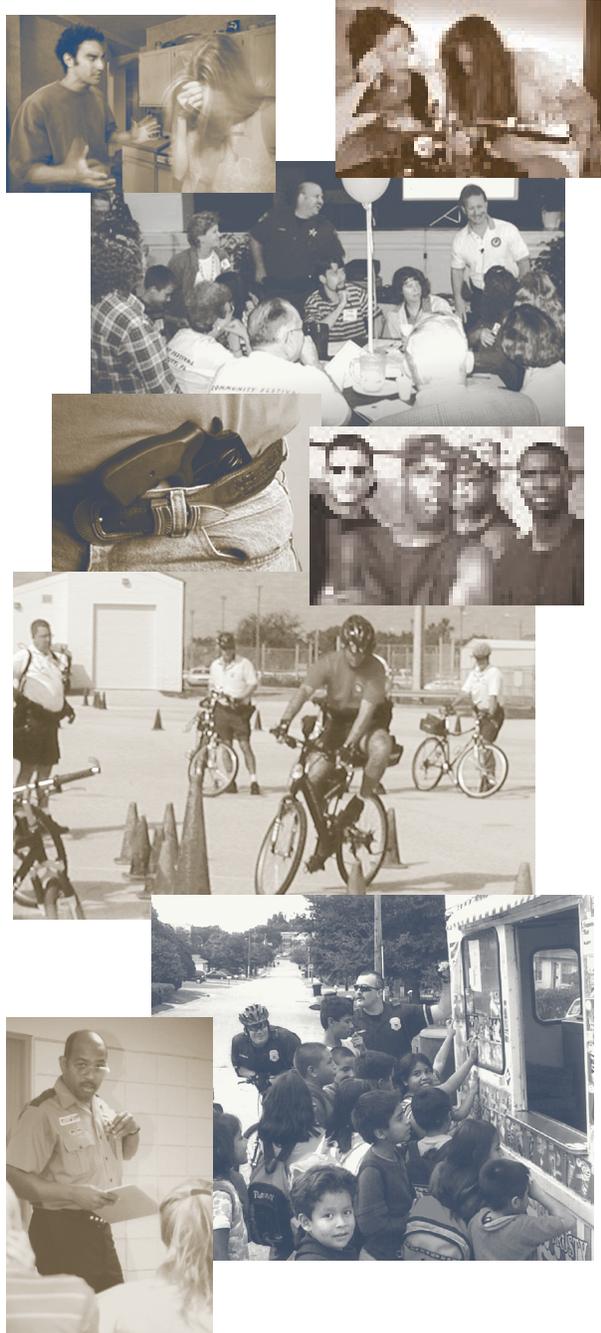


St. Petersburg College

FLORIDA REGIONAL COMMUNITY POLICING INSTITUTE



Legal Aspects of Domestic Violence



Course Manual

St. Petersburg College

Legal Aspects of Domestic Violence



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Forward

The Florida Regional Community Policing Institute (RCPI) at St. Petersburg College (SPC) operates under a cooperative agreement from the Department of Justice, Office of Community Oriented Policing Services (COPS). RCPI provides FREE community policing training to law enforcement officers, community residents, city employees, social services agencies, and private sector representatives throughout Florida.

Basic Courses

- Introduction to Community Policing
- Police-Community Partnerships
- Problem Solving for the Community Police Officer and Citizen
- Survival Skills for Community Policing Officers
- Ethical Issues and Decisions in Law Enforcement
- Reaching your Goals Through Code Compliance
- Planning a Win for the Good Guys: Crime Prevention/Crime Displacement and Environmental Design
- Managing Encounters with the Mentally Ill
- Building Bridges: Community Policing Overview for Citizens
- Changing Roles: Supervising Today's Community Policing Officer
- Grantsmanship 101
- Sexual Predator and Offender Awareness in Your Neighborhood and on the Internet
- Effective Media Skills for Law Enforcement
- Citizens' Community Policing Academies

Specialty Courses

- Protecting, Serving and Supervising through Community Partnerships
- Three-Part Community Policing Management Series

Domestic Violence Courses

- Dynamics of Domestic Violence
- Legal Aspects of Domestic Violence
- Resources for Domestic Violence Teams

Ethics Courses

- Citizen Complaint Intake and Investigation Issues
- Bias-Based Policing: Issues and Dilemmas
- Use of Force Issues in a Community Policing Environment
- Early Identification and Intervention Strategies (EIS)

Online Courses

- Ethical Issues & Decisions in Law Enforcement
- Introduction to Community Oriented Policing
- Dynamics of Domestic Violence
- Understanding the Dynamics of Violence in the Workplace

Course Material

Course material is provided at no charge to all participants. We can adapt our training to fit your agency/community/business needs. Evening and weekend classes are available. Most training modules are eight or 16 hours but may be modified to allow for limited time allotments.

Training Locations

Generally, classes are conducted at our SPC training site. However, we will arrange training at your facility or a training center in your area. Students who travel more than 50 miles to specified courses held at St. Petersburg College may be eligible for lodging reimbursement. See individual course brochure for eligibility.

Who Can Attend?

- Any law enforcement officer (community policing, patrol, crime prevention, campus police), civilian employees, probation officers, and social service agencies
- Community leaders and citizens
- Chiefs and Sheriffs who are interested in starting and maintaining community policing in their communities
- Business managers, executives and employees
- Mayors, City Managers, Council members, trustees and government leaders

Registration

To register for classes, schedule on-site training or become part of our mailing list, please call:

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Acknowledgements

This textbook was written for the Florida Regional Community Policing Institute at St. Petersburg College by Frieda Widera of the Largo Police Department.

Frieda Widera currently works for the Largo Police Department in the Domestic Violence Crisis Intervention Program. Previously, Frieda was the Program Operations Manager at The Haven domestic violence shelter of RCS in Clearwater, where she was responsible for clinical supervision, professional training, grant writing, consultation and liaison work in the community. Her educational background includes a Bachelor's degree in Psychology and a Master's degree in Community Counseling. She has been working in the domestic violence field for the past thirteen years both in the Clearwater and Atlanta, Georgia area. Other areas of work include: rape and incest survivor counseling, severely emotionally disturbed children, and emergency room liaison.

She is currently the chairperson of the Pinellas County Domestic Violence Task Force and the Pinellas County Fatality Review Team. Frieda is also a member of the Florida Coalition Against Domestic Violence. She is active in state efforts, as well as community partnerships and collaborations to end domestic violence.

This textbook summarizes the development of the dynamics of domestic violence and was supported by the Department of Justice, Office of Community Oriented Policing Services (COPS). The author wishes to acknowledge the staff who envisioned and implemented this textbook for the Florida Regional Community Policing Institute at St. Petersburg College. Finally, the support of COPS personnel who assisted and were committed to the dissemination of this textbook is gratefully acknowledged.

Chapter One: Course Description

“Few will have the greatness to bend history; but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation ... it is from numberless diverse acts of courage and belief that human history is thus shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope and crossing each other from a million different centers of energy and daring, those ripples build a current which can sweep down the mightiest walls of oppression and resistance.”

*Robert F. Kennedy
June 6, 1966*

The purpose of this course is to provide participants with an understanding of the nexus between community policing and the legal aspects of domestic violence.

Additionally, participants will develop an understanding of the history and development of community policing, the fundamental elements of community policing, the SARA problem solving model and its implications on domestic violence.

Participants will develop an understanding of the legal aspects of domestic violence as it relates to the law enforcement officer and the community.

Topics covered in this training will cover:

- Community policing
- Report writing
- The law
- Injunctions
- Stalking

Note: Throughout the following pages, the batterer is often referred to as being male and the battered individual as female. This has been done solely for the sake of convenience. We recognize that women are capable of being batterers and that males, although not as prevalent in our society, can be and are victims of domestic violence. National statistics reveal that 95 percent of victims of domestic violence are female and 5 percent are male. Also, we acknowledge that domestic violence exists in same sex relationships.

Note: This text uses Florida statutes which may differ from federal or other state statutes.

Chapter Two: Introduction to Community Policing

Learning Objectives

- To inform the audience about the development of modern policing
- To facilitate a discussion about the paradigm shift from an efficiency model of police service to an effectiveness model

The Development of Modern Policing

In 1829, Sir Robert Peel presented the British Parliament with the first known proposal for a “professional” police force entitled “An Act for Improving the Police in and Near the Metropolis.” This proposal initiated the formation of the Metropolitan Police Force in London.

In the proposal, Peel explained a number of factors he felt important to the effective operation of the public police force. These have since become known as Peel’s Principles for Policing. They include the following:

- “To maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police: the police being the only members of the public that are paid to give full-time attention to the duties which are

incumbent on every citizen in the interest of community welfare and existence.”

Sir Robert Peel,

19th Century English statesman and father of modern policing.

1. The basic mission for which the police exist is to prevent crime and disorder as an alternative to the repression of crime and disorder by military force and severity of legal punishment.
2. The ability of the police to perform their duties is dependent upon public approval of police existence, actions, behavior, and the ability of the police to secure and maintain public respect.
3. The police must secure the willing cooperation of the public in voluntary observance of the law to be able to secure and maintain public respect.
4. The degree of cooperation of the public that can be secured diminishes, proportionately, with the necessity for the use of physical force and compulsion in achieving police objectives.
5. The police seek and preserve public favor, not by catering to public opinion, but by constantly demonstrating absolutely impartial service to the law, in complete independence of policy, and without regard to the justice or injustice of the substance of individual laws; by readily offering individual service and friendship to all members of the society without regard to their race or social standing; by readily exercising courtesy and friendly good humor; and by readily offering individual sacrifice in protecting and preserving life.
6. The police should use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice, and warning is found to be insufficient to achieve police objectives; and police should use only the minimum degree of physical force which is necessary on any particular occasion for achieving a police objective.
7. The police at all times should maintain a relationship with the public that gives reality to the historic tradition that the police are the

public and the public are the police; the police being the only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interest of the community welfare.

8. The police should always direct their actions toward their functions and never appear to usurp the powers of the judiciary by avenging individuals or the state, or authoritatively judging guilt or punishing the guilty.

9. The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with them.

These principles apply as much today to policing as they did in 1829.

The first full-time police force was established in New York City in 1844 under a policing system now called the Ward concept. This concept was copied by many other cities as they developed their own police departments. Under this system, the police departments found themselves closely tied to the cities' political systems. Many local ward politicians even hired officers for their jurisdictions.

In the 1920s, criminologist August Vollmer suggested the professional model of policing — “the Policeman as a Social Worker” — expanding the police role in society.

In the 1930s, O. W. Wilson's work, entitled *Police Administration*, spearheaded a movement to professionalize policing and stressed three main components:

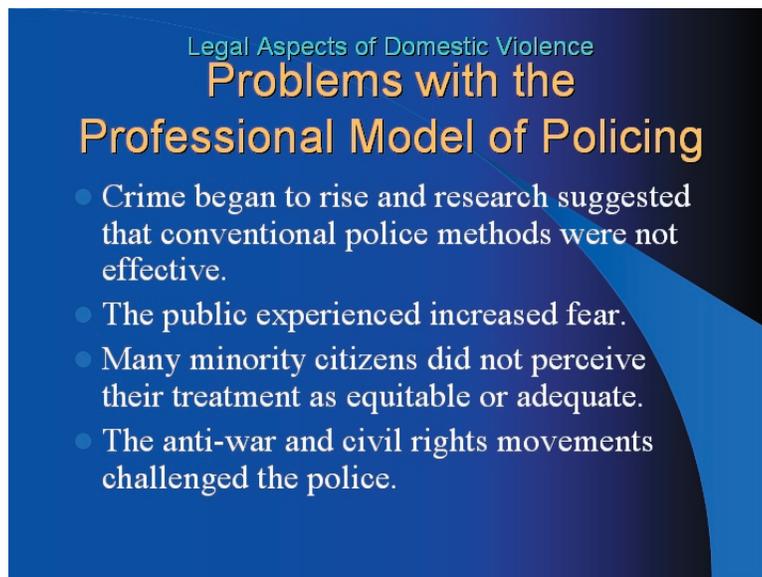
1. Preventive patrol
2. Rapid response
3. Follow-up investigation

After a period of great public conflict in the 1960s, the police found themselves taking a good deal of criticism as the most visible sign of government.

PROBLEMS NOTED WITH THE PROFESSIONAL MODEL OF POLICING

In 1968, The President's Commission on Crime was convened to examine the current state of policing in the U.S. Many suggestions to professionalize policing were presented by the Commission; for example, a call to require all police officers to have a four-year college degree.

Beginning in the 1970s, federal money was allocated to conduct research on police practices and strategies. Different aspects of the professional



Legal Aspects of Domestic Violence

Problems with the Professional Model of Policing

- Crime began to rise and research suggested that conventional police methods were not effective.
- The public experienced increased fear.
- Many minority citizens did not perceive their treatment as equitable or adequate.
- The anti-war and civil rights movements challenged the police.

model of policing were put to the test during that period. First noted among them were the early 1970s Foot Patrol Experiment in Flint, Michigan and the Team Policing Concept implemented in agencies across the nation.

Beginning in the 1970s, federal money was allocated to conduct research on police practices and strategies. Different aspects of the professional model of policing were put to the test during that period. First noted among them were the early 1970s Foot Patrol Experiment in Flint, Michigan and the Team Policing Concept implemented in agencies across the nation.

Research on Traditional Policing Strategies

- Increasing the number of police does not lower the crime rate or increase the number of crimes solved.
- Randomized patrol does not reduce crime nor increase the chance of catching suspects.
- Two-person patrol cars are not more effective than one-person cars in lowering of crime rates or catching criminals.

Research on Traditional Policing Strategies

- Saturation patrol does not reduce crime, it displaces it.
- The kind of crime that terrifies Americans most is rarely encountered by police on patrol.
- Improving response time on calls has no effect on the likelihood of arresting criminals or even in satisfying involved citizens.
- Crimes are not usually solved through criminal investigations conducted by police.

Factors that Influenced the Development of New Police Strategies:

- The police field is preoccupied with management, internal pressures, and efficiency to the exclusion of concern for effectiveness in dealing with serious problems.
- The police devote most of their resources to responding to calls from citizens, reserving too small a percentage of their time and energy for acting on their own initiative to prevent or reduce community problems.

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Factors that Influenced the Development of New Police Strategies:

- The community is a major resource with an enormous potential, largely untapped, for reducing the number and magnitude of problems that otherwise become the business of the police.
- Police are not using the time and talent of available rank-and-file officers effectively.
- Efforts to improve policing have often failed because they have not been adequately related to the overall policies and structure of the police organization.

Herman Goldstein, 1977

Chapter Three: Community Policing Defined

The success of community policing lies in building a new community-based partnership, where the police, the communities they serve, and other agencies band together in mutual trust with mutual accountability, so that together they can address contemporary concerns — crime, fear of crime, illicit drugs, social and physical disorder, neighborhood decay, and the overall quality of life in the community. The goal of community policing is to empower communities, so that they can help make their neighborhoods better, safer, and healthier places in which to live and work — and in which to raise the children who are our future.

Community policing plays a very important part in the coordinated community response to domestic violence. Bringing together all the stakeholders, such as law enforcement, the criminal justice system, domestic violence shelters and community service agencies, protects the victims of domestic violence, and provides them with support and helps to build a strong case against the abuser for the purpose of successful prosecution and reduced recidivism.

The purpose of this session is to provide an overview of the philosophy and practice of community policing, including the principles on which it is based. This session will show how community policing provides a fresh approach in creative problem solving, which can be applied to

crime, fear of crime, social and physical disorder and the overall quality of life.

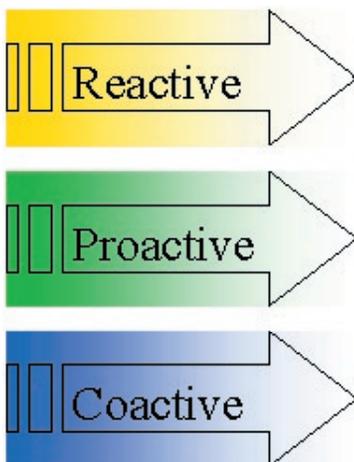
Learning Objectives

- To provide a basis for understanding that community policing is a philosophy built upon a specific organizational strategy, not another program or project.
- To identify a clear definition of community policing based on essential principles.
- To explore how the Principles of Community Oriented Policing apply.

