physical therapy and lost wages at the time of sentencing.</p> <p>Statements for purposes of medical treatment or diagnosis are exceptions to the rule of evidence that prohibits the admission of hearsay statements into evidence. Whether or not the victim participates in the prosecution, a certified copy of her medical record can be admitted into evidence, and a medical responder who interviewed the victim in order to provide treatment or diagnosis can testify to what the victim said. Thus, a prosecutor will need consent from the victim to obtain the record or his/her contact information to obtain consent later. The prosecutor will also need the names and contact information of medical responders.</p>

DANGEROUS SUSPECT ASSESSMENT	
INFORMATION	PURPOSE: A prosecutor needs...
<ul style="list-style-type: none"> • Suspect owns or has access to guns • Suspect likely to use weapon against family member or others. • Violence getting more severe or more frequent. How? • Suspect has threatened to kill victim or others. Who? • Victim believes suspect may seriously injure or kill her/him. • Suspect obsessed or is stalking victim. • Separation, OFP, divorce in past 6 months • Suspect appears to be reacting to OFP or divorce in dangerous way. 	<p>...to know the level of danger. An assessment of risk or danger alerts a prosecutor to the level of danger a case presents. Recent separation, for example, is a significant risk factor for homicide and repeat violence. This information will impact, bail-setting, charging, decisions to dismiss, plea negotiations, and sentencing. It is central to the two key questions facing the court: (1) What will it take to stop this person's violence? (2) What will it take to protect this victim?</p> <p>NOTE: This section of the police report will be used by a number of subsequent interveners.</p>

VICTIM NOTIFICATION	
INFORMATION	PURPOSE: A prosecutor needs...
Required by law.	

Resources for Prosecutors:

- **AEquitas:** <https://aequitasresource.org/resources/>
- **Stalking Resource Center:** <https://victimsofcrime.org/our-programs/past-programs/stalking-resource-center/resources/for-prosecutors>
- **Battered Women's Justice Project:**
 - Assisting Immigrant Victims of Domestic Violence Prosecutor Guide: <https://www.bwjp.org/resource-center/resource-results/assisting-immigrant-victims-of-domestic-violence-prosecutor-s-guide.html>
 - Firearm Checklist for Prosecutors: <https://www.bwjp.org/resource-center/resource-results/firearm-checklist-for-prosecutors.html>
 - A Prosecutor's Guide to Full Faith and Credit for Protection Orders: Protecting Victims of Domestic Violence: https://www.bwjp.org/assets/documents/pdfs/ffc_prosecutors_guide.pdf

MATERIALS FOR VICTIMS

ILLINOIS ORDERS OF PROTECTION AND NO CONTACT ORDERS

	Domestic Violence Order of Protection	Sexual Assault Civil No Contact Order	Stalking No Contact Order
<i>Who is eligible for these protections?</i>	<p>Family or household members who:</p> <ul style="list-style-type: none"> • are related by blood, or by current or former marriage to the offender; • share or shared a common home with the offender; • have or allegedly have a child in common with the offender; • share or allegedly share a blood relationship to the offender through a child; • have or had a dating relationship or engagement with the offender; or • are high risk adults with disabilities abused by a family member or caregiver. 	<p>Any person who is a victim of nonconsensual sexual conduct or sexual penetration.</p> <p>These orders also can protect the following people:</p> <ul style="list-style-type: none"> • Family or household members of a victim; and • Rape crisis center employees and volunteers. 	<p>Any person who is the victim of a course of conduct that causes the victim to fear for his or her safety or the safety of another person, or to suffer emotional distress, and relief is not available to the victim through the Illinois Domestic Violence Act or through a Sexual Assault Civil No Contact Order.</p>
<i>Remedies & Protections</i>	<p>The judge can grant up to 18 remedies, from prohibiting further abuse to ordering the offender to stay away, revoking a FOID card, protecting property and pets, requiring financial support, providing temporary care of children, and ordering exclusive possession of the home.</p>	<p>The judge can grant any or all of the following remedies:</p> <ul style="list-style-type: none"> • Prohibit contact with the victim; • Order the offender to stay away from victim generally and/or to stay away from specific locations; • Protection of property and pets; • Order the offender to transfer to another school if the victim and offender attend the same school; • Other injunctive relief necessary to protect the victim. 	<p>The judge can grant any or all of the following remedies:</p> <ul style="list-style-type: none"> • Prohibit further stalking or threats of stalking; • Prohibit contact with the victim; • Order stalker to stay away from specific locations; • Prohibit stalker from having FOID card and owning firearms; • Other injunctive relief necessary to protect the victim. <p>Attorneys' fees are the only financial remedy available.</p>
<i>Violations</i>	<p>The first violation of a Domestic Violence Order of Protection is a Class A misdemeanor. A subsequent violation or a violation following other domestic convictions is a Class 4 felony.</p>	<p>The first violation of a Sexual Assault Civil No Contact Order is a Class A misdemeanor. A subsequent violation is a Class 4 felony.</p>	<p>The first violation of a Stalking No Contact Order is a Class A misdemeanor. A subsequent violation is a Class 4 felony.</p>



