

NEVADA COMMITTEE ON DOMESTIC VIOLENCE (NCDV)

NOTICE OF PUBLIC MEETING

Tuesday, November 28th, 2017 at 10:00 a.m.

Meeting Location:

Winnemucca Convention Center
50 West Winnemucca Blvd
Winnemucca, NV 89445

Public Access via Tele-Conference:

1-877-411-9748

Access Code: 9890482

AGENDA

Please Note: (1) Items on the agenda may be taken out of order; (2) The public body may combine two or more agenda items for consideration; and (3) The public body may delay or remove an item from the agenda at any time. The Committee may recess for lunch at a time to be determined.

A period of public comment will take place at the beginning of the meeting and again prior to the adjournment of the meeting. The Chair may limit each speaker to 5 minutes, as time allows and at her/his sole discretion. No action may be taken on the matters mentioned during Public Comment until the matter is specifically included on an agenda as an action item. (NRS 241.020).

1. Call to order and roll call of members.
2. Public Comment.
3. **For Possible Action:** Discussion and possible approval of "July 27th, 2017 Minutes".
Attachment 1
4. **For Possible Action:** Introduction of the new Domestic Violence Ombudsman Nicole O'Banion (O'Banion) and update on current Ombudsman initiatives. O'Banion will also submit for review, discussion and possible approval, the "Nevada Committee on Domestic Violence" brochure.
Attachment 2

5. **For Possible Action:** Presentation by Nicole O'Banion on the "Direction of the New Committee 2017". The Committee will discuss, formulate and possibly approve measurable goals for the next year.

Attachment 3

6. **For Discussion:** Presentation by Becky Coleman (Coleman), Program Coordinator at the Family Support Center in Winnemucca. Coleman will discuss the challenges her organization faces in Winnemucca because of the closure of the local Batterer's Intervention Program, and the "disconnect" between local agencies.

7. **For Discussion:** Presentation by Sergeant John Riley (Sergeant Riley), Fallon Police Department and Pamela Powell (Powell), Churchill County Extension Educator, University of Nevada Cooperative Extension. Sergeant Riley and Powell will introduce the field guide for law enforcement "Investigating Domestic Violence Crimes in Nevada" including the revisions in process to be added by January 1, 2018.

Attachment 4

8. **For Discussion:** Presentation by Pamela Powell (Powell), Churchill County Extension Educator, University of Nevada Cooperative Extension and Jill Baker-Tingey (Baker-Tingey), Elko County Extension Educator, University of Nevada Cooperative Extension. Powell and Baker-Tingey will introduce the "Building Hope for the Future: A Family Violence Prevention Program" brochure.

Attachment 5

9. **For Discussion:** Update by teleconference from Leticia Metherell, Health Program Manager III from the Division of Public and Behavioral Health on the "Domestic Violence Proposed Regulation Summary" and the "Domestic Violence Committee Check List".

Attachment 6

10. **For Possible Action:** Review, discuss and possibly approve the proposed recommendations presented by NCDV member Reno City Attorney Karl Hall for the "State of Nevada Domestic Violence Prosecution Best Practice Guidelines".

Attachment 7

11. **For Discussion:** Update by teleconference from Gina Hinds, Program Officer 1, Nevada Department of Health and Human (DHHS) Services Division of Child and Family Services Confidential Address Program (CAP) on the transition from the Attorney General's office to DHHS and presentation of the new "CAP Brochure".

Attachment 8

12. **For Discussion:** Update by teleconference from Debbie Tanaka, Management Analyst IV/Grants Manager on the Services-Training-Officers-Prosecutors

(STOP) grant. The Office of the Attorney General receives the STOP grant through the Department of Justice, Office on Violence Against Women and sub-grants these awards to local, regional and statewide programs providing victim-centered intervention through non-profit service providers, law enforcement, prosecution and courts. These programs serve to enhance victim safety and hold offenders accountable for their crimes of intimate partner violence, sexual assault, dating violence, and stalking in Nevada. Debbie will provide information on eligibility, allowable activities and the solicitation process.

13. **For Discussion:** Presentation by NCDV member Judge Patricia Lynch on a pro bono program to assist victims of Human Trafficking.

14. **For Discussion:** Update on the “Domestic Violence Treasurer Report” from Committee Treasurer Judge Max Bunch as of November 14, 2017.

Attachment 9

15. **For Possible Action:** Possible topics for next agenda and meeting dates:

- Wednesday, April 25, 2018 | Location: Carson City – 9:00 am to Noon.
- Wednesday, July 18, 2018 | Location: Carson City – 9:00 am to Noon.
- Wednesday, October 3, 2018: Rural (TBD) – 9:00 am to Noon.

16. Public Comment.

17. Adjournment.

Meeting agendas are available for download at the NCDV meeting page of the Attorney General's website:

http://ag.nv.gov/Hot_Topics/Victims/Nevada_Committee_on_Domestic_Violence_-_NCDV/ and Nevada Public Notice Website: www.notice.nv.gov. Anyone desiring the agenda or supporting materials regarding any NCDV meeting is invited to call or email the Ombudsman Nicole O'Banion 775-684-1201 NObanion@ag.nv.gov. The agenda and supporting materials may also be picked up in person at any one of the following office locations:

Office of the Attorney General – Carson City

100 North Carson Street, Carson City, Nevada 89701

Telephone: (775) 684-1100 | Fax: (775) 684-1108

Office of the Attorney General – Reno

5420 Kietzke Lane Suite 202, Reno, Nevada 89511

Telephone: (775) 687-2100 | Fax: (775) 688-1822

Office of the Attorney General – Las Vegas

555 East Washington Avenue, Suite 3900, Las Vegas, Nevada 89101

Telephone: (702) 486-3420 | Fax: (702) 486-3768

We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If accommodations for the meeting are necessary, please notify Nicole O'Banion, no later than 48-hours prior to the meeting. This Notice of Public Meeting and Agenda has been sent to all members of the NCDV and other interested persons who have requested a notice and agenda from the NCDV.

IN ACCORDANCE WITH NRS 241.020, THIS AGENDA HAS BEEN PROPERLY NOTICED AND POSTED ON OR BEFORE NOVEMBER 21, 2017 AT THE FOLLOWING LOCATIONS:

Office of the Attorney General 100 N Carson Street Carson City, NV 89701	Office of the Attorney General 5420 Kietzke Lane, Suite 202 Reno, NV 89511	Office of the Attorney General 555 E Washington Avenue Las Vegas, NV 89101
Grant Sawyer Building Main Lobby 555 East Washington Avenue Las Vegas, NV 89101	Winnemucca Convention Center 50 West Winnemucca Boulevard Winnemucca, NV 89445	Nevada Legislature 401 South Carson Street Carson City, NV 89701
Jean Nidetch Women's Center University of Nevada, Las Vegas 4505 Maryland Parkway Las Vegas, NV 89154	Safe Nest 2951 W Charleston Boulevard, Suite #12 Las Vegas, NV 89102	Nevada Coalition to END Domestic and Sexual Violence 250 S Rock Boulevard, Suite 116 Reno, NV 89502
Nevada Public Notice Website www.notice.nv.gov		Attorney General's Office http://ag.nv.gov/

Attachment One (1)

NCDV Agenda
November 28th, 2017

Contents: July 27th, 2017 Minutes

Nevada Committee on Domestic Violence (NCDV)

Meeting Minutes

Thursday, July 27th, 2017 at 10:00 a.m.