Developing an Understanding of the Community Policing Philosophy

The dominant policing strategies of the 1990s include:

- *Traditional Policing*: in which the police take a reactive role in dealing with crime problems for the community.
- *Problem Oriented Policing*: which seeks to add proactive approaches to those considered under traditional policing. Deals with crime and crime control through an analytical process. Crimes reported to the police may be the visible symptoms of a deeper underlying problem within a particular neighborhood.
- *Community Oriented Policing*: emphasizes the creation of an effective working relationship between the community and the police through a collaborative problem solving partnership.



Community Policing Defined

- Herman Goldstein, who has been regarded by many as the father of Community Policing, authored the following definition:
 - Community policing is an organizational wide philosophy and management approach that promotes community, government and police partnerships; proactive problem-solving; and community engagement to address the causes of crime, fear of crime, and other community issues.

Major Components of Community Policing

- Citizen Empowerment
- Officer Empowerment
- Collaboration
- Problem Solving

Core Components of Community Policing

- Community policing has two core, equally important components:
 - Community Partnership
 - Problem-solving

Community Policing "Is Not"

- It Is Not a Technique or a Program
- It Is Not a Limited or Specialized Style of Policing
- It Is Not Foot Patrol or Riding a Bicycle
- It Is Not "Soft" on Crime
- It Is Not a Specialized Unit or Group

Principles of Community Oriented Policing and Problem Solving

- Reassesses who is responsible for public safety and redefines the roles and relationships between the police and the community.
- Requires shared ownership, decision making, and accountability, as well as sustained commitment from both the police and the community.
- Establishes new public expectations of and measurement standards for police effectiveness.
- Increases understanding and trust between police and community members.

Principles of Community Oriented Policing and Problem Solving

- Empowers and strengthens community-based efforts.
- Requires constant flexibility to respond to all emerging issues.
- Requires an on-going commitment to developing long-term and pro-active programs/strategies to address the underlying conditions that cause community problems.
- Requires knowledge of available community resources and how to access and mobilize them, as well as the ability to develop new resources within the community.

Principles of Community Oriented Policing and Problem Solving

- Requires buy-in of the top management of the police and other local government agencies, as well as a commitment from all levels of management.
- Decentralizes police services, operations, and management. Encourages innovative and creative problem solving by all - making greater use of the knowledge, skill, and expertise throughout the organization.

Principles of Community Oriented Policing and Problem Solving

- Shifts the focus of police work from responding to individual incidents to addressing problems identified by the community and the police, emphasizing problem-solving approaches to supplement traditional law-enforcement methods.
- Requires commitment to developing new skills through training (e.g., problem-solving, networking, mediation, facilitation, conflict resolution, cultural competency/literacy).

The Main Principles of Quality Leadership

- Maintaining a vision and managing through values rather than rules.
- Focusing on teamwork.
- Commitment to the problem-solving process with focus on data.
- Seeking input before decisions are made.
- Asking people who do the work about ways to improve the process.

Legal Aspects of Domestic Violence

The Main Principles of Quality Leadership

- Avoiding "top-down" decision making.
- A customer orientation.
- Focusing on improving systems and processes before blaming individuals.
- Encouraging creativity, risk-taking, and tolerance of honest mistakes.
- Creating an open climate that encourages providing and accepting feedback.
- Developing goals and a plan to achieve them.

HOW CITIZENS CAN HELP CONTROL CRIME:

Current literature on community policing suggests that citizens can actively participate in controlling crime in five ways:

- Citizens can watch and report suspicious activity
- Citizens can patrol, confront suspicious people, take active involvement
- Citizens can reduce their chances of victimization or causing neighborhood deterioration
- Citizens can put pressure on others
- Citizens can authorize the police to act on their behalf

How Community Policing Can Help Prevent Domestic Violence

The goal of the law enforcement response to domestic violence should be to reduce the prevalence and harm of that crime. Domestic violence has a profoundly devastating effect on its victims as well as their families and society at large. Its effects ripple beyond the individuals immediately involved. Children from homes where domestic violence takes place experience trauma whether or not they themselves are physically abused. Studies of prison inmates reveal a high number who had domestic violence in their past. A large proportion of women

on welfare or who are homeless have been victims of domestic violence. Hidden costs to employers, law enforcement, schools and medical institutions are extensive. It is a crime that touches many people, generation after generation.

Community policing is based upon the practice of building partnerships between law enforcement and community stakeholders. Partnerships with stakeholders empower the victim, enhance the coordination of continued victim safety and services, and assist in holding batterers accountable through proper legal means.

Community oriented policing is proactive, solution based and community driven. A law enforcement agency and the stakeholders in a community work together to do four things, all of which enhance victim safety:

- Hold the offenders accountable
- Prevent or reduce the causes of domestic violence by addressing the conditions and factors that contribute to domestic violence
- Solve on-going domestic violence situations by implementing collaborative problem solving strategies
- Improve the quality of life by sharing the benefits through cooperative efforts

Traditionally, law enforcement agencies only address the symptoms and not how to solve the problem. Traditional law enforcement is incident focused. Community policing, however, looks at the situation as a whole and attempts to find a solution to the problem, not just the symptoms. Implementing a systematic approach to problem solving will greatly reduce the number of repeat calls for domestic violence.

These goals are important in linking the concept of community policing with the nuts and bolts of investigating domestic violence:

- Victim safety — Keep victims safe.
- Offender accountability — Build accountability which includes aggressively prosecuting criminal acts and insuring compliance with orders from both civil and criminal courts.
- System safety — Build safety into systems. Holding the system accountable.
- Cultural, community and institutional change — *Culture*: recognizing cultural barriers to safety for domestic violence victims such as a patriarchal society, violence as a means of conflict resolution, etc.. *Community*: fostering a climate in which organizations are willing to collaborate and work together to prevent future violence. *Institutional*: through education, legislation and policy, work for change that will positively affect how agencies address the problem of domestic violence.

List of various stakeholders in a domestic violence situation:

- Law enforcement
- Emergency responders (firefighters, paramedics)
- The community (including victims and batterers)
- The criminal justice system (State Attorney's Office, courts, public defender, etc..)
- Domestic violence shelters
- Community service organizations
- The medical community
- Schools
- Employers
- The faith community

Traditional vs. Community Policing - Questions and Answers

Question	Traditional	Community Policing
Who are the police?	A government agency principally responsible for law enforcement.	Police are the public and the public is the police: the police officers are those who are paid to give full-time attention to the duties of every citizen.
What is the relationship of the police force to other public service departments?	Priorities often conflict.	The police are one department among many responsible for improving the quality of life.
What is the role of the police?	Focusing on solving crimes.	A broader problem-solving approach.
How is police efficiency measured?	By detection and arrest rates.	By the absence of crime and disorder.
What are the highest priorities?	Crimes that are high value (e.g., bank robberies) and those involving violence.	Whatever problems disturb the community most.
What, specifically, do police deal with?	Incidents.	Citizen's problems and concerns.
What determines the effectiveness of police?	Response times.	Public cooperation.
What view do police take of service calls?	Deal with them only if there is no real police work to do.	Vital function and great opportunity.
What is police professionalism?	Swift effective response to serious crime.	Keeping close to the community.
What kind of intelligence is most important?	Crime intelligence (study of particular crimes or series of crimes).	Criminal intelligence (information about the activities of individuals or groups).
What is the essential nature of police accountability?	Highly centralized; governed by rules, regulations, and policy directives; accountable to the law.	Emphasis on local accountability to community needs.
What is the role of headquarters?	To provide the necessary rules and policy directives.	To preach organizational values.
What is the role of the press liaison department?	To keep the "heat" off operational officers so they can get on with the job.	To coordinate an essential channel of communication with the community.
How do the police regard prosecutions?	As an important goal.	As one tool among many.

Chapter Four: SARA Problem Solving Model

During this session, the participants will be introduced to the SARA method and briefed on similar police problem solving methods. This session will prepare the participants to actually apply the SARA steps to a target area problem.

Learning Objectives

- To explain the SARA process and to understand the main components of the four steps of the problem solving model.
- To identify the importance of community input in working through the four steps.
- To explain how the community policing components of accountability, empowerment, service orientation and collaboration/partnership fit into community problem solving.

Benefits of SARA

- Increased effectiveness
- Reliance on the expertise and creativity of line officers
- Closer involvement with the public

The Four Parts of SARA

- Scanning
 - Identify problems
- Analysis
 - Collect and analyze information
- Response
 - Collaboratively develop and implement solutions with other agencies and the public
- Assessment
 - Evaluate strategy effectiveness

How Community Policing is Achieved

In order to achieve community policing, the police must:

- Gather and analyze information to monitor what is going on within the police organization and what is going on within the community.
- Continually establish mechanisms for direct community involvement in determining police objectives and priorities.
- Ensure that management is supporting empowerment of line officers and encourage creativity, innovation, and risk taking.
- Ensure that evaluations of police officers are directly linked to the skills needed for community policing.
- Constantly evaluate results and strategies for effectiveness and make the necessary adjustments to meet ongoing community needs.

In order to achieve community policing, the public must:

- Accept responsibility for their role in controlling crime, disorder, and quality of life issues.
- Enter into a partnership with the police.
- Participate in the problem solving process.

Understanding Problems

Under community policing the police have been made aware that a problem is not just a crime, it is anything that concerns or causes harm to citizens.

The community policing definition of a problem is:

- “Any condition that alarms, harms, threatens, causes fear, or has potential for disorder in the community, particularly incidents that may appear as isolated, but share certain characteristics such as common pattern, victim or geographic location.”

How Incidents are Related

When the police use problem solving skills to solve crimes, one of the first things they look for are connecting threads within the crime. This means they want to see if there are any common elements that link this particular crime to other crimes. Sometimes referred to as the Crime Triangle, the three common elements present in every crime are:

- Victim(s)
- Perpetrator(s)
- Environment (the location and conditions present at the time of crime)

By looking for links to other crimes, the police greatly increase their chances of solving a crime by increasing their base of knowledge about the crime. For instance, if we have an elderly lady robbed by two masked men at an ATM machine, we look for similar crimes in other precincts or neighboring jurisdictions. Quite often a pattern of crimes will develop. The police compare notes, physical evidence, possible suspects and various other pieces of information about the crimes. As the volume of information and knowledge about the crime increases, so too, the chances of catching the criminals increases.

Citizens, working with the police, will greatly increase their chances of solving neighborhood problems if they too look for the common elements of a problem. As stated earlier, in community policing, a problem is not limited to crimes, but to anything that harms or is a concern to the community. Therefore not all problems will have a perpetrator, victim, or environment. However, they usually have a person or persons who are effected by the problem, and they usually have an environment. It will be important during the information gathering stage to examine the problem for common threads.

The problems within our neighborhoods are caused by a variety of underlying conditions. Underlying conditions may include the characteristics of the people who live in or come into the neighborhood, the interactions between these people, the condition of the neighborhood, and how people in the neighborhood feel about their neighborhood. Problems created by these conditions often result in a call for police service. From the outside these incidents that lead to police calls may appear to be different, but they generally stem from a common source. An example of this would be a call for vandalism to some public or private property within the neighborhood caused by teenagers. Without careful analysis, you may miss how other acts like this may be the result of a lack of recreational services for young people in the area.

Community policing requires input from both the police and community in problem solving. Some of the outcomes can be:

- To eliminate the problem entirely.
- To reduce the number of occurrences of the problem.
- To reduce the degree of harm caused by the problem. (By teaching people how to react to threats or encounters with gang members, or by teaching people how to react to an attack by a mugger or rapist can reduce the chances of being seriously injured or killed.)
- To improve the way the problem is being dealt with. Finding

new approaches, new resources, other service providers, etc.

- To change the environment to reduce or eliminate the problem.
(CPTED, for one).

Introduction to SARA Problem Solving Model

SARA is a problem solving model first used by police officers practicing Problem Oriented Policing (POP) in Newport News, Virginia in the mid 1980's. The SARA problem solving model consists of four parts:

S _____

A _____

R _____

A _____

Understanding the Steps in SARA Process

STEP 1: SCANNING

The scanning step is where the problems are identified. Once a problem list has been assembled, consolidated, and then prioritized, you have completed your scanning steps. In putting together a problem list, you may want to consider some sources of information outside the association to assist in a problem identification list. Some potential sources of

information are:

- The police: make use of the knowledge the officers who patrol your neighborhood have and their agency resources such as the Detective Division, Crime Analysis, Crime Prevention Unit.
- Local businesses
- Schools
- Other Neighborhood associations
- A neighborhood survey

STEP 2: ANALYSIS

Human nature is to go from the identification of a problem to a response to the problem without knowing everything there is to know about the problem and with even less analysis of this information. This step in the SARA model is the heart of the problem solving process.

The information gathered must be thorough and gathered from a variety of sources. Do not rely strictly on the police for providing the information about neighborhood problems. When you understand all the parts of a problem, you can design a custom made response tailored to the specific problem. Be sure to identify the underlying nature of the problem through a complete analysis of the data. Make sure you understand the problem from the perspectives of the key stakeholders in the neighborhood.

STEP 3: RESPONSE

Clarify, and if necessary, redefine the problem before initiating the team's response. Make sure you have solicited suggestions for a solution to a particular problem from sources outside your group. Remember that not all solutions are designed to eliminate the problem entirely.

What will be the goal(s) of your response toward the problem?

- Will you eliminate, reduce, displace, prevent, or do something

else with the problem?

- What do you hope to accomplish by addressing this problem?
What strategies will be used to meet the goal(s)?
- Concentrate on individuals causing problem
- Organize and work with neighborhood citizens
- Refer to other government or private services
- Coordinate response with appropriate agencies
- Correct inadequate or the lack of service
- Use mediation or negotiation skills or services
- Share information with citizens to enable them to solve the problem or conform to the laws and regulations

Who can assist in the development of these strategies?

- Who are the individuals, groups, or agencies?
- How can they assist in designing the strategies?
- How can you solicit their participation and commitment?

What obstacles exist?

- What and who are these obstacles?
- What kind of inhibiting factors do they exhibit?
- What are the alternatives?
- How can these obstacles be overcome?

Your solutions should be innovative and creative and may not fit traditional law enforcement remedies for problems.

STEP 4: ASSESSMENT

How will you know if you accomplished your goal? It is important to go back after a period of time and evaluate if you accomplished what you set out to accomplish. Some of the ways you may assess need to be considered at the assessment step. For instance, if a problem you are dealing with is gang graffiti, you may want to take a before and after photograph of some areas where the problem exists. You may want to

rely on statistics and numbers like those used in traffic enforcement studies. This stage is often forgotten or people get so committed to the solution they designed that they are reluctant to go back to the drawing board.

Principles of Problem Solving

- Don't take anything for granted.
- Old patterns may hinder solutions.
- Trial and error may work as well as logic.
- Find the essential similarities in problems.
- Pay attention to the way the group works.
- Look at problems from different angles.
- Anticipate problems.
- Take the emotion out of problems.
- Anticipate the consequences.
- Learn from losing.

Common Errors in Problem Solving

- The problem is not clearly defined. The group does not have enough information to understand the problem.
- The problem is stated too narrowly. Real problem will not be resolved. Only a symptom is affected.
- Tentative solutions are chosen too early in the process (before the problem is understood).
- The range of information gathered is too narrow.
- Some major constraints to solving the problem are ignored.
- Traditional solutions are preferred despite lack of effectiveness.
- Priorities among problems are not established.
- A plan for carrying out the solution, specifying who will do what when, is not developed or is not well thought out.
- Resources needed to carry out a solution are not clearly specified or obtained early enough in the process.
- The costs of a solution is not weighed against the potential

benefits.

- Feedback and evaluation procedures are not built into the solution, therefore, no mechanism exists to monitor progress and determine effectiveness.