Illinois Attorney General



WRITTEN STATEMENT AND EXPLANATION OF RIGHTS

Victims of violent crimes have constitutional and statutory rights. These rights apply whether the offender is an adult or a juvenile. Violent crimes include homicide, felony assaults and batteries, kidnapping, sexual assault and abuse, arson, domestic battery, misdemeanors that result in death or great bodily harm, stalking, driving under the influence, and violations of orders of protection, civil no contact orders and stalking no contact orders.

Some of the victims' rights become rights only if you request them. These rights are marked with an asterisk (*). Contact your local state's attorney to request these rights. If you have questions or need referral services in your area, please call the Attorney General's Crime Victims Assistance Line, 1-800-228-3368 (TTY: 1-877-398-1130.)

You may be eligible for financial assistance for your out-of-pocket expenses under the Illinois Crime Victims Compensation Act. For information and applications, contact the Attorney General's Crime Victims Assistance Line at 1-800-228-3368 (TTY: 1-877-398-1130) or visit the Attorney General's website at www.illinoisattorneygeneral.gov/victims/cvc.html.

If the Offender is Convicted or Found Not Guilty By Reason of Insanity:

You can make a written statement about how the crime has affected you for sentencing. If you are in the courtroom for the sentencing hearing, you can make an oral statement. Your written victim impact statement can be sent to the Prisoner Review Board.

You can have the prosecutor ask the judge to order the offender to pay restitution for your crime-related expenses.

*You can ask the prosecutor to explain in non-technical terms what the plea, verdict and sentence mean.

*You can get information about the final disposition of charges, whether the defendant appeals the conviction or sentence, and whether the defendant challenges the conviction in other ways.

General Rights:

You should be treated with fairness and respect for your dignity and privacy throughout the criminal justice process.

You can ask the police for information about the status of the investigation. The police must notify you if they reopen a closed case.

You can hire an attorney to represent you.

You have the right to have a translator or sign language interpreter for all court proceedings.

You may have an advocate or support person with you in the courtroom, subject to the rules of evidence.

*You have the right to be notified of court proceedings and when proceedings are cancelled or rescheduled.

You can attend court proceedings.

You can attend the trial, unless the court finds that your testimony will be affected if you hear the testimony at trial.

*You can be notified when the offender is released from custody.

After Charges Are Filed:

You have a right to a prompt disposition of the charges after the arrest of the accused.

You can get information about the charges from the prosecutor.

You can get information about victim services, social services and financial assistance from the prosecutor.

The judge must consider your safety when setting release conditions for the offender.

The prosecutor can assist you in having your property that was seized by police returned to you as soon as possible.

The prosecutor can communicate with your employer to minimize your loss of pay and benefits when you attend court proceedings.

The prosecutor will tell you if there is a secure waiting area during court proceedings so you are not near the offender or the offender's family.

*You have the right to talk to the prosecutor about plea offers before the prosecutor negotiates with the offender, if practical.