Office of the Attorney General
Grant Sawyer State Building
555 East Washington Street, Room 4500
Las Vegas, Nevada 89101

Office of the Attorney General
Mock Courtroom
100 North Carson Street
Carson City, Nevada 89701

Public Access via Tele-Conference:

1-877-411-9748

Access Code: 9890482

1. Roll Call.

a. Present

- Attorney General Adam Paul Laxalt, Chairman (Chairman Laxalt)
- Annette Scott (Scott)
- April Green (Green)
- Christine Brady (Brady)
- Cory Hernandez (Hernandez)
- Emily Troshynski (Troshynski)
- Judge Max Bunch (Judge Bunch)
- Judge Patricia Lynch (Judge Lynch)
- Karl Hall (Hall)
- Leisa Moseley (Moseley)
- Magann Jordan (Jordan)
- Marcie McMahonill (McMahonill)
- Marla Morris (Morris)
- Monsignor Gregory Gordon (Gordon)
- Moreen Scully (Scully)
- Patty Cafferata (Cafferata)
- Susan Meuschke (Meuschke)
- Suzanne Ramos (Ramos)
- Tim Hamilton (Hamilton)

b. Absent

- Angela Prindle (Prindle)
- Christopher Hazlett-Stevens (Hazlett-Stevens)
- Denise Yoxsimer (Yoxsimer)

- Dorie Guy (Guy)
- Elynne Greene (Greene)
- Kelsi Herrick (Herrick)
- Michael Wheable (Wheable)
- Robert Roshak (Roshak)
- Sergeant Blake Smith (Smith)
- Tom Ely (Ely)
- Tracy Harig (Harig)

c. Quorum established

2. Introduction of new committee members and staff

a. Chairman Laxalt wanted all members in attendance to introduce themselves because various committees have been merged. He requested that each member state their name, brief background about themselves, and the experience they bring to this committee.

b. Members who introduced themselves at meeting:

- | | |
|-------------------------|----------------------------|
| • Annette Scott | • Magann Jordan |
| • April Green | • Marcie McMahon |
| • Christine Jones Brady | • Marla Morris |
| • Cory Hernandez | • Monsignor Gregory Gordon |
| • Emily Troshynski | • Moreen Scully |
| • Judge Max Bunch | • Patty Cafferata |
| • Judge Patricia Lynch | • Susan Meuschke |
| • Karl Hall | • Suzanne Ramos |
| • Leisa Moseley | • Tim Hamilton |

c. Staff

i. Carson City

- Arlene Rivera (Rivera), DV/SA/HT Ombudsman
- Peter Keegan (Keegan), Deputy Attorney General
- Jason Mouannes (Mouannes), Administrative Assistant

d. Public

i. Carson City

- Leticia Metherell (Metherell), Health Program Manager III for the Division of Public and Behavioral Health at the Nevada Department of Health and Human Services
- Kirsten Coulombe (Coulombe), Deputy Administrator for the Division of Public and Behavioral Health at the Nevada Department of Health and Human Services

ii. Las Vegas

- Caroline Bateman (Bateman), Chief Deputy Attorney General
- Dennis Fitzpatrick (Fitzpatrick), DV Supervisor

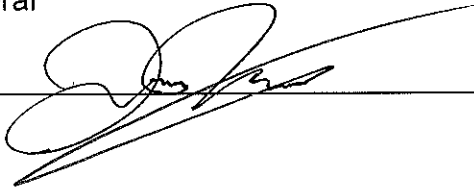
3. Public Comment.
 - a. Comment from Las Vegas
 - i. Fitzpatrick stated he has been a domestic violence supervisor in the State of Nevada for the past 15 years. He suggested two improvements to NAC 228:
 1. The unavailability of live in-person CEUs has been a catastrophe.
 2. Distance media is suggested. An in-person CEU is only available on a given day.
 - a. Allows more access to counselors wanting to continue teaching courses
 - b. If a course is good enough to be approved, it should then stay approved.
 - b. No comment from Carson City
4. **For Discussion and Possible Action:** Update by Ombudsman Arlene Rivera in regards to the transition of the combination of committees.
 - a. Rivera stated there are 30 members in this new committee. These members are made up from the former Nevada Council for the Prevention of Domestic Violence, VINE Governance Subcommittee, and the Statewide Domestic Violence Fatality Review Team.
 - b. Rivera stated Keegan would update the committee on Senate Bill (SB) 25.
 - c. Keegan stated he was counsel to the former Committee on Domestic Violence (CDV) – Batterers' Intervention Program Certification and outlined the responsibilities of the new committee.
 - i. There was a lack of funding and cohesion.
 - ii. There was a lack of budget and staffing.
 - iii. The Division of Public and Behavioral Health will be handling all future regulatory and licensing components for batterers' intervention program certifications.
 - d. Rivera made a few announcements to new members:
 - i. The Open Meeting Law (OML) applies to the Nevada Committee on Domestic Violence (NCDV).
 - ii. A new contact list was sent out to all members of the new committee.
 1. Updated contact forms were still needed from some committee members.
 - iii. Travel requests were provided to the appropriate individuals. Anyone interested in donating their miles was instructed to inform Rivera and Mouannes in advance.
 - iv. All members should have received their appointment letter and ethical standards form.
 - v. All four major committees were consolidated.
 - vi. Match forms were requested from the members.
 - e. Chairman Laxalt envisioned the next rural meeting will allow the members to review how to divide duties associated with the new committee.
 - i. Rivera clarified details about the next rural meeting.

5. **For Discussion and Possible Action:** Election of Vice-Chair, Treasurer, and Secretary for the committee.
- a. Chairman Laxalt stated members may nominate themselves or someone else for these roles.
 - b. Members briefly discussed the potential responsibilities of each officer position available.
 - c. Nominations began:
 - i. Judge Lynch motioned to nominate Ramos for Vice Chair. Chairman Laxalt asked Ramos if she was willing and able. Ramos agreed. Nomination seconded by Brady. No further discussion. All in favor. Motion passed. Ramos was nominated as the Vice Chair for the committee.
 - ii. Scully motioned to nominate Judge Bunch for Treasurer. Nomination seconded by Meuschke. No further discussion. All in favor. Motion passed. Judge Bunch was nominated as the Treasurer for the committee.
 - iii. Judge Bunch nominated Hamilton for Secretary. Hamilton respectfully declined nomination.
 - iv. Moseley was also nominated for Secretary by a committee member. She also respectfully declined the nomination.
 - v. Jordan motioned to nominate Scott for Secretary. Nomination seconded by Moseley. No further discussion. All in favor. Motion passed. Scott was nominated as the Secretary for the committee.
6. **For Discussion and Possible Action:** Members to vote between Fallon and Winnemucca for the location of the next rural meeting on October 4th and 5th according to domestic violence statistics. No further discussion. All in favor.
- a. Chairman Laxalt cited Rivera that the rural meeting dates will be changed. He stated that the proposed locations are Fallon and Winnemucca.
 - b. Members discussed recent visits from the committees to the rural locations.
 - c. Rivera indicated that the former AG Domestic Violence Fatality Review Team (AGDVFT) visited Fallon last year and the Nevada Council for the Prevention of Domestic Violence (NCPDV) visited Winnemucca two years ago.
 - d. Members discussed considering the population and transportation to each rural location.
 - e. Brady inquired about the Winnemucca Batterers' Intervention Program.
 - i. Rivera stated her Division received calls from the Winnemucca Batterers' Intervention Program in regards to potential issues in the way domestic violence cases are being handled in that specific jurisdiction.
 - f. Bateman inquired about the rural meeting dates and possible locations.
 - i. Chairman Laxalt provided clarification that the rural meeting will be the last and final meeting of this year for the Nevada Committee on Domestic Violence (NCDV).