Using this model has proved to be an effective way to deal with problems for many communities. We hope that you will be able to take these tools back to your neighborhood and join the police in problem solving. Problem solving is only limited by the imaginations, creativity, and enthusiasm of the people involved in the process.

Chapter Five: Course Overview

Cooperation among the various community entities is extremely important to facilitate a consistent and community-wide approach to the investigation and prosecution of domestic violence cases. A cooperative spirit between law enforcement and other agencies is crucial to making victims safe and holding batterers accountable for their actions.

A comprehensive police investigation with a well-organized, detail-oriented report is critical to the successful prosecution of domestic violence cases. This program offers the strategies and tools necessary to provide the State Attorney's Office the essential information and evidence with which to file and successfully prosecute domestic violence cases.

Unfortunately, victims in domestic violence cases often are uncooperative either initially during the investigation or later at the prosecution stage. Given the virtual inevitability of an uncooperative victim, it becomes readily apparent that the success or failure of these cases rests initially with the evidence gathering and documentation efforts by law enforcement at the scene. Although a daunting task, the rewards, if successful, are impressive — the right to say that you have made a difference in someone's life.

3-Part Domestic Violence Series

- Part I - Dynamics of Domestic Violence
- Part II - Legal Aspects of Domestic Violence
- Part III - Resources for Domestic Violence Teams

Overall Performance Goal

- Students will be able to understand, articulate and integrate pertinent facets of law, evidence, and dynamics of domestic violence incidents for a more effective investigation and resolution of the case.

Learning Objectives

- To illustrate the impact of social and legal changes on law enforcement practice
- To compare and contrast various case law scenarios to identify strong and weak points of past incidents
- To describe the important and critical facets of injunctions
- To describe the important and critical facets of evidence gathering
- To describe the important and critical facets of report writing
- To describe the important and critical facets of stalking investigations

What is in it for me?

- Expands the investigating law enforcement officer's ability to assist victims, enforce Domestic Violence laws effectively and prevent further abuse
- Assists deputies/officers in knowing how to respond to domestic violence calls to do their job more effectively

What is in it for me? (cont'd)

- Agency actions set the tone for the community to respond to Domestic Violence issues as a high priority
- Minimizes, reduces or prevents adverse liability being attributable to you and/or your organization

By taking this course, you are in fact enhancing your skills and increasing your knowledge. In what way can this affect your exposure to liability should you intentionally fail to meet one of the above standards?

The Six Most Common Areas of Officer Liability

- Failure to take proper actions to protect a citizen
- Failure to appropriately enforce a court order protecting a victim of domestic abuse
- Failure to respond at all or in a timely manner

The Six Most Common Areas of Officer Liability (cont'd)

- Failure to provide information to a victim as required by law
- Arresting a citizen without establishing probable cause
- Exhibiting a pattern of differential treatment or application of the law to domestic violence cases

Reasons why domestic violence is a law enforcement issue and not a civil issue:

- Domestic violence is a crime. F.S. 741.2901(2)
- Domestic violence is never justified as a result of the victim's behavior.
- Law enforcement intervention is vital to the process of breaking the cycle of violence because: the arrest sends the message that domestic violence will not be tolerated; and, the arrest provides safety to the victims, family, and the community.
- The preferred arrest policy may have an impact on preventing future violence.

Thurman vs. City of Torrington

- **Thurman vs. City of Torrington**
(595 F.Supp. 1521, Con. 1984)
 - The jury awarded \$2.3 million to a battered woman whom the police failed to protect on several occasions. Ms. Thurman was able to show that the Torrington Police Department treated domestic violence calls far less seriously than the same crime committed by strangers.

The following case represents where liability is headed in Florida:

Simpson v. City of Miami,
700 So.2d 87 (Fla. App. 3 Dist. 1997)

Ms. Morena Simpson obtained a Permanent Injunction for Protection against domestic violence under Florida Statute 741.30, to restrain Carl Hurd from committing any abuse, threats or harassment against her. Subsequently, Hurd visited Simpson and began arguing with her, threatened to kill, then left her residence. Simpson called the Miami police who were aware of the dissonant relationship between the parties, and of the injunction. A patrol car was dispatched to the scene and the officer located Hurd. He placed Hurd in the cruiser, however Hurd began pleading with the officer to release him, promising that he would leave Simpson alone. The officer did release Hurd, and the next day he returned to Simpson's home where he shot her to death.

Simpson's estate brought suit against the City of Miami and the officer to recover damages for Simpson's wrongful death. The complaint alleged that the domestic violence protection

statute created special protection for domestic violence victims, and that Simpson was within this category. By finding Hurd, holding him in the police cruiser, then releasing him, the officer breached his duty of care to Simpson.

The court held that in enacting the domestic violence protection and injunction statutes, the legislature declared domestic violence to be an illegal act and creates a special protection system for domestic violence victims. Law enforcement agencies' discretion to enforce the law without being subject to tort liability to innocent third parties, is "not unbounded," particularly in light of the legislature's order to act to prevent tragic domestic violence situations.

In addition, the court stated that "If the domestic violence protection injunction is to have any impact in preventing tragedies such as the one in this case, then the violators must be arrested, without any police discretion on the matter because the police force is the only body with the capability and the duty to address these violations when they occur." The court found that the officer did have a special relationship to Simpson and that gave rise to the plaintiff's cause of action.

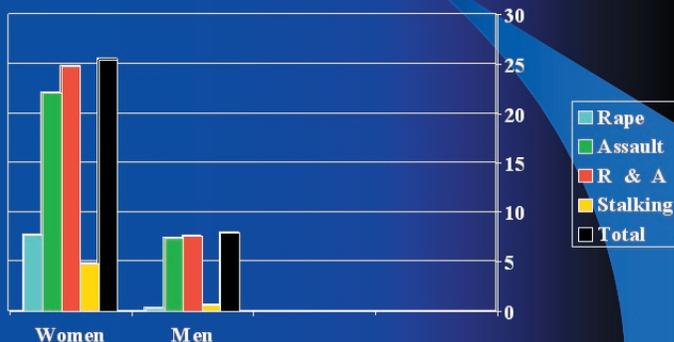
NATIONAL VIOLENCE AGAINST WOMEN SURVEY

Essentially, one out of every four women will be a victim of a domestic violence rape, assault, stalking or combination thereof at some point in her life.

Legal Aspects of Domestic Violence

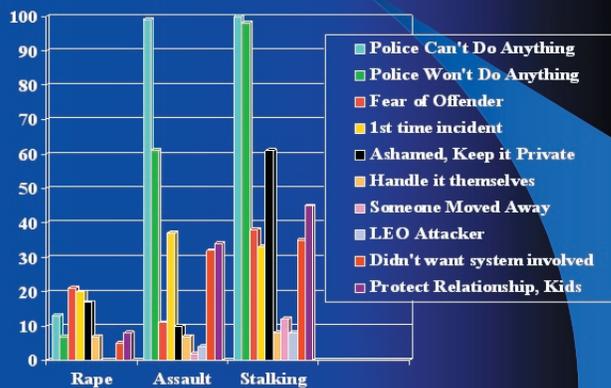
Persons Victimized by DV in Lifetime

(NVAW Survey, 2000 - Percentages)



Legal Aspects of Domestic Violence

Reasons Victims do *not* Report Domestic Violence



Legal Aspects of Domestic Violence

NVAW, NCVS and NFVS Implicate and Suggest

- DV should be treated as a significant social problem
- 1.5 million women *victims* annually
- 830,000 men
- Women report it more

Law Enforcement's Role in Preventing Domestic Violence

- “90% of domestic violence cases are misdemeanors. By handling these misdemeanors effectively, we may prevent them from escalating to a felony injury or homicide.”

– Casey Gwinn, City Attorney, San Diego, CA,
Domestic Violence: The Changing Role of Law Enforcement
The Law Enforcement Resource Center

Law Enforcement's Role in Preventing Domestic Violence

- “If law enforcement officers are thoroughly investigating domestic violence crimes and properly identifying primary aggressors, then there are no false arrest issues.”

– Ret. Sgt. Anne O'Dell, San Diego Police Department

Chapter Six: Report Writing

The purpose of this segment is to provide students with an understanding of evidence-based report writing to enhance the probability of successful prosecution. Students will be instructed in the mechanics of writing factual, objective, and clear reports, that document the elements of the crime charged. They will be instructed in the use of supplemental forms and the use of an overall synopsis to summarize the case. They will be instructed on the multiple readings and use of reports. Students will be able to demonstrate knowledge of report writing and the inclusion of items needed to facilitate evidence-based prosecution for domestic violence crimes.

Learning Objectives

Students will be able to accomplish the following:

- To list possible domestic violence crimes or related crimes in accordance with Florida Statutes.
- To list common methods used to identify the alleged predominant/primary aggressor.
- To state methods for determining that a victim is pregnant.
- To state the significance from a legal and investigative perspective of identifying children within the family unit.
- To state the significance of identifying elderly persons within the family unit.
- To list methods that can be used to obtain information from medical personnel.
- To list methods of recording information from victims,

offenders, or witnesses.

- To list elements which must be contained in a written incident report on a domestic violence incident.
- To state why it is sometimes necessary to re-interview witnesses and victims.

A police report is a permanent written record that, regardless of the effort that went into it, is designed to be used by others in and out of the criminal justice system. It therefore is a direct reflection of your investigation and communication abilities. The perception that others have of you, absent direct contact, is shaped largely by the report itself. Consequently, you want to “do it well” to the best of your ability, given the facts and circumstances presented to you at the time.

Writing reports is not the most exciting part of a police officer’s job; however, writing quality reports certainly is one of the most important skills for police officers to possess, given the impact these reports have on other aspects of the system. A well-organized, well-documented report is essential to aid prosecution in their initial decision-making process, as to whether or not to file the case, preparation of the case for trial, and to refresh your recollection in trial of the events contained in it. It may very well be a deciding factor as to whether there is an acquittal or a guilty verdict.

EXERCISE

Given the scenario below regarding a domestic violence incident:

1. Try to determine if there is a primary aggressor.
2. Identify any crimes committed.
3. List information that should be included in the incident report.

Two officers, a sergeant and a patrol officer from your department, respond to a call of a domestic disturbance. When the officers arrive, they overhear shouts and crying. After knocking on the door they are

admitted by a 12-year old boy. Upon entering the house, a woman comes out of the kitchen holding a small towel to her mouth. She yells back into the house “you better be glad that’s all that got cut.”

The sergeant asks the woman if she would like to sit down, which she does. While the sergeant stays with her, his partner enters the kitchen and sees a man running his hand under the kitchen faucet. The man has a small gash on the middle knuckle of his right hand. He shakes his head in apparent disgust. The officer states that the man should remain calm and offers to assist him with the cut on his hand.

As the patrol officer in the kitchen helps the man wrap his hand up with some gauze, the sergeant asks the woman in the living room what happened. She explains that they had just been eating dinner when a discussion about money led to an argument. At that point her husband threw a glass of water in her face. The sergeant noted that her blouse was wet. She further stated that she left the table and threw a towel at her husband demanding that he clean up the mess. He threw the dish towel back at her and ordered her to sit down and shut up. When she didn’t respond, the husband got up and grabbed her hair pulling her toward her chair. She scratched his forearm trying to get him to release her hair. He, in turn, hit her with the back of his hand, splitting her lip and gashing his knuckle.

The sergeant asked about the seating arrangement at the table and how the police were called. The woman described who was sitting where and said that her son ran into the bedroom during the fight in the kitchen and called 911. The son quietly told his mother that he had called the police; neither had told the husband.

The patrol officer asked the man what happened. The man stated that the woman was pushing for a fight and that he did all he could to avoid a physical confrontation. He stated, “you know how women can

get sometimes.” The man stated that the woman threw things at him because he didn’t follow her orders. She grabbed him by the collar and when he tried to pull her hand away, she scratched him. His son ran out of the room and the next thing he knew law enforcement had arrived.

The two officers then conferred in the doorway between the kitchen and living room and discussed what each had learned. Then, while the officer who was with the husband remained in the doorway, the sergeant entered the kitchen and observed the following: there was iced tea on the floor and on the table where the wife stated that she was sitting; the wife’s chair had been overturned; there were heel skid marks between the sink and table; and the towel was on the floor.

The sergeant then returned to the living room while his partner stayed with the husband. The sergeant asked the son at what point he had called the police. The son stated that the mother threw something at the father, he didn’t know what it was. Then, as soon as his father grabbed his mother by the hair, he ran for the phone.

QUESTIONS

1. List the physical evidence.
2. List other evidence.
3. In this scenario, is there a primary aggressor? Explain the factors upon which you based your conclusion.
4. What are the possible crimes committed?
5. List information that should be included in the incident report.
6. What else could the officers have done in determining the predominant/primary aggressor?

PROCEDURES FOR A SAFE RESPONSE TO A DOMESTIC VIOLENCE CALL:

- Observe and listen for unusual and dangerous conditions (verbal threats).
- Determine who the complainant is.
- Determine if there is a primary aggressor. (Consider self-defense of victim.) F.S. 741.29 is a statutory mandate to slow the investigation down.
- Separate victims, witnesses, offenders and complainants.

Interviews should take place out of sight and hearing range of each other, if possible. To expect a victim to recount the abuse in the presence of her abuser is to invite minimization of the abuse or outright denial, thus impeding future prosecution.

The responding officer must understand the importance of the procedures involved in investigating and securing the crime scene. Evidence must be preserved for court proceedings. The safety of all persons involved must be assured.

Unusual evidence at a domestic violence crime scene must be identified. These items may include:

- Readily accessible, common household items (i.e., phone, frying pan, cigarettes and lighters)
- Written or electronically recorded threats
- Destroyed personal property
- Photographs with follow-up photos of offenders and victims

NOTE: It is of paramount importance that all evidence be properly identified, collected, and documented and that all spontaneous statements be documented for court proceedings.

INVESTIGATION AND REPORTS

Criminal charges should be aggressively filed in domestic violence cases, over the objection of the victim if necessary, consistent with the statutory mandate to do so. Provided that the evidence accumulated and forwarded to the State Attorney's Office satisfies the elements of the crime, includes photographs of the victim's injuries and, any independent corroboration to support the charge (such as documented medical treatment), criminal charges can be filed.

The ultimate success or failure of prosecution of domestic violence cases may rest with the facts and information gathered by the responding officer and/or deputy. Therefore, it is important that the following be considered before deciding that the investigation is complete and the case is ready to be forwarded to the State Attorney's Office for prosecution.

REPORTS - GENERAL GUIDELINES

"Whether or not an arrest is made, the officer shall make a written police report that is complete and clearly indicates the alleged offense was an incident of domestic violence." F.S. 741.29(2). The following are general guidelines to assist you in reaching this statutory mandate.

Legal Aspects of Domestic Violence

Importance of a Well-Written Report

- Multiple readings and uses of the report
- Documentation in domestic violence incidents

Legal Aspects of Domestic Violence

Multiple Uses of a Domestic Violence Report

- Report is used by many different groups.
- Report information is used for many different purposes.