After Sentencing:

*If the defendant is sentenced to jail or prison, you can be notified when the defendant is released on parole, mandatory supervised release, electronic detention, work release, or furlough, or when the defendant is discharged or escapes. You can also be notified if the defendant is being considered for parole, submit information for consideration by the Prisoner Review Board, and be notified if parole is granted.

*You can provide information to the Prisoner Review Board for consideration by the Board at proceedings to determine conditions of release and revocation of parole or mandatory supervised release.

*If the defendant was convicted of a felony, you can get a picture of the offender when the offender is released from custody.

*If the defendant goes to a Department of Human Services facility, you can be notified when the court approves passes and when the offender leaves the facility on a pass, leaves on conditional release, escapes or is discharged.

*You can be notified if an offender escapes from custody, is caught after an escape or dies before final discharge.

Acknowledgment of Rights

Victim's Signature: _____ Date: _____



1 in 4 women



1 in 7 men

18 years and older in
the United States have
been the victim of
severe physical violence
by an intimate partner in
their lifetime.*

*NISVS 2010 Summary Report



CALL 24/7

1.800.799.SAFE (7233)



TTY 24/7

1.800.787.3224



CHAT

every day 7am–2am CST
www.thehotline.org

The National Domestic Violence
HOTLINE

1.800.799.SAFE (7233) • 1.800.787.3224 (TTY)

FREE
CONFIDENTIAL
24/7/365



1.800.799.SAFE (7233)



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HHS Administration for Children and Families/Family Youth Services Bureau. Its
contents are solely the responsibility of the National Domestic Violence Hotline
and do not necessarily represent the official views of ACF/FYSB.

“The Hotline is a symbol of hope. I wrote the number up and pasted it on the wall because I’m like, ‘This is a lifeline, this is where I’m going to turn my life around. I’m going to get safe, and I’m going to stay safe.’”

“I found myself in the car, leaving town to stay with family and I picked up the phone and called The Hotline. I knew they would be there when I needed to talk and they were. What I got from talking to them on the phone that day was a level of understanding that I had never had before, a level that my friends and family couldn’t provide. They understood exactly where I was and what I was going through.”

WHO WE ARE

First established in 1996 by the Violence Against Women Act and supported in part by funding from the Family Violence Prevention and Services Act, the National Domestic Violence Hotline is the only national organization that directly serves victims of domestic abuse, their friends and family.

Highly-trained, expert advocates are available 24/7 by phone to talk with anyone who is affected by physical, emotional, sexual or financial abuse. To date, The Hotline has answered more than **4 million calls, chats and texts** from people seeking assistance.

The Hotline also offers an online chat service at **thehotline.org** that is available Monday through Friday from 7 a.m. – 2 a.m. CT. The chat feature provides another lifeline for those who do not feel safe speaking by phone.

To respond to the unique needs of teens and young adults, **loveisrespect** was launched in 2007. Through loveisrespect, The Hotline provides direct peer advocacy 24/7 to youth ages 12–24 by phone (1-866-331-9474), online chat at loveisrespect.org, or by texting “loveis” to 22522.

Our services are **completely free and confidential**, and we have the largest and most comprehensive database of local and national resources in the country. Along with these resources, we offer lifesaving tools, immediate support and hope to empower victims to break free of abuse.

WHAT WE DO

The Hotline provides the following services, via phone or online chat, with access to 200+ different languages:

- Referrals to local/state resources
- Personalized safety planning
- Crisis intervention
- Information requests
- Domestic violence education and materials



Domestic violence can happen to anyone regardless of race, age, sexual orientation, religion or gender. If you or someone you know is in an abusive relationship, or if you have questions about abuse, we can help.