- g. Chairman Laxalt indicated that Winnemucca was selected as the location for the next rural meeting based on the discussion and general consensus of the committee members.
7. **For Discussion and Possible Action:** Presentation by Kirsten Coulombe and Leticia Metherell, from the Division of Public and Behavioral Health, regarding the transfer and new procedures of the certification process for the Batterers' Intervention Program with the revised draft of regulations. **Attachment 1**
- a. Coulombe introduced Metherell and herself to the committee members prior to reviewing the draft regulations for the certification of batterers' intervention programs.
 - i. Coulombe stated they are responsible for all the functions and duties associated with the certification process.
 - ii. Coulombe also recognized Fitzpatrick's suggestions as insightful and valuable information.
 - iii. Furthermore, Coulombe thanked Rivera and Mouannes as the Division of Public and Behavioral Health has received all of the files for the former Batterers' Intervention Program certification committee.
 - b. Metherell began reviewing the approach taken to revise the regulations for the certification of batterer's intervention programs.
 - i. Metherell indicated the documentation of programs is continuously updated on an online database.
 - ii. Members discussed parts of the regulation that may be improved prior to finalizing draft regulations.
 - 1. Former members of the batterers' intervention program certification committee provided insight on the proposed regulations.
 - c. Chairman Laxalt encouraged members to provide feedback during public comment for sake of completing agenda in the given time period set for the meeting.
 - d. Ramos inquired about the batterers' intervention pilot programs in the rural areas.
 - i. Judge Bunch provided further details about the feedback received on these programs.
 - e. Coulombe indicated that the Division of Public and Behavioral Health will send out a one-page summary indicating all of the changes made to the regulations.
 - f. The committee members and the representatives from the Division of Public and Behavioral Health concluded the discussion on these subjects.
 - i. The status of any new programs.
 - 1. Site reviews for programs and monitoring all offenders.
 - ii. Any additional policies to regulate programs such as a potential fee implementation.
 - g. Chairman Laxalt thanked everyone for their contribution to this discussion.
8. **For Discussion and Possible Action:** Review of the "State of Nevada Domestic Violence Prosecution Best Practice Guidelines". **Attachment 2**

- a. Rivera stated, per review by Cafferata, that the "State of Nevada Domestic Violence Prosecution Best Practice Guidelines" is outdated. Rivera requested assistance by attorneys and victim advocates to help revise document.
 - i. Some members would like to volunteer while others will circulate this task request to their contacts.
 - b. Rivera stated she will send an email to construct the revision team. After reviewing the document, the individuals who are interested will be able to assess the commitment to rewriting this document.
 - i. A first draft of the document would be desirable by next meeting.
 - c. Members discussed existing document.
9. **For Discussion:** Update by member Leisa Moseley regarding the Legacy of Violence in the African American Community group on October 7th, 2017. This event will address the prevalence of domestic violence within the African American community. **Attachment 3**
- a. Moseley informed members about the forum which discusses the epidemic of violence in the African American community.
 - i. The goal is to talk all about the different types of violence in a community, which includes domestic violence.
 - ii. The information about the focus of this event is provided in Attachment 3, which is included in the meeting agenda.
 - b. Many members expressed their willingness to participate in this event and provide additional support.
 - i. Monsignor Gordon suggested addressing the role of religion in this upcoming forum.
 - ii. Brady suggested that a similar event be hosted in the North with participation of any potential partners in northern Nevada.
10. Council Member Comments.
- a. Judge Lynch suggested moving future meeting times to 9 a.m. and copies of information containing resources for victims.
11. **For Discussion:** Possible topics for next agenda and meeting dates.
- a. Update of the transfer of CAP to Child and Family Services (per request of Meuschke).
 - b. Revisit draft regulations from the Division to make recommendations and continue discussion (per request of Cafferata).
12. Public Comment.
- a. No public comment from Carson City.
 - b. No public Comment from Las Vegas.
13. Adjournment.
- a. Chairman Laxalt called for motion to adjourn. Meuschke motioned to adjourn. Motion seconded by Judge Bunch. No further discussion. All in favor. Motion passed. Meeting adjourned.

Minutes respectfully submitted by: **Jason Mouannes**
Office of the Attorney General

A handwritten signature in black ink, appearing to read "Jason Mouannes", is written over a horizontal line.

DRAFT

Attachment Two (2)

NCDV Agenda
November 28th, 2017

Contents: Nevada Committee on
Domestic Violence Brochure

Contact Us

Offices of the Nevada Attorney General

Carson City Office

100 North Carson Street
Carson City, Nevada 89701
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Las Vegas Office

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Las Vegas, Nevada 89101
P: 775-486-3420 | F: 775-486-3768

Website: <http://ag.nv.gov/>



NVAttorneyGeneral



Nevada AG



Nevada AG



**National Domestic
Violence Hotline**

1-800-799-SAFE (7233)

The Nevada Committee on Domestic Violence



By wearing a purple ribbon, you show your awareness of the problem of domestic violence, your support of the victims who are still in abusive relationships, remembrance of the victims lost, and your support for changes in laws to end domestic violence.

The Nevada Committee on Domestic Violence

Introduction

The Nevada Committee on Domestic Violence was created by Attorney General Adam Paul Laxalt as an advisory committee on domestic violence issues. In 2017, the 79th Nevada Legislative Session officially established the Committee with the passage of Senate Bill 25. This committee consolidated the Nevada Council for the Prevention of Domestic Violence (NCPDV), Committee on Domestic Violence (CDV) – Batterer's Intervention Program Certification, Victim Information Notification Everyday (VINE) Subcommittee, and AG Statewide Domestic Violence Fatality Review Team (AGSDVFRT) into the supercommittee now known as the Nevada Committee on Domestic Violence.

The Committee is chaired by the Attorney General. Membership is composed of experienced individuals from various geographic regions of the State of Nevada. Currently, the Committee maintains members representing law enforcement, the judiciary, prosecution, victim services, health care, education, and domestic violence survivors.