PROCEDURES FOR INTERVIEWING VICTIMS

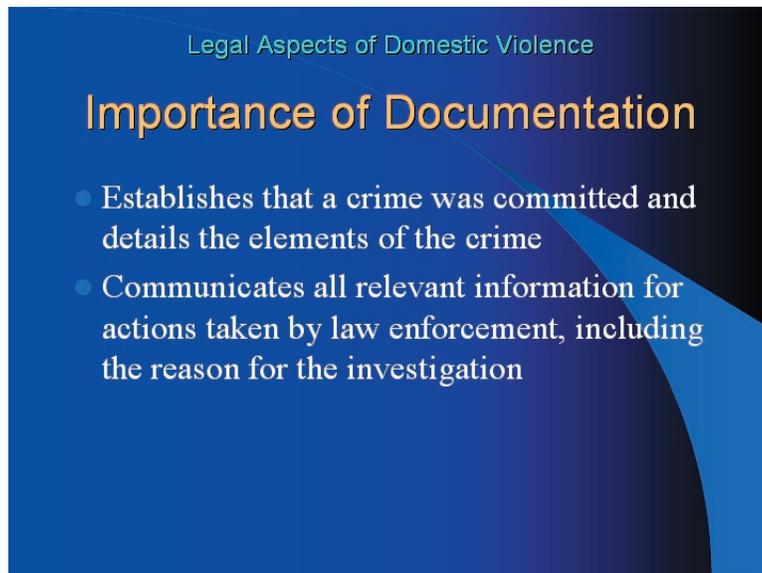
- Remain neutral
- Be supportive
- Question accidental injuries
- Inform the victim that the State of Florida becomes the complainant if the victim is uncooperative, F.S. 741.29(3)
- Obtain written statements

PROCEDURES FOR INTERVIEWING OFFENDERS

- Remain neutral
- Establish rapport
- Inform the offender that the State of Florida becomes the complainant if the victim is uncooperative, F.S. 741.29(3)

PROCEDURES FOR INTERVIEWING WITNESSES

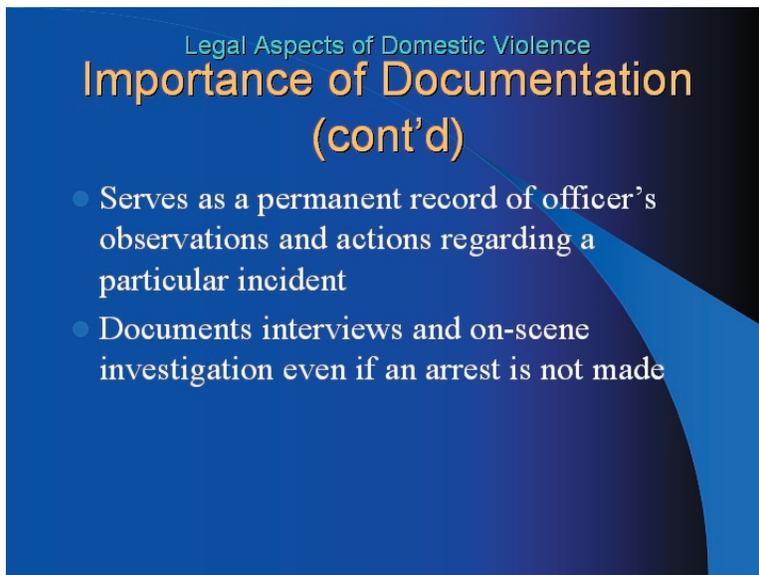
- Inform witness of the importance of a statement
- Encourage them to make statements
- Obtain written statements



Always indicate how the call came to your attention:

- 911 hang-up (victim, neighbor)
- 911 taped call (therefore, SAO can order)
 - List name/address where call came from
 - If possible, get a statement from caller

Make every effort to get the name, address and phone number of every person, including children, at the scene. Even if they are reluctant to get involved initially, perhaps a subpoena later will result in beneficial information. However, without the name/address, the State Attorney's Office is limited to perhaps only the victim's statements without any corroboration.



Whenever possible, the law enforcement officer shall obtain a written statement from the victim and witnesses concerning the alleged domestic violence. F.S. 741.29(2)(c). However, if done, explain to the victim or witness that it needs to be complete (i.e., a full narrative, not just “He hit me”, “He choked me”; explain who “he” is; have them explain what happened and why (motive)).

When victim or witness statements are included within your narrative, try to quote them as much as possible.

- Attribute to them their own words, indicating that a domestic violence incident was taking place (i.e., heard screams, furniture being thrown, the sound of someone being hit, etc...).

If the witness actually saw the crime take place, indicate in detail exactly what they physically saw and heard. Don't merely state in your report that their observations would be consistent with the victim or another witness. Everyone sees an incident a little differently. **Detail and corroboration are crucial.**

INCLUDE IN YOUR REPORT

- Any “visible injury” observed on the victim F.S. 741.29
- Any physical damage done to property by defendant
- Any statements by the defendant
- If a weapon was used
- If medical treatment was necessary

Legal Aspects of Domestic Violence

Characteristics of a Well-Written Report

- Factual
- Accurate
- Objective
- Complete, yet concise and clear

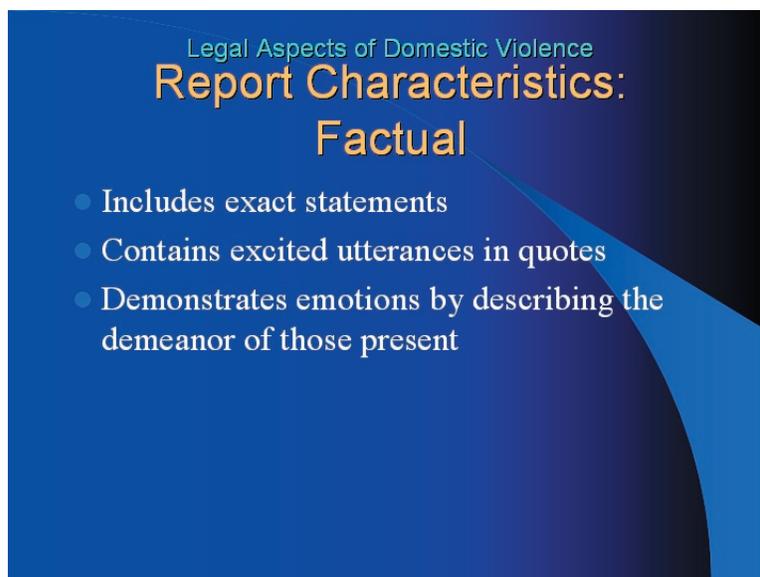
Legal Aspects of Domestic Violence

Characteristics of a Well-Written Report (cont'd)

- Includes available supplemental documents/forms
- Includes history of violence used by offender
- Protects confidentiality of victim's address

IMPORTANT INFORMATION TO GATHER

- Drugs or alcohol usage
- Presence of children as victims or witnesses
- Any reported injury; documented and photographed in detail, with follow-up photos scheduled
- If an injunction is in effect (indicate number)
- Age/size of the complainant and offender
- Prior history (possible felony)
- If offender is on probation or parole



DEFENDANT'S STATEMENTS

Police questioning of a suspect at the scene of a domestic violence crime does not normally require the reading of Miranda warnings because ordinarily it does not involve custodial interrogation. At this point, the investigation is ongoing and a decision has not been made as to whom the ultimate defendant will be or if an arrest will be made. Consequently, there are several types of statements made by the defendant at the scene or later which may become crucial at trial. Among these are:

- Confessions of the crime (“I hit her,” etc...)
- Admission of fact (places self at scene, threw furniture,

acknowledges the argument, drinking, etc...)

- Complete denial (not there; no involvement; etc...)
- False exculpatory statements:
 - Lies regarding whereabouts on day/time of crime are admissible as substantive evidence to show consciousness of guilt.
 - Statements of self-defense or excuse (i.e. “She was the aggressor”; “she hit me first”; “I only grabbed her to keep her from hitting me”; “she fell down”; etc...)

All of the above statements by the defendant lock him into a story and allows the prosecution to begin rebutting or disproving his version of the events.

Make a concerted effort to contact the defendant to get him locked into a version of what happened. You should not conclude that your investigation is complete until you have exhausted all efforts to locate the defendant, take his statement and decide if you have probable cause for an arrest.

Victim frequently is aware of a likely place he would run to (i.e., family, local bar, ex-girlfriend, friends). If the defendant makes inculpatory statements, use “quotes” as much as possible. These are invaluable later at trial.

EXCITED UTTERANCE

An excited utterance is an admissible out-of-court statement that is made in response to a startling event during the trauma or stress of the event. In order to qualify as an excited utterance and, therefore, be admissible against defendant, even when the victim recants or is not available for trial, the following standards must be met:

- There must be a startling event (i.e., a just-occurred battery)
- The statement must be made before there was time for reflective thought
- The statement must be made while the person was under the

stress of the excitement from the startling event.

Time and reflection are crucial. The longer the time frame from the

EXCITED UTTERANCE: THE LAW

"Excited utterances" are defined as a statement "relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition" (Florida Evidence Code, F.S. 90.803). "Spontaneous statements" are defined as statements "describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter, except when such statement is made under circumstances that indicate its lack of trustworthiness" (Florida Evidence Code, F.S. 90.803). Other exceptions to the hearsay rule include, but are not limited to, "then-existing mental, emotional, or physical condition," "recorded recollection," "statement under belief of impend-

ing death," "statement of child victim," and "statement of personal or family history."

To be effectively utilized for prosecution, information regarding such statements must be very specific, verbatim quotations, including precise content and context in addition to quotation marks where appropriate. To ensure this, it is highly desirable that departments have cameras and tape recorders readily available for responding officers. The statements may not be exempt from the hearsay objections of the defendant's counsel in court if they are not collected according to the above guidelines.

incident to the statement or the greater the reflective thought, the less likely it will be considered an excited utterance.

As an officer arrives on the scene, any statements blurted out by the victim regarding the incident should be written down in "quotes" in the narrative. This also applies where the officer asks, "What happened, ma'am?" to which she immediately responds, "He hit me," "He's gonna kill me," or "Help me."

Legal Aspects of Domestic Violence
Report Characteristics:
Factual (cont'd)

- Contains facts and items that can be verified through one of your five senses: sight, hearing, touch, taste, and smell
- Write everything that is seen and heard

Thoroughly describe in your detailed report the physical manifestations of the victim's emotional condition at the time of arrival. Was the victim:

- fearful, shaking, curled up in a ball?
- hysterical, crying, in tears, wincing in pain?
- flustered, agitated with excited or hurried speech?
- difficult to calm down or control?

How long after arrival and the event were the statements made?

Remember, time/reflective thought are crucial.

The report must include: F.S. 741.29

- A description of physical injuries observed
- Reasons if an arrest is not made
- Reasons if two or more parties were arrested
- Confirmation that victim rights pamphlet was given to victim
- A written statement from the victim and witnesses, whenever possible

Officer may arrest over objections of victim, if necessary. If there are multiple complaints, the officer shall evaluate each complaint separately and try to determine who was the primary aggressor.

Arrest is the preferred response only with respect to the primary aggressor and not the preferred response with respect to a person who acts in a reasonable manner to protect or defend oneself or another family or household member from domestic violence.

Although some aspects of these interviews will be hearsay evidence and, therefore, cannot be used, they can be used for impeachment if the victim recants, in addition to their own direct observations.

Visible injuries: Scratches, bruises, abrasions, bumps or other trauma that the victim sustains from a domestic violence incident. These injuries may or may not involve bleeding. These observations need to be documented in your report in detail to strengthen your testimony at a subsequent trial.

Medical treatment: Treatment of the victim by emergency medical services personnel (paramedics, firefighters, etc...) or medical personnel (doctors, nurses).

Always list name, title, location of employment, phone number, and statement (if possible) of medical personnel who deal with the victim at the scene or medical facility.

Have the victim sign a release for medical records. It is at this point of your initial investigation when the victim is most cooperative, and therefore, this opportunity should not be lost.

Take photographs of victim's injuries, the scene and any property damage, and always have an ID technician create a supplement report indicating these specific observations and number of photographs taken.

Have the ID technician return for follow-up photos of the victim's injuries approximately 2-3 days after the initial incident as the bruises will become more evident and more indicative of the true trauma inflicted upon the victim.

Take photographs of the whole person, as well as, of the specific injuries.

Take photographs of the defendant to refute any self-defense claim or to offset the defendant's appearance at trial.

Remember: This is your crime scene — insist that the necessary photographs are taken. Do not allow the victim or any potential witnesses to dictate the scope or quality of your investigation.

Legal Aspects of Domestic Violence

Report Characteristics: Accurate

- Time of dispatch, response, incident recorded as precisely as possible
- Document other important points of time during the incident
- Correct names, dates of birth, addresses, and identification of all present including children and witnesses

Legal Aspects of Domestic Violence

Report Characteristics: Accurate (cont'd)

- Measurements included are accurate, serial # of weapons noted, detailed description of weapons included, scene accurately described
- Injuries are carefully noted, described and documented
- Include names and titles of others responding to the scene, i.e., emergency medical personnel, volunteer fire department, state trooper, etc.

Preserve any physical evidence of the crime: a weapon; torn and/or bloody clothing and/or towels; broken furniture; broken phone that defendant pulled from wall as victim tried to call 911. This evidence reflects and documents the violence to which the victim was subjected.

If you are aware of or responded to any prior incidents of domestic violence by this same defendant, indicate with previous report numbers

or the jurisdiction where the prior incident occurred.

POSSIBLE WILLIAMS RULE EVIDENCE

THE LAW: SIMILAR FACT EVIDENCE

F.S. 90.404(2)(a), (1991), governs the admissibility of similar fact evidence. It provides:

Similar fact evidence of other crimes, wrongs, or acts is admissible when relevant to prove a material fact in issue, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, but it is inadmissible when the evidence is relevant solely to prove bad character or propensity.

This statute codifies the ruling in Williams v. State, 110 S. 2d 654 (Fla.), cert denied, 361 U.S. 847, 80 S. Ct. 102, 4 L. Ed.2d 86 (1959). "Under the Williams rule, evidence of other crimes, wrongs and acts is admissible if it is relevant to and probative of a material issue even though the evidence may indicate the accused has committed other uncharged crimes or may otherwise reflect adversely upon the accused's character." Buenoano v. State, 527 So.2d 194, 197 (Fla. 1988).

To introduce similar fact evidence: there must be sufficient similarity between the crime charged and the evidence introduced; the evidence introduced must be relevant to a fact in issue; and, the evidence must not be relevant solely to prove bad character.

If an injunction is currently in effect, indicate injunction number with effective dates. Prior injunctions can be the basis for another charge, in addition to the assault or battery.

DON'T write: She had a scratch on her face.

DO write: She had a four-inch horizontal scratch across her left cheek from ear to upper lip.

Remember: Be detail oriented. The content and quality of your report may very well be a deciding factor as to any subsequent personal or agency liability.

Keep in Mind

- Write the report in such a way so that someone who wasn't at the scene could read the report and feel as if they had actually responded.

THE LAW: F.S. 119.07(3)

FREEDOM OF INFORMATION ACT

F. S. 119.07(3) provides that, upon written request by the victim of domestic violence, sexual battery, aggravated child abuse, aggravated stalking, harassment, or aggra-

vated battery, any information which reveals the victim's name or employment telephone number, home or employment address, or personal assets of the victim is exempt from inspection.

Body Chart Form

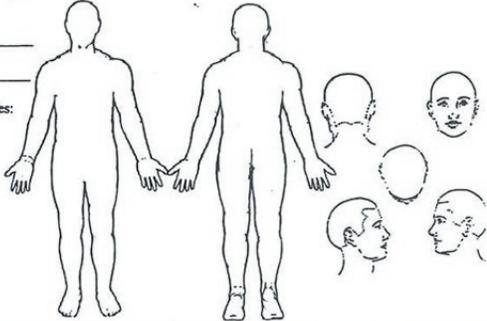
Victim Suspect Name: _____

Wt. _____
Ht. _____

Describe injuries:

Male
 Female

Adult
 Juvenile



Legal Aspects of Domestic Violence

Additional Contacts Required Who needs them and Why?

- Latent Investigators
- Victim Assistance
- State Attorney's Office
- Get additional phone numbers, pager numbers, addresses and CONTACTS from ANYONE who can get in touch with the victim.

Strangulation

When writing a report, it is important for a law enforcement officer to check for injuries on the victim. Obvious physical evidence of injuries include bruises, cuts and broken bones. On the other hand, strangulation injuries may not be visible immediately or at all. There may be internal injuries due to strangulation that leave no mark, yet may be deadly. Therefore, a law enforcement officer should remember to ask the victim whether or not the batterer attempted to strangle her. This information should be included in the report and the victim should be seen by a medical professional.