1-800-799-SAFE (7233)
thehotline.org



love is respect 

1-866-331-9474
loveisrespect.org
text “loveis” to 22522



Kwame Raoul
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL STATE OF ILLINOIS

CRIME VICTIM SERVICES DIVISION

STATEMENT OF CRIME VICTIMS' RIGHTS

If you are the victim of a violent crime, the Illinois Constitution and Rights of Crime Victims and Witnesses Act give you the following rights:

1. The right to be treated with fairness and respect for your dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process.
2. The right to notice and to a hearing before a court ruling on a request for access to any of the victim's records, information, or communications which are privileged or confidential by law.
3. The right to timely notification of all court proceedings.
4. The right to communicate with the prosecution.
5. The right to be heard at any post-arraignment court proceeding in which a right of the victim is at issue and any court proceeding involving a post-arraignment release decision, plea, or sentencing.
6. The right to be notified of information about the conviction, sentence, imprisonment, and release of the accused.
7. The right to timely disposition of the case following the arrest of the accused.
8. The right to be reasonably protected from the accused throughout the criminal justice process.
9. The right to have the safety of the victim and the victim's family considered in denying or fixing the amount of bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction.
10. The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.
11. The right to have present at all court proceedings, subject to the rules of evidence, an advocate and other support person of the victim's choice.
12. The right to restitution.

While police are investigating the crime, you can ask them for information about the status of the investigation.

You can also request to meet with the prosecutor, if the police forward the case to the State's Attorney's Office.

For more information about your rights after criminal charges are filed, call the **Attorney General's Crime Victims Assistance Line** at 1-800-228-3368 (TTY: 1-877-398-1130) or contact your local **State's Attorney's Office**.

Financial Assistance

You may be eligible for financial assistance for your out-of-pocket expenses under the Illinois Crime Victims Compensation Act. For information and applications, contact the **Attorney General's toll-free Crime Victims Assistance Line** at 1-800-228-3368 (TTY: 1-877-398-1130) or visit the Attorney General's website at www.illinoisattorneygeneral.gov/victims/cvc.html.

Acknowledgment of Rights

Signature: _____ Date: _____

Revised 01/19. Provided by the Office of the Attorney General pursuant to 725 ILCS 120/4(b). This material is available in alternate format upon request.

"My Victim Impact Statement was the last opportunity I had to let anyone know about my daughter." – A crime victim

"The Victim Impact Statement allowed me to construct what had happened in my mind. I could read my thoughts...they were on paper...in black and white. It helped me to know that I could deal with this terrible thing." – A crime victim

"When the Victim Impact Statement was read, the entire courtroom was in tears. I watched the judge and he was really paying attention. On that day, I saw that Victim Impact Statements are a way to educate judges, juries, prosecutors, and probation officers on what it means to be a victim." – A probation officer



LISA MADIGAN
ILLINOIS ATTORNEY GENERAL

For more information about Victim Impact Statements and Crime Victim Rights in Illinois, contact:

Office of the Illinois Attorney General
Crime Victim Services Division
100 W. Randolph Street, 13th Floor
Chicago, IL 60601
312-814-2581 (Phone)
312-814-7105 (Fax)

Crime Victims Assistance Line
1-800-228-3368 (Voice/TTY)

www.IllinoisAttorneyGeneral.gov

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This material is available in alternate format upon request.

Victim Impact Statements



What is a Victim Impact Statement and how is it used?

As the victim of a violent crime, you have the opportunity to use a Victim Impact Statement to describe how the crime affected you and others close to you. This statement has space for you to write about the physical, emotional, and financial effects of the crime. If the defendant pleads guilty or is found guilty after trial, your impact statement will help the judge understand how the crime has affected you and those close to you.

Submitting a Victim Impact Statement is voluntary.

You do not have to fill out a Victim Impact Statement. However, it may be helpful to the judge in deciding what punishment the defendant should receive and any money the defendant may have to pay to you as restitution.

Exercising your legal right to submit a Victim Impact Statement.

The Crime Victim Bill of Rights and the Illinois Constitution give you a legal right to submit a Victim Impact Statement. Talk to the prosecutor about submitting a Victim Impact Statement as soon as possible.

Request to submit a Victim Impact Statement in writing to the State's Attorney of the county in which the case is being prosecuted. The State's Attorney has a duty

under the law to assist you with a Victim Impact Statement if you make this request in writing. Even if you decide not to submit a statement, it is important to have the option and discuss it with the prosecutor.

Telling the judge your story through a Victim Impact Statement.

According to an American Bar Association study, 70 percent of judges find information contained in Victim Impact Statements useful in determining appropriate sentences and fair restitution orders.