The purpose of the Committee is to prevent and eliminate domestic violence by:

- Increasing awareness of the existence and unacceptability of domestic violence in this State by proposing and/or renewing prevention programs;
- Make recommendations for programs for the treatment of persons who commit domestic violence and make recommendations to the Division of Public and Behavioral Health of the Department of Health and Human Services;
- Review, analyze, and suggest verbiage to proposed legislative language relating to domestic violence to the Office of the Attorney General;
- Review cases that involve the rural jurisdiction in which domestic violence fatalities occur and give recommendations to the rural area they are evaluating; and
- Evaluate changes and analyze solutions to improve the Victim Information Notification Everyday (VINE) program for which the Office of the Attorney General is the State's program manager.

Open Meeting Law

The Nevada Committee on Domestic Violence is governed by Open Meeting Law (OML).

The Nevada Open Meeting Law (OML) was enacted in 1960 to ensure that the actions and deliberations of public bodies be conducted openly. Open meeting law requires:

- All meetings of public bodies be open and public, and all persons must be permitted to attend any meeting of these public bodies.
- A public body give three work days' notice to the public of a meeting, with the time and place of the meeting and an agenda.
- Time to allow public comment at the beginning and end of an agenda.
- Copies of materials be provided.
- Minutes of public meetings be retained and posted for public record.
- The Attorney General investigate violations of Open Meeting Law.

For additional information, see the full text of the OML set forth in chapter 241 of the Nevada Revised Statutes (NRS).

Attachment Three (3)

NCDV Agenda
November 28th, 2017

Contents: Direction of the New Committee 2017

Direction of the New Committee 2017:

- **How are we going to operate and have accountability? Are we going to break into work groups? (General question from all Members)**
- Review and amend committee regulations to comport with statutory changes. (Patty Cafferata)
- How are we going to do Fatality Reviews? (April Green & Judge Bunch)
 - No Case for 2017.
 - Need to review and approve Fatality Review Procedures.
- How are we going to lower? Would like to see more money put into a prevention campaign i.e. precursors for DV & getting help before it escalates. (Cory Hernandez & Karl Hall)
- Decide what we want to do about the laws. What legislation is coming for 2019? (Dorie Guy & Megann Jordan)
- Rural areas need services if they are being ordered i.e. online services, video conferencing from CT Houses with staff to verify identity of participants. (Judge Bunch)
This will be addressed with the Item 9 Update.
- Expand focus to offenders, services and education opportunities for perpetrators as a means to stop further offense in future relationships. Not just servicing the victims which is incident oriented and not problem solving. (Leisa Moseley)
- What practical things can be done for survivor's independence, education, housing etc.? Crisis with losing beds where can new ones be added? (Magann Jordan)
- "Ideally, I would like to see more resources for victims and batterers in the rural areas. I know in Fernley, the Judge gives batterers the privilege of attending anger management in lieu of the mandated batterers' intervention treatment, which is useless for the victims' future security and lacks the necessary education and training for batterers. Also, Lyon County and others desperately need victims' shelters and more advocates, both in the justice system and in the social work arena. The rural counties are just underserved and under educated regarding domestic violence." (Mo Scully)
- **Homicide Reduction** should be the priority focus for the Committee. Since Nevada continues to have a high rate of domestic homicide I think that the Committee on Domestic Violence should

take a leadership role in addressing this issue and in turn can address the requirements for the Committee to do that:

Batterer's Intervention

- The Committee is tasked with reviewing and recommending approval for new applicants. This isn't an easy or light task. I would think that the Committee should establish a sub-committee to do the actual review and then make recommendations to the larger committee. I am not sure who on the current committee has the expertise but something to find out about. I am assuming you will be the liaison between the DPBH and the Committee to make this happen.

Fatality Review

- I would think that updating and retraining the fatality review team would be another important task. Dr. Websdale from Northern Arizona University and the National Domestic Violence Fatality Review Institute provided the initial training and has a great deal of information and resources on the subject.

Law Enforcement Training

- I think this should be a focus for the Committee. Given the role of the AG as the chief law enforcement officer this should be a priority. We have had presentations from the Director of POST and I know that they are working on updating their training curriculum but don't know where either Washoe or Clark County are in terms of training officers on DV. The ombudsman has also brought in outside experts to do advanced training for Law Enforcement.

Prosecution and Judicial Response

- These topics should also be a priority for the Committee.

(Susan Meuschke)

Attachment Four (4)

NCDV Agenda
November 28th, 2017

Contents: Investigating Domestic Violence
Crimes in Nevada



Investigating Domestic Violence Crimes in Nevada

*Take an
Extra Minute...
YOU can make all
the difference*



University of Nevada
Cooperative Extension

SP-13-04

Investigating Domestic Violence Crimes in Nevada

Take an Extra Minute... YOU can make all the difference

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John Butler, Nevada Department of Public Safety Parole and Probation

Casey Ryan, Washoe Tribe Police Department

ACKNOWLEDGEMENTS

The authors would also like to thank the domestic violence advocates and agencies who have provided input into the writing of this field guide.

City of Fallon Police Department

Churchill County Sheriff's Department

Coker Training & Associates

Ron Oden Design & Illustration

Churchill County District Attorney

Churchill Community Coalition

Churchill County Board of County Commissioners

Heart & Shield logo used with permission by J&K Graphics, Fallon, NV



University of Nevada
Cooperative Extension


SP-13-04

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About This Field Guide



Nearly one-third of all women murdered in the United States in recent years were killed by a current or former intimate partner. Sadly, for the third year in a row, Nevada ranks No. 1 in the rate of women killed by men, and ranks second in the nation for women who have experienced rape, physical violence and/or stalking by an intimate partner. Research indicates that how law enforcement officers respond to a domestic violence call can impact the ability of the victim to successfully leave the abuser and the success of the remaining family unit. In 2009, the University of Nevada Cooperative Extension began collaborating with experienced law enforcement officers to train officer cadets in optimal response strategies to domestic violence. Officers/cadets who attended this initial training identified the need for a document that could be used in the field to help guide officers to respond appropriately to a domestic violence incidence. In response to this identified need, law enforcement officers and educators co-wrote this field guide to serve as a reference in support of law enforcement in the field. The guide was specifically formatted in a concise manner that makes it portable and easy to use in the field, and follows the Nevada Revised Statutes, which govern domestic violence response in the state of Nevada. This field guide is divided into topic areas officers identified as critical that can be reviewed before, during and after a domestic violence incident, providing officers with information and resources. Please refer to the Table of Contents for a complete listing of topics covered in this field guide.



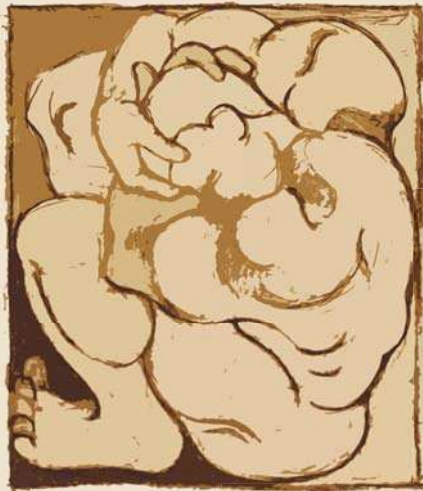
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Approaching the Scene

- Consider threat level
- Wait for backup, if possible
- Park out of sight from the scene (not in front)
- Observations
- What did you see and hear
- What's relevant to the scene and evidence
- Make written and/or mental notes for report
- Be aware of lighting conditions
- Cautious approach minimizes the level of risk
- Assess cover/concealment
- Assess structure/scene
- Obtain pertinent information from dispatch

(ALWAYS assume weapons are involved)



Officer Safety

On Scene

- Individuals are expecting the officer to arrive
- Greater likelihood of firearms
- Familiarity may lead to complacency
- Holidays, celebrations, religious fests can lead to increased drinking, crowds and higher states of agitation
- Officers need to plan prior to arrival
- Increased dangers on repeat calls



On Scene Arrival

Dark House, No Answer

Exigent circumstances are necessary to enter the home without a warrant or consent. If relying on exigent circumstances, consider:

- 911 or non-emergency call
- Background noise during call
- Nature of complaint
- Neighbors
- Vehicles on scene
- Scene observations
- Condition around house
- Visual through windows

Not all inclusive. If you enter using exigent circumstances, justify and articulate this in your report. Your right to be there only lasts as long as the exigent circumstances occur.