A PROFILE OF 100 STRANGULATION CASES IN THE CITY OF SAN DIEGO

(Gael B. Strack, Head Deputy City Attorney 3/96)

1. Types of cases reviewed:
 - A. Choke holds
 - B. Strangulation with objects (bikini top, cord, plastic bag)
 - C. Strangulation, hands only
2. Corroboration of strangulation:
 - A. No visible injury - 42%

- B. Pain only - 20%
 - C. Visible injury but not photographable - 22%
 - D. Visible injury and photographable - 16%
3. Medical treatment sought:
- A. Only 3 out of 100 cases (all cases had visible injury)
4. Symptoms identified:
- A. Difficulty swallowing
 - B. Soreness to throat
 - C. Raspy voice
 - D. Scratch marks
 - E. Red marks
 - F. Bruising
 - G. Fainting
 - H. Loss of bodily functions
5. Observations:
- A. Lack of appreciation for seriousness of strangulation cases at all levels.
 - B. Investigation and prosecution of strangulation can be improved.
 - 1. Better questions by responding officers and detectives
 - 2. Better photographs
 - 3. Encourage medical treatment
6. Goals:
- A. Protocol for investigation and prosecution of strangulation cases.
 - B. Training for officers, detectives and prosecutors.
 - C. Increase number of useable photographs.
 - D. Increase number of prosecutable cases at misdemeanor or felony level.

Aspects of Criminal Strangling/Choking

Office of City Attorney, San Diego, California

George E. McClane, M. D. March 12, 1996

- I. Anatomy:

Larynx (tracheal rings plus thyroid cartilage), also know as “voice box.”
- II. Incidents:

Ten percent of violent deaths per year in the U.S.
- III. Sequencing symptoms and signs:
 - A. Unconsciousness occurs in 8 to 14 seconds with full bilateral carotid pressure.
 - B. The victim may regain consciousness 10 to 20 seconds after complete release.
 - C. Unconsciousness is the result of compression on indentation:
 1. Carotids
 2. Jugulars
 3. Asphyxia to brain secondary to victim being unable to breathe.
 - D. Female can strangle a male twice her size.
- IV. Symptoms (what victims will feel):
 - A. Voice changes:
 1. One half of all patients.
 2. Hoarseness (dysphonia).
 3. Loss of voice (aphonia).
 4. Due to nerve injury and/or larynx injury.
 - B. Swallowing changes:
 1. Difficulty swallowing (dysphagia).
 2. Painful swallowing (odynophagia).
 3. Due to injury of larynx.
 - C. Coughing blood (hemoptysis):
 1. Usually due to facial injury/broken nose.

D. Breathing difficulty:

1. Due to laryngeal swelling.
2. Due to laryngeal fracture.
3. May appear mild initially but may kill the victim within 36 hours.

V. Signs (what you may see or hear):

A. Scratches:

1. May be from either assailant or the victim who is trying to release the choke-hold

B. Bruises:

1. May be delayed in presentation.

C. Spots (Thidieu's spots):

1. Due to tiny blood vessels (capillaries) that burst from pressure of choke-hold.

D. Blood red eye(s) (subconjunctival hemorrhages):

1. Due to capillary rupture in the white portion of the eyes.

E. Rope or cord burns or other linear injuries caused by object used to throttle victim.

F. Neck swelling (subtle to massive):

1. Due to vessel injury (local hemorrhaging).
2. Due to laryngeal fracture with air escaping it to neck tissues (subcutaneous emphysema).
3. Anterior neck may appear flattened with no "Adam's apple."
4. May shut victim's airway in a matter of hours.

G. Raspy breathing (stridor).

H. Hemoptysis.

I. No physical signs at all but underlying damage may be very serious.

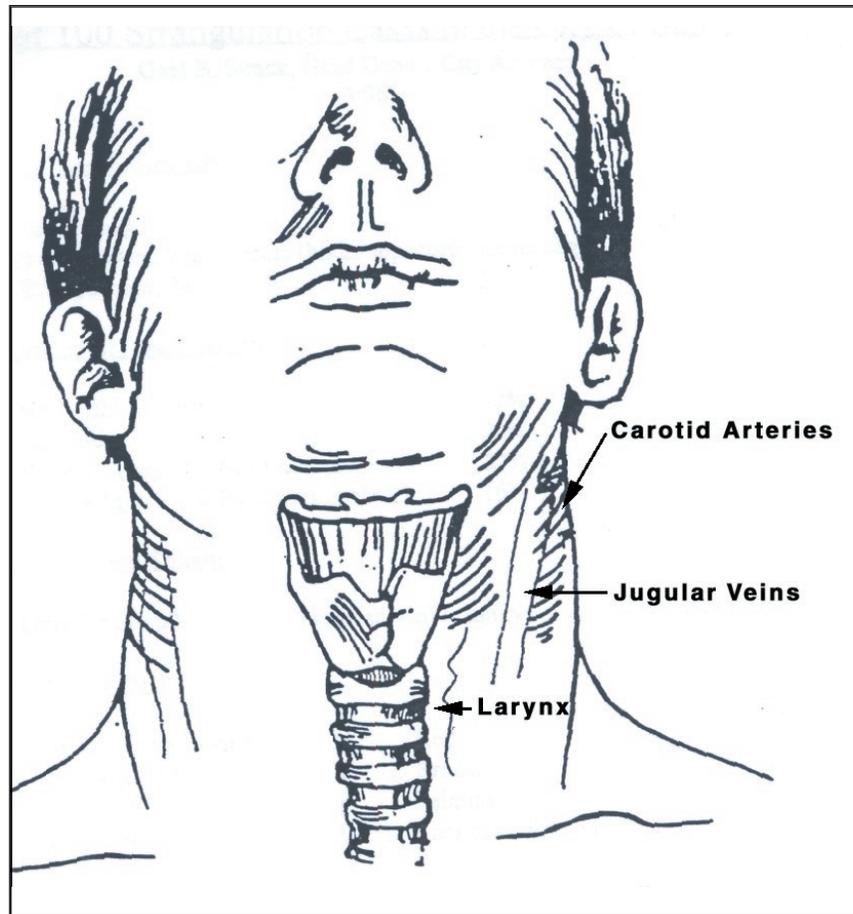
Choking (Strangulation) Cases

Dr. George McLane, Emergency Physician

Gael B. Strack, Head Deputy City Attorney

533-5515

1. Was the victim shaken simultaneously while being strangled?
2. How much shaking? (Little to whipping back and forth)
3. Did the defendant use one or two hands?
4. How long did the defendant strangle the victim?
5. How much pressure? How hard did the defendant grab the victim's throat?
6. Did the victim have difficulty breathing?
7. Did the victim faint or lose consciousness?
8. Loss of bodily functions?
9. Any vomiting?
10. Did the victim complain of any pain, discomfort or trouble swallowing?
11. Any visible injury? If so, take photograph.
12. Any prior incidents of strangulations?
13. Any pre-existing injuries?
14. Any subsequent photographs taken?
15. Were injuries shown to anyone?
16. If an object used to choke the victim, please photograph or impound.
17. Was the suspect wearing any rings?



Vertical midline fracture of the thyroid cartilage.

Stalking, strangulation, suicidal comments, etc..., are all indicators of lethality. Lethality indicators are those behaviors, incidents or actions that give a cause for alarm to the system professional. They should be a “red flag” so that immediate action or follow-up is implemented to provide safety for the victims and to contain the offender.

EXERCISE

Make a list of all lethality indicators.

Chapter Seven: Law

This segment will illustrate the fundamental shift in history from that of the victim being relegated to a subordinate role to being empowered and the offender being held accountable for his actions. Society now recognizes the issues surrounding domestic violence situations and provides for many statutory mandates to address ever growing horrors of domestic violence and its serious social consequences.

Learning Objectives

- Define “domestic violence” in accordance with F.S. 741.28(1).
- Define “family or household member” in accordance with F.S. 741.28(2).
- List common contributors to the under-reporting of domestic violence.
- State reasons why domestic violence is a law enforcement issue.
- Identify human diversity issues confronting officers in domestic violence areas.
- Given a written scenario describing a domestic situation, determine whether it involves domestic violence as defined by Florida Statute.

Historical Overview of Laws Supporting Battering

- Through the seventeenth, eighteenth, and nineteenth centuries, there was little objection within the community to a man's using force against his wife as long as he did not exceed certain tacit limits. And for many years this was upheld in the courts.

Historical Overview of Laws Supporting Battering (cont'd)

- In the 1700's, there was an English common law decreeing that a husband had the right to 'chastise his wife with a whip or rattan no bigger than his thumb, in order to enforce... domestic discipline. Since he answers for her misbehavior, the law thought it reasonable to entrust him with this power of restraining her... This law came to be known as the 'rule of thumb'.

Historical Overview of Laws Supporting Battering (cont'd)

- A North Carolina court ruling in 1864 asserted that the state should not interfere in cases of domestic chastisement but should leave the parties to themselves, to make up, unless there was permanent injury or an excess of violence.

Historical Overview of Laws Supporting Battering (cont'd)

- In an 1871 case known as *Fulgam vs. the State of Alabama*, the court ruled that, “The privilege, ancient though it may be, to beat her with a stick, to pull her hair, choke her, spit in her face or kick her about the floor or to inflict upon her other like indignities, is not now acknowledged by law.”

Historical Overview of Laws Supporting Battering (cont'd)

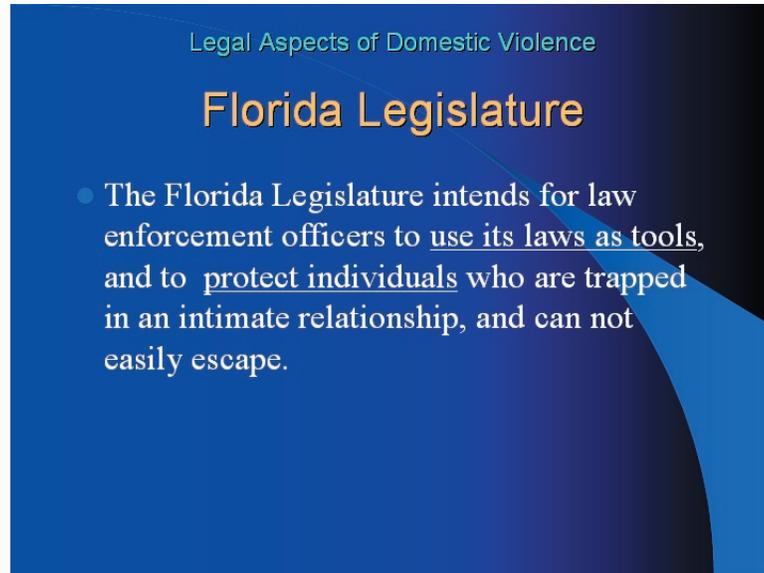
- Battering, like sexism, which supports it, is a practice of long standing in Western culture. Whenever women and children are seen as ‘belonging’ to a man, violence has been used as a tool of legitimate control. Throughout history, the rights and regulations pertaining to this control of a man’s wife and children have been codified in various laws.

Historical Overview of Laws Supporting Battering (cont'd)

- In 1910, the U.S. Supreme Court ruled that a wife had no cause for action on an assault and battery charge against her husband because “it would open the doors of the courts to accusations of all sorts of one spouse against the other and bring into public notice complaints for assault, slander and libel.”

ARE THESE COMMENTS ACCEPTABLE IN OUR CURRENT ERA?

- As recently as 1977, the California Penal Code stated that wives charging husbands with criminal assault and battery must suffer more injuries than commonly needed for charges of battery.
- “Every woman needs a good pounding now and then.”
Justice Donald Roberts Franklin County, NY, June 1997



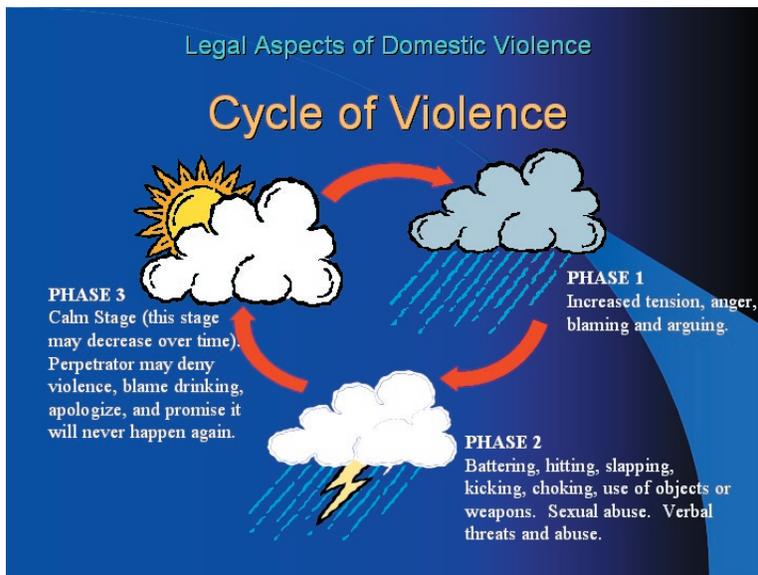
WHY ARREST WHEN DEALING WITH DOMESTIC VIOLENCE?

There are seven proactive reasons why officers should make arrests where there is probable cause to do so:

1. Stops the violence
2. Protects the victim
3. Labels and identifies the abuse to the abuser
4. Documents a pattern of abuse
5. First step in getting the abuser treatment
6. Modifies the behavior of others in society by making domestic violence an open and real subject
7. Gets the system moving

THE CYCLE OF VIOLENCE

- Tension Building
- The Act
- Honeymoon



Legal Aspects of Domestic Violence

Law

- F.S. 741.28
- F.S. 741.29
- Civil Immunity for good faith
- No Criminal Immunity

F.S. 741.28 - Domestic Violence Definitions

Domestic Violence means any:

- assault, aggravated assault
- battery, aggravated battery
- sexual assault/battery
- stalking, aggravated stalking
- kidnapping, false imprisonment
- or any criminal offense resulting in physical injury or death of a “family or household member” by another “family or house-

hold member.”

“Family or household member” means:

- spouses
- former spouses
- related by blood/marriage
- residing together as if a family
- resided in the past as if a family
- child in common - regardless of prior marriage or if they resided together at any time

Rule: Do they now or have they ever lived together as a family?

Exception: Child in common

Dating Violence Omission in Definition

According to Florida statute, dating couples who do not or have not lived together nor have a child in common are not considered household members and therefore when violence occurs between them it is not considered domestic related. This is problematic as dating violence is just as dangerous as domestic related violence. However, the legislature has incorporated this concept into dating violence injunctions.

See Chapter 8.

EXERCISE

Given the written scenario below describing a domestic situation, determine whether it involves domestic violence as defined by Florida Statute.

After living with a man for six years, a woman met someone else and decided to leave. The man would not give up on the relationship in spite of her asking him to leave her alone permanently. He insisted on calling her and following her. At the close of a workday, the man confronted the woman in a garage parking lot. They had a heated argument. The man got in his car as if to drive away and yelled that if he couldn't have her no one would. The man attempted to run the woman down with his car. The woman escaped and called the police.

Officer Responsibilities and Duties

F.S. 741.29 GOVERNS THE RESPONSIBILITIES OF POLICE OFFICERS

- Regarding investigation, notice to victims of legal rights and remedies, and reporting to domestic violence shelters.

Officer shall:

- Assist victim in obtaining medical treatment
- Advise victim of domestic violence centers
- Give victim rights and remedies pamphlet
- Advise victim of right to file for an injunction
- Make a written report designating the call as a domestic violence incident
- Submit report to supervisor; and the agency shall, within 24 hours, send initial report and any supplement with narrative (without victim/witness statements) to domestic violence center

Report must include:

- A description of physical injuries observed
- Reasons if an arrest is not made
- Reasons if two or more parties were arrested
- That victim rights pamphlet was given to victim
- Written statement from victim and witnesses, whenever possible.

An officer may arrest over objections of the victim, if necessary. If there are multiple complaints, the officer shall evaluate each complaint separately and try to determine who was the primary aggressor.

Arrest is the preferred response only with respect to the primary aggressor and not the preferred response with respect to a person who acts in a reasonable manner to protect or defend oneself or another family or household member from domestic violence.

MUTUAL ARREST AND PRIMARY AGGRESSOR

Your efforts should be directed toward a complete and well-documented investigation with an eye toward a successful prosecution to hold the

batterer accountable. Sometimes it may become necessary to make a determination as to who is the primary aggressor and thereby making an arrest of the batterer and not arresting the one acting in defense of self or others.