Providing a full picture of the crime through a Victim Impact Statement.

Often, the crime to which the offender was sentenced differs from the crime that actually occurred as a result of plea negotiations. Victim Impact Statements can paint a complete picture of the actual crime. Submitting a Victim Impact Statement to paroling authorities also allows victims to update the emotional, physical, and financial effects of the crime which may not have been known at the time of sentencing.

Suggestions for completing your Victim Impact Statement:

Organize your statement by the emotional, physical, and financial effects of the crime. When drafting your statement, remember to do the following:

- Describe how the crime has affected your lifestyle and those close to you.
- If you or your family member(s) were injured, write about the physical or emotional impact of the crime.
- Describe the physical or emotional injuries you or members of your family have suffered.
- Describe any medical treatment you have received or expect to receive in the future.
- Discuss how the crime affected your ability to earn a living and how it has affected you financially.
- Be complete in describing your financial losses, because this information may be used for determining restitution. Restitution is the possible payment by the defendant to you for any financial losses you may have suffered as a result of this crime.
- Write a rough draft before completing the final statement.

If you need assistance in completing your Victim Impact Statement, please feel free to contact the Crime Victim Services Division at 1-800-228-3368 (Voice/TTY).

ARE YOU BEING STALKED?

Stalking is a series of actions that make you feel afraid or in danger. Stalking is serious, often violent, and can escalate over time.

Stalking is a crime.

A stalker can be someone you know well or not at all. Most have dated or been involved with the people they stalk. Most stalking cases involve men stalking women, but men do stalk men, women do stalk women, and women do stalk men.

Some things stalkers do:

- Repeatedly call you, including hang-ups.
- Follow you and show up wherever you are.
- Send unwanted gifts, letters, texts, or e-mails.
- Damage your home, car, or other property.
- Monitor your phone calls or computer use.
- Use technology, like hidden cameras or global positioning systems (GPS), to track where you go.
- Drive by or hang out at your home, school, or work.
- Threaten to hurt you, your family, friends, or pets.
- Find out about you by using public records or on-line search services, hiring investigators, going through your garbage, or contacting friends, family, neighbors, or co-workers.
- Other actions that control, track, or frighten you.

You are not to blame for a stalker's behavior.

THINGS YOU CAN DO

Stalking is unpredictable and dangerous. No two stalking situations are alike. There are no guarantees that what works for one person will work for another, yet you can take steps to increase your safety.

If you are in **immediate danger**, call 911.

Trust your **instincts**. Don't downplay the danger. If you feel you are unsafe, you probably are.

Take **threats** seriously. Danger generally is higher when the stalker talks about suicide or murder, or when a victim tries to leave or end the relationship.

Contact a crisis hotline, **victim services agency**, or a domestic violence or rape crisis program. They can help you devise a safety plan, give you information about local laws, refer you to other services, and weigh options such as seeking a protection order.

Develop a **safety plan**, including things like changing your routine, arranging a place to stay, and having a friend or relative go places with you. Also, decide in advance what to do if the stalker shows up at your home, work, school, or somewhere else. Tell people how they can help you.

Don't communicate with the stalker or respond to attempts to contact you.

Keep **evidence** of the stalking. When the stalker follows you or contacts you, write down the time, date, and place. Keep e-mails, phone messages, letters, or notes. Photograph anything of yours the stalker damages and any injuries the stalker causes. Ask witnesses to write down what they saw.

7.5 million people are stalked each year in the United States.

Contact the **police**. Every state has stalking laws. The stalker may also have broken other laws by doing things like assaulting you or stealing or destroying your property.

Consider getting a **court order** that tells the stalker to stay away from you.

Tell **family, friends, roommates, and co-workers** about the stalking and seek their support. Tell security staff at your job or school. Ask them to help watch out for your safety.

Women are stalked at a rate two times higher than men.

IF YOU'RE STALKED

You might:

Feel **fear** of what the stalker will do.

Feel **vulnerable**, unsafe, and not know who to trust.

Feel **anxious**, irritable, impatient, or on edge.