On Scene Arrival

Victim or Suspect Answers

On Scene

Investigate further - Do NOT assume there is "no problem"

for exigent circumstances, consider:

- Totality of circumstances
- Other potential victims
- Calls (nature of)
- Noise in background
- Demeanor and body language
- Observations of the scene

Investigate further. Do NOT just assume that there is "no problem." If denied entry, you may still develop probable cause for an arrest. Probable cause does not necessarily give you the right to enter. Wait for backup if necessary.

****Officer Safety First****

Search Warrants:

- If the suspect has reasonable expectations of privacy, get a search warrant
- When in doubt, get a search warrant
- A crime scene search may be made without a warrant if:
 - It is an emergency
 - Legal consent is obtained
 - The scene is a public place

On Scene

- Assess and secure the safety of the scene
- Restore order, if needed
- Determine the need for medical attention
- Identify victim and suspect and document their relationship
- When possible, prevent communication between the individuals
- Determine location of crime and jurisdiction

Nevada law requires you to make an arrest if:

1. You have probable cause that a domestic battery has occurred within the previous 24 hours
2. If you determine that both parties used force, then you must try to determine the primary aggressor

Source: NRS 171.137

Once the Scene is Safe...

Primary Checklist

- Request medical... ALWAYS in strangulation cases ☐
- Determine and document relationship ☐
- Document and photograph: scene, suspect and victims ☐
- Document any injuries observed and/or claimed ☐
- Document evidence of alcohol or drug use ☐
- Request voluntary PBT or urine samples, if appropriate ☐
- Document presence of children, their ages and demeanor; photograph and document any injuries ☐
- Document spontaneous statements and emotional state of EVERYONE, especially the victim ☐
- If possible, interview involved persons in front of the vehicle for video or make other arrangements to videotape statements ☐
- Schedule time with victim to obtain follow-up photos ☐

(Continued on page 7)

On Scene

Checklist

(Continued from page 6)

- Request medical release from victims ☐
- Consider other possible crimes to charge (stalking, kidnapping, destruction of property, etc.) ☐
- Obtain physical evidence from the scene and hospital ☐
- Locate and identify other witnesses – neighbors, children, other family members and medical personnel ☐
- Request criminal history and local information for involved persons ☐
- Request 911 recording and log into evidence ☐
- Obtain booking photo and phone calls from jail ☐
- Offer to call domestic violence advocate to scene after secure ☐
- Contact on-call Deputy District Attorney, if necessary ☐
- Document the incident even if an arrest did not occur ☐



Crime Scene

- Consent search, plain view, search warrant? Which?
- Observe entire scene/overview
- Supporting evidence
- Weapons
- Torn clothing
- Blood spatters
- Broken items
- Push redial on phone
- Take “too many” photographs

Follow-up Investigation

Evidence

- 911 tape
- Follow-up photographs: suspect, victim and crime scene
- Collect clothing
- Collect and photograph all weapons used
- Incident report
- Collect electronic and cyber evidence
- Collect court records of prior convictions, police reports and call logs of prior convictions
- Copies of orders of protection
- Copies of court orders, i.e. divorce decrees or filings, child custody, etc.
- Obtain criminal histories
- Obtain any stalking or criminal harassment information
- Document any electronic evidence– cell phones, messages, emails
- Supplemental reports from all other officers

Checklist



Complete Your Investigation

Restore Order

Determine if a Crime Has Been Committed

Refer for Help

Victim

- Document signs of abuse—physical, verbal and nonphysical
- Record contact information, including cell phones
- Get a signed medical release
- Take a detailed statement of the incident
- Observe and document physical appearance to support victim's statement
- Document history of abuse, current and past protective orders
- List of confidants
- Offer available services

Suspect

- Describe suspect in detail, including injuries
- Interview suspect before arrest
- Observe and document suspect's interaction with, and references to, victim
- Ask suspect, if interested, to write a letter of apology (statement)
- If suspect is in custody, advise Miranda Warning before questioning

Witness(es)

- Interview witness(es) separately and privately
- Record contact information, including email address
- Obtain names and record contact information on emergency personnel
- Identify hospital personnel who provided treatment
- Obtain written statements from everyone

***Understand HIPPA/FERPA*

Domestic Violence

- A pattern of physical, sexual and/or emotionally abusive behaviors
- Used by one individual to control, exert power over and manipulate another
- In the context of an intimate or family relationship

***This includes same-sex relationships*

Investigation

Domestic Violence



Domestic Violence

NRS 33.018 Acts, which constitute domestic violence.

1. Domestic Violence occurs when a person commits one of the following against or upon the person's spouse or former spouse, any other person to whom the person is related by blood or marriage, any person with whom the person is or was actually residing, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person's minor child or any other person who has been appointed the custodian or legal guardian for the person's minor child:
 - a. A battery (****see note on page 12*)
 - b. An assault
 - c. Compelling the other person by force or threat of force to perform an act from which the other person has the right to refrain or to refrain from an act which the other person has the right to perform
 - d. A sexual assault
 - e. A knowing, purposeful or reckless course of conduct intended to harass the other person. Such conduct may include but is not limited to:
 1. Stalking
 2. Arson
 3. Trespassing
 4. Larceny
 5. Destruction of private property
 6. Carrying a concealed weapon without a permit
 7. Injuring or killing an animal
 - f. A false imprisonment

- g. Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonable risk of harm to the other person from the entry

2. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by association between persons in a business or social context.

(Added to NRS by 1985, 2283; A 1995, 902; 1997, 82, 1275)

****Note:** NRS 200.481(a): "Battery" means any willful and unlawful use of force or violence upon the person of another.

Domestic Violence



g. Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonable risk for harm to the other person from the entry.

2. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

(Added to NRS by 1985, 2283; A 1995, 902; 1997, 82, 1275)

****Note:** NRS 200.481(a): "Battery" means any willful and unlawful use of force or violence upon the person of another.



Anyone
can be a
victim... or...
an **abuser.**
The outward
appearance
may not be the
truth.



Forms of Domestic Violence

- Physical
- Sexual
- Verbal
- Psychological
- Emotional

Domestic Violence

Physical abuse is easy to observe and document.
Other forms require observation, understanding
and questioning.