Sometimes it does become necessary to arrest both parties where, following an independent investigation, the officer has probable cause to believe that both parties have committed domestic violence crimes against each other. This should account for a very small number of domestic violence cases.

Remember that mutual violence does not equal mutual combat.

Injuries to both parties do not mean that there needs to be a mutual arrest. Officers should assess all injuries to determine if they are offensive or defensive injuries. Defensive injuries indicate that one party acted in self-defense and therefore, was the victim, and the other party was the primary aggressor.

DETERMINING THE PRIMARY AGGRESSOR

- Evaluate the physical injuries of the parties. Injuries on men will manifest as scratches or bite marks on arms, chest, legs, or ankles. These indicate that she is retaliating defensively. Defensive injuries on women will manifest as bruises on back of arms, legs, or hands. Also, lower back and buttock area because women typically curl into a fetal position to avoid injury.
- The height/weight of each party may be a factor.
- The level of fear displayed by each party at the scene may be a factor.
- Who called 911? Listen to the call during your investigation.
- Who is trying to manipulate the officer by diverting your attention away from the reason you came to the scene? (i.e. to investigate a domestic violence incident)
- Did one party remain at the scene and the other leave and later, when located by officers, claim self-defense?

- Good faith actions by law enforcement officer equals civil immunity.

F.S. 741.29(6) VIOLATION OF PRETRIAL RELEASE

A person who willfully violates a condition of pretrial release provided in F.S. 903.047, when the original arrest was for an act of domestic violence as defined in F.S. 741.28, commits a misdemeanor of the first degree, and shall be held in custody until his or her first appearance.

- F.S. 903.047 - Conditions of Pretrial Release: As a condition of pre-trial release ... the Court shall require that: the defendant refrain from criminal activity of any kind; and the defendant refrain from any contact of any type with the victim.
- The court may modify condition (1)(b).

In summary, this statute can only be violated by the defendant committing a new crime or having any form of contact with the victim. A defendant can violate pretrial release in other ways (i.e. no alcohol conditions) but only the above two are criminal and therefore arrestable.

F.S. 741.2901 - Governs the responsibilities of the State Attorney's Office

- Requires specialization in domestic violence cases.
 - Prosecutors and staff must receive training in domestic violence issues.
 - Need not be exclusive area of assignment.
- Intent of Legislature that:
 - Domestic violence is criminal, not private matter
 - Criminal prosecution is the favored method of enforcing compliance with injunctions (i.e. greater punishment available)
 - Requires a pro-prosecution policy (over objection of victim, if necessary)
- Before first appearance, determine defendant's domestic violence history; prior arrests; prior or current injunctions.

- Tell court at first appearance, bond hearings, and sentencing.
- Upon arrest, defendant held without bond pending first appearance.

F.S. 741.2902: Governs responsibilities of the judge

“EXERCISE CAUTION IN RELEASING DEFENDANTS.”

- Criminal - First appearance shall consider:
 - Safety of victim; and/or
 - Victim’s children; and/or
 - Any other person who may be in danger if defendant is released.

- Civil - Return Hearing on Injunction
 - Recognize that victim safety may require immediate removal of respondent from the joint residence, and that there can be inherent danger in permitting respondent partial or periodic access to the residence.
 - Inform parties of terms of the injunction and that they cannot amend the injunction verbally, in writing, or by invitation to the residence.

F.S. 901.15 - When an arrest by officer without a warrant is lawful

The sections which apply to domestic violence are:

- Probable cause to believe defendant committed a criminal act according to F.S. 741.31 (Violation of Injunction) or F.S. 784.046 (Violation of Repeat or Dating Violence Injunction) or a Foreign Protection Order accorded full faith and credit pursuant to F.S. 741.315.
- Probable cause to believe defendant has committed an act of domestic violence, child abuse, or any battery upon another

person.

- Probable cause to believe defendant has committed an act that violates a condition of pretrial release provided in F.S. 903.047, when the original arrest was for an act of domestic violence as defined in F.S. 741.28.
- Probable cause to believe defendant has committed a criminal act according to F.S. 790.233 (prohibits possession of a firearm or ammunition during the effective dates of a domestic violence injunction).
- Good faith actions by law enforcement equal immunity from civil liabilities (F.S. 741.29).

F.S. 784.03(2) Domestic Violence - 3rd Degree Felony

A person who has one prior conviction for Battery, Aggravated Battery, or Felony Battery, and who commits any second or subsequent battery commits a felony of the third degree, punishable as provided in F.S. 775.082, F.S. 775.083 or F.S. 775.084. For purposes of this subsection, “conviction” means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of Nolo Contendere (no contest) is entered.

- No contest means that the defendant does not admit nor deny the offense, but accepts that the State can prove its case and accepts the disposition of the Court. It is a plea to “save face” for many defendants and affords them some possible benefit in subsequent civil proceedings.

Fatality Review Teams

Domestic Violence Fatality Review Teams were first formed in Florida in the mid-1990s. These teams began as local initiatives supported with federal grant funds. Their goal is to examine in depth cases that resulted in a domestic violence fatality to try to identify potential changes in policy or procedures that might prevent a future death. These teams work independently and are comprised of representatives from law enforcement, the courts, social services, State Attorneys, Domestic Violence Centers and others who may come into contact with domestic violence victims and perpetrators.

The Florida Department of Law Enforcement Fatality Review Team Annual Report explains that in response to growing awareness of local initiatives addressing domestic violence, the Florida Legislature enacted Florida Statute 741.316 in 2000. This statute recognizes the work of these teams and calls for the Florida Department of Law Enforcement (FDLE) to develop a standard data collection form to gather information from the local Fatality Review Teams to publish in an annual state-level report. According to section 3 of the statute:

“Each local domestic violence Fatality Review Team shall collect data regarding incidents of domestic violence. The data must be collected in a manner that is consistent statewide and in a form determined by the Department of Law Enforcement. Each team may collect such additional data beyond that which is prescribed in the statewide data collection form as will assist in the team’s review. The Department of Law Enforcement shall use the data to prepare an annual report concerning domestic violence fatalities. The report must be submitted by July 1, of each year to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the Supreme Court.”

After this law became effective on July 1, 2000, FDLE staff worked

quickly to establish relationships with the ten existing Fatality Review Teams and with six new teams that formed in response to the legislation. In creating a standard data collection tool to be used statewide, FDLE staff researched existing procedures and data collection tools and involved the teams in the developmental process. Within six months, in January 2001, FDLE provided a standard data collection form and manual, which all sixteen teams began using.

The Annual Report also details what the purpose is of these Teams. Fatality Review Teams review domestic violence homicides in their jurisdictions in order to study the sequence of activities that resulted in the death of a family member or intimate partner. This is to identify common characteristics of victims and offenders, as well as attempting to identify a point at which time the cycle of violence could be broken in order to prevent a homicide from occurring.

In order to assist the Fatality Review Teams in compiling the needed information for review, the following resources were suggested:

- Law Enforcement - dispatch report, officer's report, investigative reports, criminal history reports and current injunction information.
- Personal - personal information gathered through interviews, newspaper articles, school records and documentation found at the residence.
- Medical community - reports from paramedics, medical professionals and medical examiners to be used in order to gain insight concerning the physical and mental well being of both the victim and perpetrator. This includes cause of death, use of alcohol/drugs, the medical, mental and emotional status of the participants, whether previous abuse was indicated and current medications that were being used by either the victim or the perpetrator.
- Court records - dispositions of criminal and civil cases, current civil proceeding related to divorce or custody issues, historical injunc-

tion information and current criminal incidents.

The authorization of Fatality Review Teams and other domestic violence legislation created by the Florida Legislature since the passage of the Federal Violence Against Women Act of 1994 have helped to identify domestic violence issues, resolve some of the enforcement issues related to these types of offenses and make victims aware of their rights.

Legal Aspects of Domestic Violence
Domestic Violence
Fatality Review Teams

- Purpose
- What works
- Liability - Not Monetarily
- Confidentiality
- Ostensibly assigned to State DCFS, but local control
- STATUTE: F.S. 741.316



The Connection Between Animal Cruelty and Domestic Violence

Of all the complex factors involved in how a woman copes with a domestic violence situation, perhaps the most understandable to outsiders is the fear that her abuser may vent his rage on other family members. Recent studies have shown that a batterer's expressions of violence will almost always grow to include all family members—from a partner to a child to an animal companion.

Pets are part of the family in the majority of American households, where nearly three-quarters of families with school-age children have at least one companion animal. These animals are often treated like members of the family, but if the family is experiencing violence they can become targets as well. Pets are often an important source of comfort and stability to the victims of abuse, particularly children. But abusive family members may threaten, injure, or kill pets, often as a way of threatening or controlling others in the family.

In fact, professionals who help families in crisis are increasingly recognizing the role that animals play in the dynamics of family violence. Many law enforcement agencies are training officers who respond to domestic violence calls to be alert for signs that a situation is life-threatening. These include situations where the batterer has threatened suicide, is displaying a firearm, or has hurt or killed a family pet.

Men who batter women may threaten to harm or actually kill a beloved animal in order to intimidate their human victims into obedience and silence. An abuser may even give an animal to his partner as a “gift,” with the specific intention of later using that animal as a tool to manipulate and control her. Batterers will often harm or kill animals in front of their partners to demonstrate the punishment they are prepared to inflict for their “disobedience.” Perhaps most disturbing, batterers may even force their partners to participate in the sexual molestation of an

animal companion. Finally, if a woman does manage to flee, her batterer may threaten to harm or kill her animal if she doesn't return.

A 1997 survey of 50 of the largest shelters for battered women in the United States found that 85% of women and 63% of children entering shelters discussed incidents of pet abuse in the family. Children who have witnessed domestic violence or who have been the victims of physical or sexual abuse may also become animal abusers themselves, imitating the violence they have seen or experienced. A study conducted in 1995 noted that 32% of the pet-owning victims of domestic abuse reported that one or more of their children had hurt or killed a pet. Similarly, a 1983 study noted that children were reported to be abusive to animals in more than a third of a sample of pet-owning families referred to New Jersey's Division of Youth and Family Services for suspected child abuse.

It is essential for those who respond to family violence to be alert to this connection. Professionals in domestic violence intervention, law enforcement, child protection, human and veterinary medicine, education, and animal care and control should get to know their counterparts in other professions and work together to establish strategies for a coordinated response to these needs.

The importance of an animal companion's well being to the battered guardian and her children has only recently been recognized. For a woman whose batterer has isolated her from family members and friends, or for an abused child who has been frightened into silence, an animal companion may be the sole source of friendship and comfort. Yet, for a variety of reasons, including health code restrictions, lack of space and resources, concern that traumatized animals may injure clients, and concern that traumatized children may injure animals, most domestic violence shelters can not or will not accept animals. Furthermore, many domestic violence workers do not know how to assist women who wish to find shelter for their animals. As a result,



it is estimated that up to forty percent of women delay leaving their batterer due to concern for the safety of their animal companions. Obviously, this can have fatal consequences for the women, their children, and their pets.

As a result, local domestic violence shelters and animal protection organizations have begun partnering to develop “safe havens” for the pets of domestic violence victims because many victims delay leaving the abusive batterer out of fear for their pets’ safety. All too often, batterers punish victims for leaving by abusing or killing the pets. Yet, with the help of over 100 safe haven programs currently operating around the United States, many domestic violence victims no longer have to choose between their safety and their pets.

Chapter Eight: Injunctions

This segment looks at temporary and permanent injunctions for protection and their uses in domestic violence cases. It will also look at the criminal violations, including possession of firearms, and enforcement of these injunctions. Another important topic covered in this segment is full faith and credit of foreign protection orders.

Learning Objectives

- Understand F.S. 741.30 regarding temporary and permanent injunctions for protection.
- Understand F.S. 741.31 and list the ways a defendant might civilly or criminally violate an injunction.
- Understand F.S. 784.046 regarding temporary and permanent injunctions for dating violence.
- Understand F.S. 784.047 and list the ways a defendant might civilly or criminally violate an injunction.
- Understand F.S. 790.233 regarding firearms and injunctions.
- Understand F.S. 741.315, Florida's Full Faith and Credit Statute, regarding recognition of foreign protection orders.
- Define the term "court of a foreign state".
- Describe full faith and credit of foreign protection orders.

Law

- F.S. 741.30
- F.S. 741.31
- F.S. 741.315
- F.S. 790.233
- Civil Immunity for good faith
- No Criminal Immunity

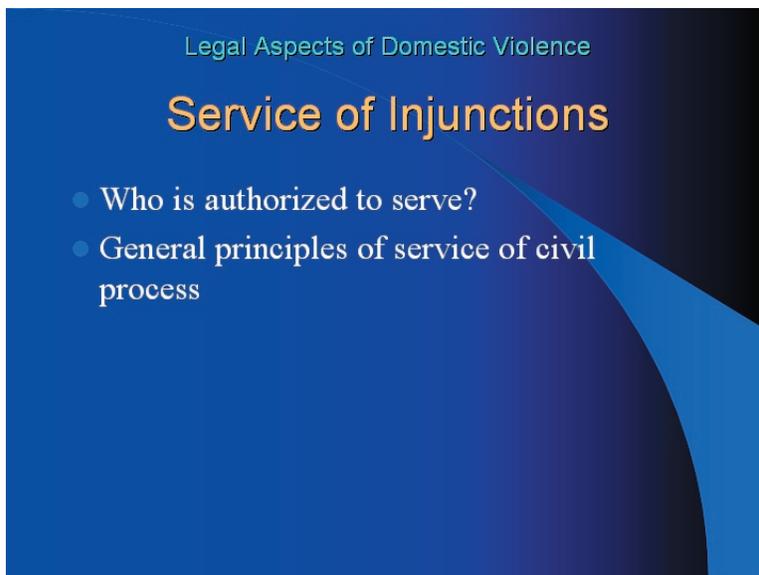
Injunction for Protection

F.S. 741.30 governs the responsibilities of Court and Clerk regarding the temporary and permanent injunction against domestic violence.

This applies to:

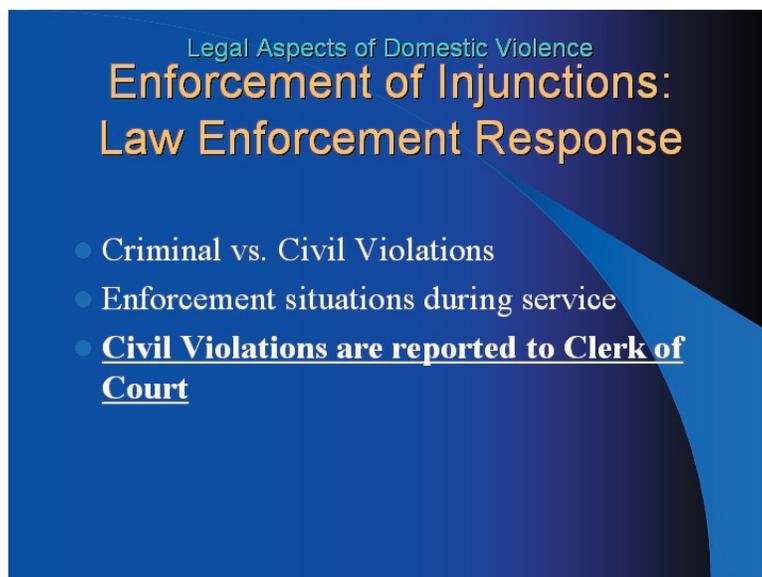
- Any family or household member (F.S. 741.28(2)) who “is the victim of any act of domestic violence” (741.28(1)); or has reasonable cause to believe he or she “is in imminent danger of becoming the victim of an act of domestic violence.” No person shall be precluded from seeking injunctive relief solely on the basis that such person is not a spouse or that they have left the residence to avoid domestic violence.
- Mutual injunctions are prohibited; however, separate injunctions may be issued where each party has complied with the provisions of this section.
- Fees: Total charge shall not exceed \$50. If petitioner signs an affidavit alleging insufficient funds to pay filing fees, they shall be waived, subject to a subsequent court order (i.e. Return Hearing).
- Ex parte temporary injunction:
- Standard: If the court finds “that an immediate and present danger of domestic violence exists,” then a temporary injunction ex parte may be granted.