Feel **depressed**, hopeless, overwhelmed, tearful, or angry.

Feel **stressed**, including having trouble concentrating, sleeping, or remembering things.

Have **eating problems**, such as appetite loss, forgetting to eat, or overeating.

Have **flashbacks**, disturbing thoughts, feelings, or memories.

Feel **confused, frustrated, or isolated** because other people don't understand why you are afraid.

These are common reactions to being stalked.

IF SOMEONE YOU KNOW IS BEING STALKED, YOU CAN HELP.

Listen. Show support. Don't blame the victim for the crime. Remember that every situation is different, and allow the person being stalked to make choices about how to handle it. Find someone you can talk to about the situation. Take steps to ensure your own safety.

We can help.

THE NATIONAL CENTER FOR
Victims of Crime

Stalking
resource center

To learn more about stalking, visit the
Stalking Resource Center Web site
www.victimsofcrime.org/src

If you are in immediate
danger, call 911.

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Stalking

resource center

Stalking Incident and Behavior Log

If you are a victim of stalking, it can be critical to maintain a log of stalking-related incidents and behavior, especially if you choose to engage with the criminal or civil justice systems. Recording this information will help to document the behavior for protection order applications, divorce and child custody cases, or criminal prosecution. It can also help preserve your memory of individual incidents about which you might later report or testify.

The stalking log should be used to record and document all stalking-related behavior, including harassing phone calls, text messages, letters, e-mail messages, acts of vandalism, and threats communicated through third parties. When reporting the incidents to law enforcement, always write down the officer's name and badge number for your own records. Even if the officers do not make an arrest, you can ask them to make a written report and request a copy for your records.

Important note: Since this information could potentially be introduced as evidence or inadvertently shared with the stalker at a future time, **do not include any information that you do not want the offender to see.**

Attach a photograph of the stalker, photocopies of restraining orders, police reports, and other relevant documents. Keep the log in a safe place and tell only someone you trust where you keep your log.

Documenting stalking behavior can be a difficult and emotionally exhausting task. A local advocate in your community can provide support, information about the options available to you, and assistance with safety planning.

STALKING INCIDENT LOG

Date	Time	Description of Incident	Location of Incident	Witness Name(s) (Attach Address and Phone #)	Police Called (Report #)	Officer Name (Badge #)

DOMESTIC VIOLENCE PERSONALIZED SAFETY PLAN

Name: _____ Date: _____

The following steps represent my plan for increasing my safety and preparing in advance for the possibility for further violence. Although I do not have control over my partner's violence, I do have a choice about how to respond to him/her and how to best get myself and my children to safety.

STEP 1: Safety during a violent incident. *Women cannot always avoid violent incidents. In order to increase safety, battered women may use a variety of strategies.*

I can use some of the following strategies:

- A. If I decide to leave, I will _____.
(Practice how to get out safely. What doors, windows, elevators, stairwells, or fire escapes would you use?)
- B. I can keep my purse and car keys ready and put them (location) _____
_____ in order to leave quickly.
- C. I can tell _____ about the violence and request that she or he call the police if she or he hears suspicious noises coming from my house.
- D. I can teach my children how to use the telephone to contact the police, the fire department, and 911.
- E. I will use _____ as my code with my children or my friends so they can call for help.
- F. If I have to leave my home, I will go to _____.
(Decide this even if you don't think there will be a next time.)
- G. I can also teach some of these strategies to some or all of my children.
- H. When I expect we're going to have an argument, I'll try to move to a place that is low risk, such as _____. (Try to avoid arguments in the bathroom, garage, kitchen, near weapons, or in rooms without access to an outside door.)
- I. I will use my judgment and intuition. If the situation is very serious, I can give my partner what he/she wants to calm him/her down. I have to protect myself until I/we

STEP 2: Safety when preparing to leave. *Battered women frequently leave the residence they share with the battering partner. Leaving must be done with a careful plan in order to increase safety. Batterers often strike back when they believe that a battered woman is leaving a relationship.*

I can use some or all of the following strategies:

- A. I will leave money and an extra set of keys with _____ so I can leave quickly.
- B. I will keep copies of important documents or keys at _____.
- C. I will open a savings account by _____, to increase my independence.
- D. Other things I can do to increase my independence include: _____
_____.