As the cycle of abuse continues, the abuse may esca-
late. Once the abuse turns physical, there are only

3 possible outcomes:

1. One party leaves (rarely)
2. Violence stops (not likely)
3. Death

Strangulation

- NRS 200.481 Battery: Definitions; penalties:
- (h) "Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person in a manner that creates a risk of death or substantial bodily harm.
- 2. Except as otherwise provided in NRS 200.485, a person convicted of a battery, other than a battery committed by an adult upon a child which constitutes child abuse, shall be punished:
- (b) If the battery is not committed with a deadly weapon, and either substantial bodily harm to the victim results or the battery is committed by strangulation, for a category C felony

■ Questions to ask

- Did suspect strangle you? If answer no, then ask:
Did he put his hands or an object on your neck?
- If used hands – did he use one or two hands?
- If object – what did he use?
- How long did the suspect strangle you?
- How hard did the suspect grab your throat?
- Were you shaken at the same time?
- Show me how
- Prior incidents of strangulation? How many?
- Any pre-existing neck injuries? Did suspect know about it?
- Was the suspect wearing rings?
- What did the suspect say while strangling you?
- Describe the suspect's demeanor

Strangulation

■ Other things to remember

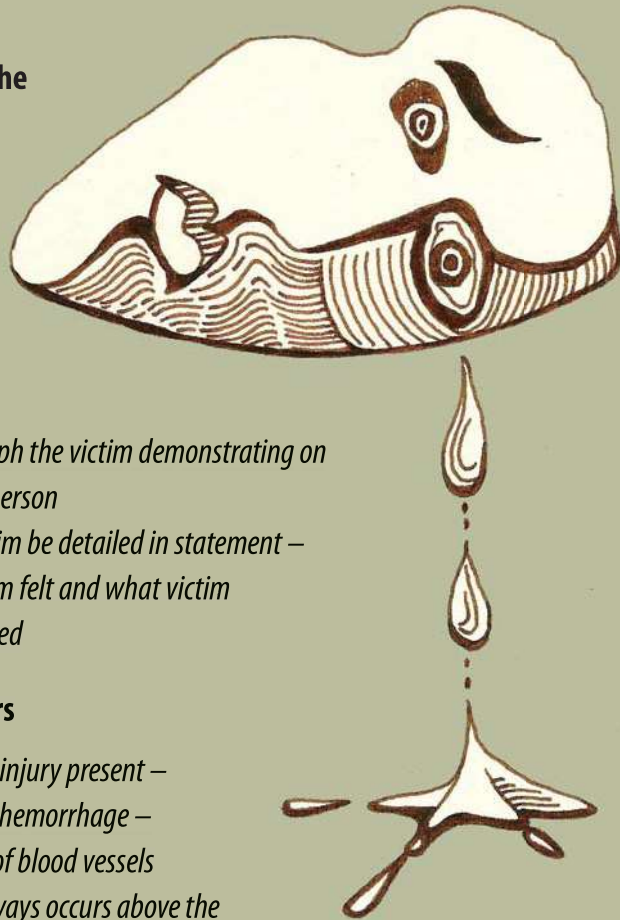
- Take follow-up photographs 1-3 days later
- Collect the ligature and photographs

Document the assault

- Photograph the victim demonstrating on another person
- Have victim be detailed in statement – how victim felt and what victim experienced

Other Factors

- Potential injury present –
 - petechial hemorrhage –
 - bursting of blood vessels
 - Always occurs above the point of strangulation
 - Red dots potentially visible on neck, eyelids, inside of mouth, ears and whites of the eyes
- Get the ligature - DNA evidence



■ Document the signs and symptoms

- Neck pain
- Sore throat
- Scratch marks
- Hoarseness
- Loss of voice
- Difficulty swallowing
- Light headed or headrush
- Fainting or unconsciousness
- Nausea or vomiting
- Loss of bodily function
- Neck swelling
- Chin abrasions
- Cuts on throat

Strangulation

Even if no signs of injury:

- Call EMS – Potential internal injury – can be fatal and not readily apparent
- Underlying brain damage due to lack of oxygen during strangulation – known to cause death weeks later

Special Strangulation Issues

Choking v. Strangulation

- Choking – **internal** obstruction of airway
- Strangulation – form of asphyxia characterized by closure of blood vessels and air passages of the neck as a result of **external** pressure

Types of Strangulation

- Hanging – almost always suicide
- Ligature – homicide if death results
 - Manual
 - Hands
 - Forearms
 - Standing or kneeling on the neck

Strangulation is...

- Very difficult to prove if does not result in death –
 - in most cases there are no external injuries noted
 - Lack of injury does not mean minor
 - Proving homicide – a lot of injuries present at autopsy – probably exist in cases that do not lead to death, but manifested as internal injuries

Exigent Circumstances

****You may not enter the house unless you have****

1. A search warrant,
2. Consent, or
3. Exigent circumstances

The Fourth Amendment states:


...“The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall, but upon probable cause, supported by Oath or affirmation, and particularly describing, the places to be searched, and the persons or things to be seized.”

Strangulation

Exigent Circumstances

Important: If you are relying on exigent circumstances to enter the house, you need to be able to justify and articulate the justification for your entrance.





Tips to Determine the PRIMARY AGGRESSOR

- Visual complaint of pain or injury
- Witness statements
- Excited utterances
- Prior history of violence
- Prior calls for service
- Relative size of individuals
- Severity of injuries
 - Older, unaccounted for injuries
 - Self-defense
 - Pet abuse
 - Other signs or types of abuse
- Primary aggressor does not necessarily mean initial
- Primary does not mean first or worst, but the totality of circumstances
- Victims are not always female, and primary aggressors are not always male

Use ALL information available to make the determination

If the Abuser Has Left the Scene

- Get a description of the suspect
- Attempt to locate
- Prepare an incident report
- If probable cause exists, continue the investigation
- Mandatory arrest within 24 hours if abuser is located
- Seek arrest warrant for the offender
- Offer victim services information
- Assist the victim to get a protective order
- Notify other units and agencies
- Take pictures of any injuries to the victim and any witnesses
- Contact any possible witnesses to present or past incidences

Tips





Tips for Interviewing Victims

- While you must control the scene – remain calm
- Realize that authority figures may scare the victim and family members
- Realize that the victim and children may be conditioned by the abuser not to talk to law enforcement
- If children are present, secure them in an adjacent location and interview victim away from children
- Talk to victim before the suspect
- Interview victim out of earshot and out of sight of the suspect
- Reassure victim that you will listen to what victim has to say
- Acknowledge that you are concerned for the victim and the family's safety
- Offer victim services information and offer to call advocate
- Be patient – telling the story of abuse may cause the victim to relive the abuse
- Record interview
- Question all statements by the victim that injuries were caused by an accident
- Tell the victim NEVER to hesitate in calling the police for help; remind the victim that the victim is not bothering the police by calling
- Remind victim that another officer may respond to further calls and may need to ask similar historical questions
- Track family violence cases to identify repeat offenders
- If the victim indicates that there are other victims, contact the other victims
- Review all past reports, even if they were cleared by patrol
- Investigate all stalking complaints

Interviewing Victims and Assessing Risk for Lethality

Some victims can leave and never be troubled by the batterer again; others must go to the extreme of moving across the country and changing their identity. Most battered victims fall somewhere in between. Use the following questions to help determine the possible lethality risk and help the victim make plans. REMEMBER, battered victims are usually the best authority on their own safety.