- Effective for 15 days, unless continued, with full hearing set before expiration. The injunction shall remain in full force and effect during any period of continuance.
 - Service: Requires personal service.
- Permanent injunction:
 - Shall remain effective until modified or dissolved. Either party may move at any time to modify or dissolve the injunction.
 - Service: Requires personal service.
- Enforcement:
 - Enforceable in all counties of the State.
 - Law enforcement may use arrest powers per F.S. 901.15(6) to enforce.
 - Court may enforce via civil/criminal contempt proceeding or SAO may prosecute (F.S. 741.31).
 - If arrested for act of domestic violence or violation of injunction, defendant held without bond pending first appearance.





Not all 50 states are “on board” with the NCIC Injunction verification system. Florida (FCIC) has mandated data fields and a standard state-wide injunction form.



Some examples of civil violations are:

- Landlord/tenant disputes
- Nuisance abatement
- Return of property
- Prohibition of certain business practices
- Freeze assets or money
- Preservation of marital assets
- Custody

**F.S. 741.31 VIOLATION OF INJUNCTION/FOREIGN PROTECTION ORDER
(CRIMINAL) - 1ST DEGREE MISDEMEANOR**

To violate, defendant must:

- Refuse to vacate the dwelling that parties shared; or
- Go to or be within 500 feet of the victim's:
 - Residence
 - School
 - Place of employment
 - Any place specified in injunction which is frequented regularly by victim and/or any named family member
- Commit an act of domestic violence (F.S. 741.28)
- Commit an intentional threat, word or act to do violence to the victim
- Have direct or indirect contact with victim (telephone, cards, letters, etc...). (Violation equals any direct/indirect contact, not just assault/battery, i.e. phone calls, taped messages, cards, letters - many equal probable cause)
- Knowingly and intentionally come within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied
- Deface or destroy the petitioner's personal property, including the petitioner's motor vehicle; or
- Refuse to surrender firearms or ammunition if ordered to do so by the court.

Dating Violence Injunctions

F.S. 784.046 governs the responsibilities of Court and Clerk regarding the temporary and permanent injunction against dating violence. This applies to:

- Any person who is the victim of dating violence (F.S. 784.046(1)(b)), or any person who has reasonable cause to believe he or she is in imminent danger of becoming the victim of an act of dating violence.

F.S. 784.046(1)(b) protects individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- A dating relationship must have existed within the past six months;
- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and,
- The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.
- The term does not include violence in a casual acquaintance ship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

F.S. 784.047 Violation of Dating Violence Injunction (Criminal) - 1st Degree Misdemeanor

To violate, defendant must:

- refuse to vacate the dwelling that parties shared
- go to the victim's:
 - residence
 - school
 - place of employment
 - location specified in injunction which is frequented regularly by victim and/or any named family member
- commit an act of domestic violence (F.S. 741.28)
- commit an intentional threat, word or act to do violence to the victim
- have direct or indirect contact with victim (telephone, cards, letters, etc...). (Violation equals any direct/indirect contact,

not just assault/battery. (i.e. phone calls, taped messages, cards, letter —many equal probable cause).

Note: These criminal violations of a dating violence injunction do not include the additional violations of a domestic violence injunction as previously discussed. See page 83.

Injunctions and Firearms

- Possession by respondents to final D.V. injunctions prohibited, F.S. 790.233
- Law Enforcement official use exemption under F.S. 790.233(3)

F.S. 790.233 FIREARMS AND INJUNCTIONS - 1ST DEGREE MISDEMEANOR

Possession of firearm or ammunition is prohibited when person is subject to an injunction against committing acts of domestic violence.

- A person may not have in his or her care, custody, possession or control any firearm or ammunition if the person has been issued a final injunction that is currently in force and effect, restraining that person from committing acts of domestic violence, and that has been issued under F.S. 741.30.
- Shall not apply to a state or local officer holding active certification, for use in performing official duties (i.e. on-duty), unless otherwise prohibited by the employing agency.

Violation of Final Injunction by Firearm Possession

- Applies equally to possession of ammunition
- Warrantless arrest exception under F.S. 901.15(6)
- No bond until first appearance

Other Involved Prohibitions

- Prohibited from obtaining a concealed weapons permit
- Revocation of existing concealed weapons permit

Full Faith and Credit

- Enforcing foreign protection orders
- Understanding the Violence Against Women Act of 1994
- Florida's Full Faith and Credit Statute: F.S. 741.315

F.S. 741.315 - RECOGNITION OF FOREIGN PROTECTION ORDERS

The term “court of a foreign state” means a court of competent jurisdiction of a state of the United States other than Florida; the District of Columbia; an Indian tribe; or a commonwealth, territory or possession of the United States.

Pursuant to 18 USC 2265, an injunction for protection against domestic violence issued by a court of a foreign state must be accorded full faith and credit by the courts of this state and enforced by a law enforcement agency as if it were the order of a Florida court.

Issuing court must have had jurisdiction and afforded notice and opportunity to be heard to the respondent.

Neither residence in this state nor registration of the foreign injunction shall be required for enforcement.

The registration procedure for petitioners, if used, is:

- Petitioner gives certified copy of foreign order to sheriff or other law enforcement officer and requests registration in injunction registry.
- If no certified copy, then it is still enforceable as long as the officer determines that it is a valid order, but for certification. Petitioner then swears by affidavit that to the best of his or her knowledge and belief, the foreign order is currently in effect and respondent has been given a copy.

ENFORCEMENT

- All of its terms shall be enforced as if a Court of this state entered them.
 - Exceptions: child custody, visitation, support

- Officer is required to do the following before enforcement:
 - Confirm the identity of the parties
 - Determine that the injunction on its face has not expired:
 - Look to the date of expiration on the injunction
 - If there is no date of expiration and the injunction says permanent order, then no date of expiration is required

- Use reasonable efforts to verify service of process. Service may be verified as follows:
 - *By petitioner:* Petitioner may state under oath that to the best of petitioner's knowledge, respondent was served with the order of protection because petitioner was present at the time of service; respondent told petitioner he or she was served; another named person told petitioner respondent was served; or respondent told petitioner he or she knows of the content of the order and date of the return hearing.
 - *By respondent:* Respondent states under oath that he or she was or was not served with the order.

- Officer and agency acting in good faith shall be immune from all liability.

- Anyone who intentionally gives a law enforcement officer a foreign protection order known to be false or invalid, or denies having been served when they have been served, commits a misdemeanor of the first degree.

F.S. 741.29(6) Violation of Pretrial Release

A person who willfully violates a condition of pretrial release provided in 903.047, when the original arrest was for an act of domestic violence as defined in 741.28, commits a misdemeanor of the first degree, and shall be held in custody until his or her first appearance.

- 903.047 - Conditions of Pretrial Release: As a condition of pretrial release ... the Court shall require that: the defendant refrain from criminal activity of any kind; and the defendant refrain from any contact of any type with the victim.
- The court may modify condition (1)(b).

In summary, this statute can only be violated by the defendant committing a new crime or having any form of contact with the victim. A defendant can violate pretrial release in other ways (i.e. no alcohol conditions) but only the above two are criminal and therefore arrestable.

Chapter Nine: Stalking

Because stalking is frequently a component of domestic violence, it is important to understand the mechanics of stalking. In this segment, the history of stalking and its prevalence in the United States will be explored. The different components of stalking will be defined and explained. The seven stages of stalking will be discussed as well as the psychological and behavioral profile of stalkers. This segment will explore the ways law enforcement officers can make a difference in stalking cases, including tips for stalking investigations, questions to ask stalking victims and preparing for future incidents and prosecution.

Learning Objectives

At the end of this chapter, students will be able to:

- Define “Stalking” according to Florida State Statute
- Identify components of stalking separately
- Identify the reasons why stalking is/is not reported
- Identify ways to enhance stalking investigations
- Identify types of stalkers

What is Stalking?

The legal definition of stalking is defined primarily by state statutes. While statutes vary, most define stalking as a course of conduct that places a person in fear for their safety.

However, the term “stalking” is more commonly used to describe specific kinds of behavior directed at a particular person, such as harassing

or threatening another person. But only the creativity and ingenuity of the stalkers themselves limit the variety of specific strategies employed and behaviors displayed by stalkers. Suffice it to say, virtually any unwanted contact between a stalker and their victim which directly or indirectly communicates a threat or places the victim in fear can generally be referred to as stalking.

IS STALKING A NEW PHENOMENON?

No - the history of stalking behavior is as old as the history of human relationships. Stalking has always been with us — what is new is that, it was never labeled as a separate and distinct class of deviant behavior. Prior to its common usage and its subsequent designation as a crime, stalking was referred to as harassment, annoyance or, in some cases, simply as domestic violence.

In the late 1980s and early 1990s, numerous high-profile cases involving celebrities began to catch the attention of the media and public policy leaders. Only then did such behavior begin to be described as “stalking.” Since then, stalking has become a common subject in the popular media. With the advent of blockbuster films such as *Fatal Attraction*, *Cape Fear*, *Sleeping With The Enemy*, and its coverage by the news media, “stalking” has become a household word.

Legal Aspects of Domestic Violence

Overt Actions and Stalking

- Florida and many other states' anti-stalking laws include in their definition of stalking a requirement that stalkers make an overt threat of violence against their victim.

How Often is Stalking Reported to the Police?

- Fifty-five percent of female victims and 48 percent of male victims report to the police.
- The police are significantly more likely to arrest or detain a suspect in cases involving female victims, and they are significantly more likely to refer female victims to services.
- Victims who had their stalker arrested were significantly more likely to be satisfied with the way the police handled their case.

In 75 - 90 percent of all hostage incidents in the United States, the situation is domestic. If the hostage-taker knows the hostage, the likelihood of homicide is increased.

HOW PREVALENT IS STALKING?

Using a definition of stalking that requires victims to feel a high level of fear, a National Violence Against Women Survey (NVAW) reported that 8 percent of women and 2 percent of men in the United States have been stalked at some time in their life.

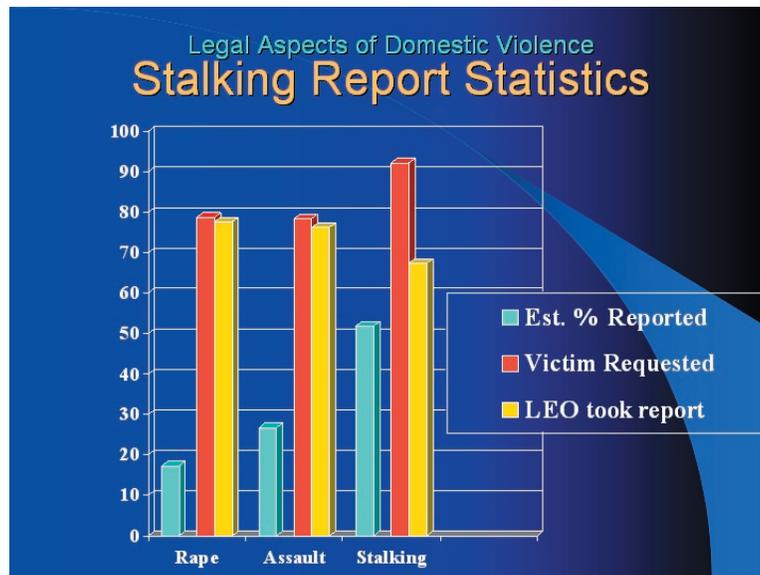
- Women tend to be stalked by intimate partners, defined as current or former spouses, current or former cohabitants (of the same or opposite sex), or current or former boyfriends or girlfriends.
- 21 percent of intimate relationship victims are stalked before the relationship ends.
- 43 percent are stalked after the relationship ends.
- 81 percent of the women who were stalked by a current or former husband or cohabiting partner were also physically assaulted by the same partner.
- 31 percent were also sexually assaulted by the same partner.
- There is compelling evidence of the link between stalking and

controlling and emotionally abusive behavior in intimate relationships.

- The findings show that an estimated 1,006,970 women and an estimated 370,990 men are stalked annually in the U.S.
- 74 percent of stalking victims are between 18 and 39 years old.

STALKING RISKS FOR RACIAL AND ETHNIC MINORITIES

- There is no difference in stalking prevalence between white women and minority women.
- There is some evidence that Native Americans are at significantly greater risk of violence — fatal and nonfatal — than other Americans.
- There is some evidence that Asian and Pacific Islander women are stalked less than women from other races/cultures.



COMPONENTS OF F.S. 784.048(2) STALKING

- Any person who WILLFULLY, MALICIOUSLY AND REPEATEDLY FOLLOWS or HARASSES another person.

Harass – Definition

- To engage in a course of conduct directed at a specific person that causes substantial emotional distress in such a person and serves no legitimate purpose.

DEFINITIONS

Course of conduct: A pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct.” Such constitutionally protected activity includes picketing or other organized protests.

Engage in a course of conduct that would place a reasonable person in fear for their safety, and that the stalker intended and did, in fact, place the victim in such fear.

Beyond this basic definition of the crime, statutes include a wide variety of additional stalking-related provisions. For example, some state stalking statutes:

- Allow police to make warrantless arrests in stalking cases where probable cause exists;
- Make stalking a non-bailable offense under certain circumstances;
- Provide for automatic and emergency protective orders;
- Require mandatory psychological evaluation and treatment for stalkers;

- Establish sentencing enhancements in cases where the victim is a minor, or when there is a protective order in place against the perpetrator; and,
- Create heightened crime classifications for stalkers who commit second stalking offenses.

It is important for victims to obtain a copy of the stalking laws in their state to determine which of these special provisions are included in their state's statute.

Apart from state statutes, stalking victims should be aware of the recently passed federal legislation that makes it a crime to cross a state line in order to stalk another. Federal anti-terrorism laws may also apply in some stalking cases, allowing victims to bring charges in federal court as an alternative to the state criminal court of their jurisdiction. These laws may also prove useful in stalking cases where the offender makes threatening phone calls from outside the state where the victim resides.

Credible threat: A threat made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause bodily injury to, a person.

Maliciously: Wrongfully, intentionally, without legal jurisdiction or excuse, and with the knowledge that injury or damage will or may be caused to another person or the property of another person.

Components of FSS 784.048(3) Aggravated Stalking

- Any person who commits stalking and makes a CREDIBLE THREAT with intent to place that person in REASONABLE FEAR of DEATH or BODILY HARM....

Components of FSS 784.048(4) Protection Order FEL 3rd

- Any person who after an INJUNCTION for PROTECTION against REPEAT VIOLENCE DOMESTIC VIOLENCE or any other COURT IMPOSE PROHIBITION of conduct toward the SUBJECT PERSON or THAT PERSON'S PROPERTY.....

Components of FSS 784.048(5) Minor Child FEL 3rd

- Any person who stalks a CHILD UNDER 16 years of age...

The Domestic Stalker

- Uses terroristic tactics
- Gathers intelligence about his victim
- Seeks contact through letters, visits, telephone calls
- Harasses friends, relatives, and co-workers for information
- Follows the victim

STALKING STAGES

Rejection - Stalker tends to be insecure. Has a fragile ego and seeks control. Rejection can be real or perceived. Rejection is almost always the trigger that begins the stalking cycle.

Self-defeating behavior - A stalker often drinks heavily, abuses drugs. Sometimes threatens suicide and may even carry it out.

Pursuit - Stalker tries to recapture the object of his obsession with phone calls, letters, gifts, etc..... At this point they are still trying to win the person back and believe they can do it.

Revenge - Stalker continues to feel the rejection. They now start to feel the hurt and pain of it. They now feel like that person has destroyed their life.

Emotional violence - Stalker may cancel credit cards or make purchases in the other person's name. Reveal past infidelities, try to sabotage the other person's job.

Property violence - The stalker is ill-equipped to cope with the rejection and grows more frustrated and outraged. At this point, the stalker may begin to destroy cars or other property. May steal or kill pets. Hurt the property that belonged to the two of them and meant something to the stalking victim. It is very serious at this stage because the stalker is losing control.