E. I can keep change for phone calls on me at all times. I understand that if I use my telephone credit card, the following month's phone bill will show my batterer those numbers I called after I left. To keep my phone communications confidential, I must either use coins, or I might ask to use a friend's phone card for a limited time when I first leave.

F. I will check with _____ and _____ to see who would be able to let me stay with them or lend me some money.

G. I can leave extra clothes or money with _____.

H. I will sit down and review my safety plan every _____ in order to plan the safest way to leave the residence. _____ (domestic violence advocate or friend's name) has agreed to help me review this plan.

I. I will rehearse my escape plan and, as appropriate, practice it with my children.

STEP 3: Safety in my own residence. *There are many things that a woman can do to increase her safety in her own residence. It may be impossible to do everything at once, but safety measures can be added step by step.*

Safety measures I can use:

A. I can change the locks on my doors and windows as soon as possible.

B. I can replace wooden doors with steel/metal doors.

C. I can install security systems including additional locks, window bars, poles to wedge against doors, an electronic system, etc.

D. I can purchase rope ladders to be used for escape from second floor windows.

E. I can install smoke detectors and fire extinguishers for each floor of my house/apartment.

F. I can install an outside lighting system that activates when a person is close to the house.

G. I will teach my children how to make a collect call to me and to _____ (name of friend, etc.) in the event that my partner takes the children.

H. I will tell the people who take care of my children which people have permission to pick up my children and that my partner is not permitted to do so. The people I will inform about pick-up permission include:

_____ (name of school)

_____ (name of babysitter)

_____ (name of teacher)

_____ (name of Sunday-school teacher)

_____ (name[s] of others)

I. I can inform _____ (neighbor) and _____ (friend) that my partner no longer resides with me and that they should call the police if he is observed near my residence.

STEP 4: Safety with an Order of Protection. *Many batterers obey protection orders, but one can never be sure which violent partner will obey and which will violate protective orders. I recognize that I may need to ask the police and the courts to enforce my protective order.*

The following are some steps I can take to help the enforcement of my protection order:

- A. I will keep my protection order _____ (location). *Always keep it on or near your person. If you change purses, that's the first thing that should go in the new purse.*
- B. I will give my protection order to police departments in the community where I work, in those communities where I visit friends or family, and in the community where I live.
- C. *There should be county and state registries of protection orders that all police departments can call to confirm a protection order.* I can check to make sure that my order is on the registry. The telephone numbers for the county and state registries of protection orders are:
_____ (county) and _____ (state).
- D. I will inform my employer; my minister, rabbi, etc.; my closest friend; and _____ that I have a protection order in effect.
- E. If my partner destroys my protection order, I can get another copy from the clerk's office.
- F. If the police do not help, I can contact an advocate or an attorney and file a complaint with the chief of the police department or the sheriff.
- G. If my partner violates the protection order, I can call the police and report the violation, contact

STEP 5: Safety on the job and in public. *Each battered woman must decide if and when she will tell others that her partner has battered her and that she may be at continued risk. Friends, family, and co-workers can help to protect women. Each woman should carefully consider which people to invite to help secure her safety.*

I might do any or all of the following:

- A. I can inform my boss, the security supervisor, and _____ at work.
- B. I can ask _____ to help me screen my telephone calls at work.
- C. When leaving work, I can _____.
- D. If I have a problem while driving home, I can _____.
- E. If I use public transit, I can _____.
- F. I will go to different grocery stores and shopping malls to conduct my business and shop at hours that are different from those I kept when residing with my battering partner.
- G. I can use a different bank and go at hours that are different from those kept when residing with my battering partner.