- Are you afraid to talk to the police? If so, why?
- Please describe in detail what happened.
- Has this every happened before?
(Ask italicized questions if abuse has happened in the past)
 - *If yes, how often does it happen?*
 - *When was the first time?*
 - *What was the worst incident?*
 - *When did it occur?*
 - *When was the last time?*
 - *Has the physical violence increased in frequency or severity over the past six months?*
 - *Has he/she used a weapon or threatened you with a weapon?*
 - *Has the batterer ever been arrested before for violence against you or another member of the household?*
 - *Have you ever been treated by a doctor or hospitalized for injuries inflicted by the batterer that was not reported to the police?*
 - *Is there now, or has there ever been, any protective/restraining orders in effect?*
- Is the batterer on probation or parole?
- Have you talked to friends/family about incidents not reported to the police?

Tips

(Continued on page 25)

Interviewing Victims and Assessing Risk for Lethality

(continued from page 24)

- Has the batterer ever forced you to have unwanted sex?
- Does the batterer use drugs or drink excessively; if so, how often?
- Has the batterer threatened to kill you?
- Do you believe the batterer is capable of killing you?
- Does the batterer control most or all of your daily activities?
(For instance, does the batterer tell you who you can be friends with, how much money you can take with you shopping, or when you can take the car, etc.)
- Have you ever been beaten by the batterer during a pregnancy?
- Is the batterer violently and/or constantly jealous of you?
- Has the batterer ever threatened or tried to commit suicide?
- Has the batterer threatened to harm you or your children?
- Is the batterer unemployed?
- Do you currently have another (different) intimate partner?
- Does the batterer follow or spy on you, leave threatening notes, destroy your property and/or make unwanted calls to you?
- What are your immediate concerns for you and your family?
- What do you feel you need to do?
- What are your fears for the future?
- Can I help you contact your family or friends?

Tips for Interviewing the Suspect

- Talk to the victim first
- Interview suspect out of earshot and sight of the victim
- Watch body language and subtleties toward victim
- Record interview
- Get and keep suspect talking
- Not necessary to get a confession
 - Lock suspect into story
 - Document the lie
- Ask suspect if they want to write a letter of apology
- Get as much information about suspect as possible, such as the suspect's criminal history, prior to interviewing

Tips



Investigations Involving Children

- You never know what children may have seen or heard

TALK TO THEM

- Communicate on their level, in a comfortable setting
- Tone of voice
- Place child in comfort zone (stuffed animal, safe location)
- Ask child to draw a picture for you
- Document emotional state
- Document appearance
- Understand cognitive level based upon age, situation and ability
- Explain to child that it is okay to call the police
- Inform DCFS of incident involving children, even if the children are not the victims
- If the child is on probation, contact JPO IMMEDIATELY before questioning
- Beware of leading questions



Dual Arrest

- Dual arrests should be avoided
- Arresting both individuals creates a criminal history for the victim
- In most cases, the victim is denied eligibility for victim's crime compensation
- When a victim is arrested, prosecutors and advocates are often precluded from speaking with the victim or calling the victim as a witnesses due to Fifth Amendment restrictions

If you **MUST** make a dual arrest...

- Determine that two separate batteries occurred, separated by time and space, with a period of calm behavior between each
- Separate reports should be made for each arrest
- Consider evidence limitations . . .Fifth Amendment restrictions may prevent either party being called as a witness in either case

Tips

However.....

- Arresting both parties does little in breaking the cycle of violence
- The true victim may never call the police again in fear of being arrested
- Dual arrests may empower the batterer
- Dual arrest may lead to more abuse



Evidence-based Prosecution

- Because it is the prosecutor that decides whether to indict a perpetrator of domestic violence and not the victim, officers should strive to collect sufficient corroborating relevant evidence to minimize the testimony of the victim



Stalking is Domestic Violence

Tips

Could include any behavior designed to harass or intimidate the victim

- Threats
- Violation of protective orders
- Vandalism
- Burglarizing the victim's home
- Identity theft
- Cyber stalking
- Other intimidating behavior

Stalking

Stalking

- Without lawful entry (watch the First Amendment)
 - Officers doing their job
 - Court order authorizes conduct
 - Protectors picketing
- Course of conduct that would make a person feel
 - Terrorized
 - Frightened
 - Intimidated
 - Harassed
- Requires
 - Reasonable person would feel this way when confronted
 - Victim must actually feel this way

Aggravated Stalking

- If in the commission of crime of stalking, suspect causes the person to be placed in reasonable fear of death or substantial bodily harm
 - Then it is a Class B Felony

Jurisdiction for Stalking

- Jurisdiction is where the conduct occurred AND/OR where the person affected by the conduct was located at the time the conduct occurred
- Suspect could be prosecuted in both jurisdictions



Stalking Punishments

- First Offense – Misdemeanor
- Second Offense – Gross misdemeanor
- Aggravated – B Felony (2-15 years)
- Use of Internet – If suspect uses Internet, network site or email to publish, display or distribute information in a manner that substantially increases risk of harm to the victim – C Felony (1-5 years)

Handling Electronic Evidence

- Contact individual website for their policies within 24 hours
- Send a preservation letter
- Work with prosecutor to prepare necessary paperwork
- Seize cell phone as evidence, if justified, or at a minimum, photograph messages/call logs, and consider recording voice messages

Federal Firearms Prohibitions

- 18 U.S.C. 922(b) Federal Protective Orders (lead agency FBI)
- 18 U.S.C. 822(g)(9) prohibits gun or ammunition possession by anyone with qualified misdemeanor conviction (lead agency ATF)


Nevada Firearm Prohibition

- It is a violation of a federal law for anyone with a domestic violence conviction to possess a firearm



Electronic Evidence

Firearms Prohibitions



To Reduce the Risk of Police Liability

- Understand your state and local laws regarding domestic abuse
- Understand your agency's policies and procedures and follow them in every case
- Supervise carefully to assure procedures are followed
- Investigate cases thoroughly
- Follow arrest procedures, when warranted, according to your state and local laws and department procedures
- Provide information as required by NRS 171.1225



Investigating Police Personnel

Criminal Investigations

- Refer to outside agency pursuant to policy if suspect or victim works within your agency
- Treat the investigation the same as any other investigation

Liability

Investigating Police

Orders of Protection

■ Full Faith and Credit 18 U.S.C 2365

- Requires that valid orders of protection must be enforced regardless of where the order was issued
- Officers are not required to know the laws of the issuing jurisdiction in order to enforce the order of protection
- NRS 33.075 – You **MUST** enforce a foreign order if it is valid on its face

Three-prong Test for Enforcement of a Protective Order

1. Is the order valid? Is it a signed, filed copy?
2. Does it list:
 - Applicant
 - Adverse party
 - Specific restrictions
 - Specific terms
 - Effective dates
 - Judge's signature from correct jurisdiction
 - Name of issuing court
3. Has the order been served to the defendant?