Physical violence - Stalker threatens violence and may carry it out. Many times will say exactly what they are going to do and will do it. At this point, the stalker may have the attitude that “if I can’t have you, nobody can.” It is said that some stalkers may not even view it as death, but merely a change of address.

Types of Stalkers

Legal Aspects of Domestic Violence

The Domestic Stalker (cont'd)

- Breaks into the victim's home
- Watches the victim sleep
- Law enforcement most likely to encounter this type of stalker
- Makes threats/anonymous threats
- Property damage/vandalism

The Domestic Stalker (cont'd)

- Injures/poisons/kills victim's pets
- History of abusing women
- Exhibits macho exterior to hide feelings of inferiority
- Difficulty in keeping a stable relationship and is unwilling to let go when the relationship ends

The Domestic Stalker (cont'd)

- Insists on dominance
- Wages psychological warfare against the victim
- Cannot/will not take responsibility for his own actions
- Has actions that are shrewd and often untraceable

The Domestic Stalker (cont'd)

- Is a control freak
- Can be easily stressed
- Believes that a tortured relationship is better than no relationship
- Experienced an abusive childhood

Psychological and Behavioral Profile of Stalkers

Unfortunately, there is no single psychological or behavioral profile for stalkers. In fact, many experts believe that every stalker is different, making it very difficult not only to categorize their behavior, but doubly difficult to devise effective strategies to cope with such behavior.

Forensic psychologists (those who study criminal behavior) are just beginning to examine the minds and motives of stalkers. These psychologists have identified two broad categories of stalkers and stalking behavior - "Love Obsession" and "Simple Obsession."

LOVE OBSESSION STALKERS

This category is characterized by stalkers who develop a love obsession or fixation on another person with whom they have no personal relationship. The target may be only a casual acquaintance or even a complete stranger. This category represents about 20 - 25 percent of all stalking cases.

Stalkers who stalk celebrities and stars such as David Letterman, Jodie Foster, and Madonna, fall into the category of love obsessionists; however, stalkers in this category also include those who develop fixations on regular, ordinary people, including co-workers, their aerobics instructor, casual acquaintances or people they pass in the street.

The vast majority of love obsessional stalkers suffer from a mental disorder - often schizophrenia or paranoia. Regardless of the specific disorder, nearly all display some delusional thought patterns and behaviors. Since most are unable to develop normal personal relationships through more conventional and socially acceptable means they retreat to a life of fantasy relationships with persons they hardly know, if at all. They invent fictional stories - complete with what is to them real-life scripts which cast their unwilling victims in the lead role as their

own love interest. They then attempt to act out their fictional plots in the real world.

The woman who has stalked David Letterman for five years truly believes she is his wife. She has been discovered on Mr. Letterman's property numerous times, has been arrested driving his car and has even appeared at his residence with her own child in tow - each time insisting that she is David Letterman's wife.

Love obsessional stalkers not only attempt to live out their fantasies, but expect their victims to play their assigned roles as well. They believe they can make the object of their affection love them. They desperately want to establish a positive personal relationship with their victim. When the victim refuses to follow the script or doesn't respond as the stalker hopes, they may attempt to force the victim to comply by use of threats and intimidation.

When threats and intimidation fail, some stalkers turn to violence. Some decide that if they cannot be a positive part of their victim's life, they will be part of their life in a negative way. Some even go so far as to murder their victims in a twisted attempt to romantically link themselves to their victim forever. This was the case with the man who shot and killed Rebecca Schaffer, the young actress and star of the television show *My Sister Sam*.

The Narcissist

- Sense of self is fragile
- Becomes enraged with insult or criticism
- When abandoned, vents his hatred by trying to destroy the victim's reputation, career, family, friendships, or life

The Erotomaniac

- Maintains over-idealized view of romance
- Disturbed at a deeper level
- Intense devotion to the victim
- Believes they have perfect love
- Wrought by destiny -- nothing can break their union

The Erotomaniac (cont'd)

- Operates under a delusion about the victim
- Convinced the victim is in love with them but cannot return the love due to some outside force (i.e. In a relationship with someone else)

SIMPLE OBSESSION STALKERS

This second category represents 70 - 80 percent of stalking cases and is distinguished by the fact that some previous personal or romantic relationship existed between the stalker and the victim before the stalking behavior began.

Virtually all domestic violence cases involving stalking fall under this category, as do casual dating relationships (commonly referred to as *Fatal Attraction* cases, named after the popular movie by the same title.)

While this kind of stalker may or may not have psychological disorders, all clearly have personality disorders. One forensic psychologist has attempted to identify some of the common personality traits and behavioral characteristics among this category of stalkers. Stalkers in this class are characterized as individuals who are:

- Socially maladjusted and inept;
- Emotionally immature;
- Often subject to feelings of powerlessness;
- Unable to succeed in relationships by socially-acceptable means;
- Jealous, bordering on paranoid; and,
- Extremely insecure about themselves and suffering from low self-esteem.

The self-esteem of simple obsession stalkers is often closely tied to their relationship with their partner. In many cases, such stalkers bolster their own self-esteem by dominating and intimidating their mates. Exercising power over another gives them some sense of power in a world where they otherwise feel powerless. In extreme cases, such personalities attempt to control every aspect of their partner's life. This behavior pattern was vividly depicted in the major motion picture

entitled *Sleeping with the Enemy* where the antagonist turns to intimidation and violence as the means to control every aspect of his victim.

Since the victim literally becomes the stalker's primary source of self-esteem, their greatest fear becomes the loss of this person. Their self-worth is so closely tied to the victim that when they are deprived of that person, they may feel that their life is without worth.

It is exactly this dynamic that makes simple obsession stalkers so dangerous. In the most acute cases, such stalkers will literally stop at nothing to regain their "lost possession" — their partner — and in so doing, regain their lost self-esteem.

Just as with most domestic violence cases, stalkers are the most dangerous when they are first deprived of their source of power and self-esteem; in other words, the time when their victims determine to physically remove themselves from the offender's presence on a permanent basis by leaving the relationship.

Indeed, stalking cases which emerge from domestic violence situations constitute the most common and potentially lethal class of stalking cases. Domestic violence victims who leave an abusive relationship run a 75 percent higher risk of being murdered by their partners.

Stalking behavior is as diverse as the stalkers themselves. Yet behavioral experts are beginning to identify patterns in the cycle of violence displayed by simple obsession stalkers.

INVESTIGATION IS THE KEY. ALWAYS FOCUS ON THESE ELEMENTS:

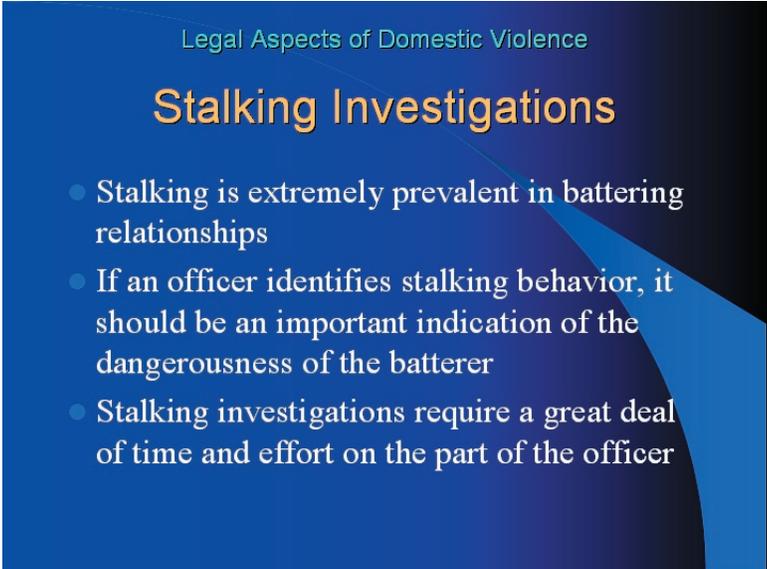
- Can you specifically detail defendant's willful, malicious and repeated conduct directed toward the victim?
- If there are prior reports by your agency or others involving this defendant toward this victim, then include them in your investigation. They may establish repeated conduct.

MAKE EVERY EFFORT TO LOCATE DEFENDANT AND TAKE HIS STATEMENT.

- Look for statements indicating an intent to harm the victim (i.e., malicious) - or statement directed at victim to establish a harassing pattern (i.e., "I need to see her" or "I will see her").
- If unsure, err on the side of the victim and refer. However, be conscious not to allow the victim to determine the type of crime, if any, that you are investigating.

A current valid injunction does not alone equal aggravated stalking.

- You still need willful, malicious and repeated conduct post injunction.
- More often it will be a violation of injunction, per F.S. 741.31.



Legal Aspects of Domestic Violence

Stalking Investigations

- Stalking is extremely prevalent in battering relationships
- If an officer identifies stalking behavior, it should be an important indication of the dangerousness of the batterer
- Stalking investigations require a great deal of time and effort on the part of the officer

STALKING BEHAVIOR PATTERNS AND CYCLES

Stalking behavior patterns closely mirror those common in many domestic violence cases. The pattern is usually triggered when the stalker's advances toward their victim is frustrated — regardless of whether the stalker is seeking to establish a personal relationship or continue a previously established relationship contrary to the wishes of the victim.

The stalker may attempt to woo their victim into a relationship by sending flowers, candy and love letters, in an attempt to “prove their love.” However, when the victim spurns their unwelcome advances, the stalker often turns to intimidation. Such attempts at intimidation often begin in the form of an unjustified, jealous and inappropriate intrusion into the victim's life. Often these contacts become more numerous and intrusive over time, until such collective conduct becomes a persistent pattern of harassment. Many times, harassing behavior escalates to threatening behavior. Such threats may be direct or indirect and communicated explicitly or implicitly by the stalker's conduct. Unfortunately, cases that reach this level of seriousness too often end in violence and/or murder.

Stalkers, unable to establish or re-establish a relationship of power and control over their victims, turn to violence as a means of reasserting their domination over the victim. In some cases, offenders are even willing to kill their victims and themselves in a last, desperate attempt to assert their domination over the victim.

The evolution of the stalker's thought pattern progresses from: “If I can just prove to you how much I love you,” to “I can make you love me,” to “If I can't have you, nobody else will.”

While this progression in behavior is common, no stalking case is completely predictable. Some stalkers may never escalate past the

first stage. Others jump from the first stage to the last stage with little warning. Still others regress to previous episodes before advancing to the next. It is not uncommon to see stalkers intersperse episodes of threats and violence with flowers and love letters.

As difficult as it is to predict what a stalker might do, it is at least as difficult to predict when he might do it. A few stalkers will progress to later stages in only a few weeks or even days. In other cases, stalkers who have engaged in some of the most serious stalking behaviors may go months or even years without attempting a subsequent contact.

It is this unpredictability that makes developing an effective response strategy so difficult in any particular stalking case (Helpful Guide for Stalking Victims for more information.).

Legal Aspects of Domestic Violence

Stalking Investigations (cont'd)

- A stalking investigation requires intensive follow-up interviews with the victim and witnesses and a continued assessment of the lethality of the case.
- The most difficult indicator of stalking is determining the fear of the victim or the feeling of being terrorized, frightened, intimidated, or threatened.

Stalking Investigations (cont'd)

- Working with stalking victims takes patience. Victims may downplay the seriousness of the behavior and it is your job to determine if a crime has been committed.
- It is a crime built on a series of actions, not one isolated incident, so the case must be built piece by piece like a puzzle.
- Therefore, documentation becomes the most important aspect of building the case.

CASE INTAKE QUESTIONS FOR STALKING

Has your abuser ever followed, watched or approached you at your:

- Workplace
- School
- Home
- Vehicle
- Any other place you frequent

Has your abuser tried to contact you by:

- Mail (love or hate letters)
- Phone (hang-ups, harassing messages)
- Electronic communication (fax, modem, etc...)

Has your abuser:

- Delivered an unwanted object or gift which was used to alarm or terrorize you
- Placed an object or gift at your residence
- Vandalized your home
- Vandalized your vehicle
- Vandalized personal object

Has your abuser purposely driven by or parked outside your:

- Workplace
- School
- Home
- Vehicle
- Any other place you frequent

Has your abuser ever threatened (verbally or non-verbally) to:

- Kill you
- Kill him/herself
- Kill your children
- Kill or injure any of your family members
- Kill or injure any new person who enters your life
- Kill or injure any co-workers

Threats made have been:

- Direct
- Conditional
- Veiled

The following activities have been associated with stalking/harassment.

Their presence should lead to further specialized assessment and actions.

This list is only a sample of possible forms of stalking or harassment:

- Watching or following
- Approaching a victim
- Drive-bys
- Threatening phone calls or hang-ups
- Sending or delivering hate mail
- Sending or delivering love notes
- Electronic stalking using a modem, fax, etc... to deliver a message
- Vandalizing a vehicle or home (generally something the victim uses every day)

- Placing or delivering an unwanted object(s) (examples include: red bows, stuffed animals, or strange or unusual items such as a coyote head, false teeth, tarot cards, etc...)
- Placing or delivering unwanted object(s) that have a symbolic message (examples include: black roses, dead animals, etc...)

Legal Aspects of Domestic Violence

Questions to Ask Stalking Victims

- Was the victim so frightened that they:
 - Changed their phone number?
 - Avoided social events that they went to regularly in the past?
 - Changed their residence? Job? Asked for a job transfer? Moved to a shelter or in with relatives?

Legal Aspects of Domestic Violence

Questions to Ask Stalking Victims (cont'd)

- Was the victim so frightened that they:
 - Added extra locks to the door? Added an alarm system to their car or door?
 - Considered seeking psychiatric or psychological treatment?
 - Sought a counselor or member of a faith-based community?

Questions to Ask Stalking Victims (cont'd)

- Have the suspect's actions caused you to suffer emotional distress?
- Has the suspect ever battered or attempted to batter you?
- Has the suspect followed you in a repetitive manner?
- Has the suspect ever threatened you?
- Has the suspect sent you threatening mail?
- Does the suspect follow you to and from work/daycare/school?

Preparing for Future Incidents and Prosecution

- Have the victim:
 - Save all letters and notes from the stalker.
 - Keep a journal noting time/date/location of all incidents.
 - Record indirect contact with the stalker through friends or family members.
 - Every time the stalker follows you or drives by, take pictures.

Preparing for Future Incidents and Prosecution (cont'd)

- Have the victim:
 - Call law enforcement immediately if they suspect they are in danger.
 - Keep copies of all legal proceedings in a file for future reference.
 - Keep documents from shelters or other domestic violence programs to validate time spent there.

Preparing for Future Incidents and Prosecution (cont'd)

- Have the victim:
 - Keep copies of answering machine tapes on which the stalker is recorded.
 - Purchase a Caller ID system, answering machine, or other recording device.
 - If stalker's phone number appears on a Caller ID box, take a picture of it for the file.

Steps an Officer Can Take

- Counter-Stalking: follow the stalker, preferably videotaping his movements in and around the victim's place of employment, home, family, etc.
- Surveillance on victim's home/work during hours she normally comes and goes -- videotape if possible.
- Follow the victim to school/work/daycare.
- Photograph all vandalism reported by the victim.

Steps an Officer Can Take (cont'd)

- Advise victim's neighbors, friends and family members to call law enforcement immediately if they see suspect or he calls looking for the victim.
- Contact security at the victim's work, apartment complex, etc., and advise of the stalker. Give detailed vehicle descriptions and photographs and ask them to call law enforcement immediately if the stalker is spotted.

How do Stalkers Harass and Terrorize?

- Women are significantly more likely than men to report that their stalkers:
 - Spied on them
 - Stood outside their home or place of work or recreation
 - Made unsolicited phone calls
 - Sent unwanted letters or items
 - Vandalized their property
 - Kill or Threaten to kill family pet

When and Why Does Stalking Stop?

- About two-thirds of all stalking cases last a year or less, about a quarter last 2-5 years and about a tenth last more than 5 years.



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Florida Regional Community Policing Institute

About This Project

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