STEP 6: Safety and drug or alcohol use. *Most people in this culture use alcohol. Many use mood-altering drugs. Much of this is legal, although some is not. The legal outcomes of using illegal drugs can be very hard on battered women, may hurt her relationship with her children, and can put her at a disadvantage in other legal actions with her battering partner. Therefore, women should carefully consider the potential cost of the use of illegal drugs. Beyond this, the use of alcohol or other drugs can reduce a woman's awareness and ability to act quickly to protect herself from her battering partner. Furthermore, the use of alcohol or other drugs by the batterer may give him an excuse to use violence. Specific safety plans must be made concerning drugs or alcohol use.*

If drug or alcohol use has occurred in my relationship with my battering partner, I can enhance my safety by some or all of the following:

- A. If I am going to use, I can do so in a safe place and with people who understand the risk of violence and are committed to my safety.
- B. If my partner is using, I can _____
and/or _____.
- C. To safeguard my children I might _____.

STEP 7: Safety and my emotional health. *The experience of being battered and verbally degraded by partners is usually exhausting and emotionally draining. The process of building a new life takes much courage and incredible energy.*

To conserve my emotional energy and resources and to avoid hard emotional times, I can do some of the following:

- A. If I feel down and am returning to a potentially abusive situation, I can _____
_____.
- B. When I have to communicate with my partner in person or by telephone, I can _____
_____.
- C. I will try to use "I can ... " statements with myself and be assertive with others.
- D. I can tell myself, " _____ " _____
whenever I feel others are trying to control or abuse me.
- E. I can read _____ to help me feel stronger.
- F. I can call _____ and _____ for support.
- G. I can attend workshops and support groups at the domestic violence program or _____
_____ to gain support and strengthen relationships.

STEP 8: Items to take when leaving. *When women leave partners, it is important to take certain items. Beyond this, women sometimes give an extra copy of papers and an extra set of clothing to a friend just in case they have to leave quickly.*

Money: Even if I never worked, I can take money from jointly held savings and checking accounts. If I do not take this money, he can legally take the money and close the accounts.

Items on the following lists with asterisks by them are the most important to take with you. If there is time, the other items might be taken, or stored outside the home. These items might best be placed in one location, so that if we have to leave in a hurry, I can grab them quickly. When I leave, I should take:

- | | |
|--|------------------------------------|
| *Identification for myself | *Children's birth certificate |
| *My birth certificate | *Social Security cards |
| *School and vaccination records | *Money |
| *Checkbook, ATM card | *Credit cards |
| *Key - house, car, office | *Driver's license and registration |
| *Medications | *Copy of protection order |
| *Welfare identification, work permits, green cards | |

Passport(s), divorce papers
Medical records - for all family members
Lease/rental agreement, house deed, mortgage payment book
Bank books, insurance papers
Address book
Pictures, jewelry
Children's favorite toys and/or blankets
Items of special sentimental value

Telephone numbers I need to know:

Police/sheriff's department (local) - 911 or _____
Police/sheriff's department (work) _____
Police/sheriff's department (school) _____
Prosecutor's office _____
Battered women's program (local) _____
National Domestic Violence Hotline: 800-799-SAFE (7233)
800-787-3224 (TTY)
www.ndvh.org
County registry of protection orders _____
State registry of protection orders _____
Work number _____
Supervisor's home number _____

I will keep this document in a safe place and out of the reach of my potential attacker.

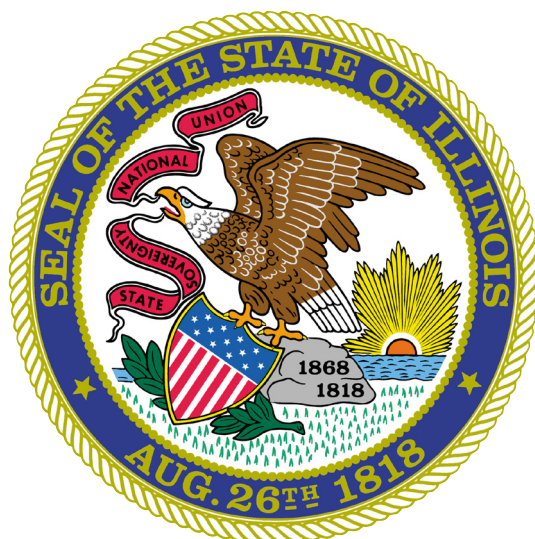
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