If the order has not been served, and you can verify its validity, you need to serve it



For Additional Reference

NRS 200.485	Battery which constitutes domestic violence
NRS 200.481	Battery
NRS 33.018	Acts which constitute domestic violence
NRS 33.085	Enforcement of foreign restraining orders
NRS 171.1225	Victim's rights form
NRS 171.1227	Mandatory written report for domestic violence
NRS 171.137	Mandatory arrest
NRS 174.484	12-hour hold
NRS 200.581	Stalking jurisdiction
NRS 126.031	Custody of child born out of wedlock

■ Unwed mothers

- Unless Court has ordered otherwise, the mother has primary custody if she has not married the father of the child

■ Unwed fathers

- If the mother has abandoned the child to the custody of the father, and
- The father has provided sole care and custody of the child in her absence, then the father has custody

- ❖ Abandoned means failed, for a continuous period of not less than six weeks, to provide substantial personal and economic support

For Additional Reference

NRS 200.485	Battery which constitutes domestic violence
NRS 200.481	Battery
NRS 33.018	Acts which constitute domestic violence
NRS 33.085	Enforcement of foreign restraining orders
NRS 171.1225	Victim's rights form
NRS 171.1227	Mandatory written report for domestic violence
NRS 171.137	Mandatory arrest
NRS 174.484	12-hour hold
NRS 200.581	Stalking jurisdiction
NRS 125C.0015	Parents have joint custody until otherwise ordered by court
	<ul style="list-style-type: none">▪ The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents▪ If a court has not made a determination regarding the custody of a child, each parent has joint legal custody and joint physical custody of the child until otherwise ordered by a court of competent jurisdiction.
❖	Abandonment means failed, for a continuous period of not less than six weeks, to provide substantial personal and economic support; or knowingly declined, for a continuous period of not less than six months, to have any meaningful relationship with the child

Domestic Violence Guide References/Resources List

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Nevada Revised Statutes

- NRS 200.485 Battery which constitutes Domestic violence, <http://www.leg.state.nv.us/NRS/NRS-200.html>
- NRS 200.418 Battery, <http://www.leg.state.nv.us/NRS/NRS-200.html>
- NRS 33.018 Acts which constitute domestic violence, <http://www.leg.state.nv.us/NRS/NRS-033.html>
- NRS 33.085 Enforcement of foreign restraining orders, <http://www.leg.state.nv.us/NRS/NRS-033.html>
- NRS 171.1225 Victim's rights form, <http://www.leg.state.nv.us/NRS/NRS-171.html>
- NRS 171.1225 Mandatory written report for domestic violence, <http://www.leg.state.nv.us/NRS/NRS-171.html>
- NRS 171.127 Mandatory arrest, <http://www.leg.state.nv.us/NRS/NRS-171.html>

- NRS 178.484 12-hour hold, <http://www.leg.state.nv.us/NRS/NRS-178.html>
- NRS 200.581 Stalking jurisdiction, <https://www.leg.state.nv.us/NRS/NRS-200.html>
- NRS 126.031 Custody of child born out of wedlock, <http://www.leg.state.nv.us/NRS/NRS-126.html>

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ATF - Bureau of Alcohol, Tobacco, Firearms and Explosives

JPO – Juvenile Probation Officer

DCSF – Division of Child and Family Services



Attachment Five (5)

NCDV Agenda
November 28th, 2017

Contents: Building Hope for the Future:
A Family Violence Prevention Program

Having fun together

Group activities and Family Night

Out events provide opportunities for parents and kids of all ages to have fun together, learn positive skills for family interaction and encourage curiosity and imagination.



Building hope for the future

"The different topics helped my family grow closer and healthier together."

Heart and Shield participant

For more information, please contact:

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An EEO/AA institution



University of Nevada
Cooperative Extension

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Heart & Shield logo used with permission
by J&K Graphics, Fallon, NV

Building hope for the future



A family violence prevention program

for families who have previously experienced domestic violence

Building strong families.

Moving forward.

Learning new skills.

Having fun together.

Encouraging positive relationships.

Connecting with others.

Planning for a positive future.

Planning for a positive future.

Parent survivors and their children who have experienced domestic violence gain skills to strengthen their family.

Moving forward.

Parents learn to actively listen and communicate with family members, reduce stress, calmly solve problems, maintain healthy relationships and guide children, youth and teens.

Connecting with one another.

Families engage in fun activities to help build supportive networks, learn about community resources and make new friends with other families in the program.

Building strong families.

Families engage in nurturing and trust-building activities that encourage positive family interactions.



Encouraging positive relationships.

Children, youth and teens participate in activities geared for their age. Children, birth to 3 years, play, read books and sing together. Children, ages 4-8 years, learn about feelings, solve problems and play with new friends. Youth, ages 9-12, and teens, ages 13-18, learn to communicate respectfully, use tools to calm down, make good decisions and build healthy relationships.



Learning new skills.

Kids learn to recognize and manage feelings, build positive friendships, make good decisions, care about others and solve problems.



Attachment Six (6)

NCDV Agenda
November 28th, 2017

Contents: Domestic Violence Proposed
Regulation Summary

and

Domestic Violence Committee Check List

Domestic Violence Proposed Regulation Summary

- Allows for electronic submission of applications.
- Adds a few more requirements to the initial certification application such as Nevada business identification number unless exempt by Secretary of State's office and owner information.
- Requires that a program director be identified and establishes the director's qualifications and duties.
- Updates training requirements.
- Changes the initial application approval process from the Committee to having the Committee provide recommendations to the Division of Public and Behavioral Health regarding new domestic violence programs.
- Removes the requirements that CEU's must be obtained partially in person and allows CEU's to be completed entirely online.
- Removes the ability to renew a provisional certificate from two times to only one 18 months provisional certificate without the ability to renew.
- Describes the disciplinary action that can be taken for failure to comply with regulatory and statutory requirements.
- Models the inspection and complaint processes on the Bureau of Health Care Quality and Compliance's facility processes.
- Repeals the hearing/appeal processes in the current regulations and replaces them with the processes outlined in NAC 439.300 to NAC 439.345.
- Reduces the group counseling session size from not more than 24 offenders to not more than 16 offenders with an annual average of not more than 12 offenders per session.
- Allows an offender that resides more than 70 miles from the nearest program to attend counseling sessions by electronic media, if certain criteria are met.
- If an offender cannot pay for a program, despite use of a sliding scale, the program may require the offender to take the corresponding amount of community service equal to the length of the class he or she would take with the program.
- Requires a program to evaluate each offender to see if he or she would benefit from individual sessions and if it is determined that the offender would benefit, the program is to ensure the offender is provided individual counseling on a frequency determined by the provider of treatment.

NOTE: The above provisions are subject to change as the proposed regulations undergo the regulatory process.

Committee on Domestic Violence Responsibility for Domestic Violence Certified Treatment Programs

The Division of Public and Behavioral Health (DPBH) has taken over all responsibilities regarding the certification of domestic violence treatment programs. The only responsibility the Committee has is to review new domestic violence treatment programs and provide any recommendation to the DPBH regarding the new program.



**Nevada Department of
Health and Human Services**
DIVISION OF PUBLIC AND
BEHAVIORAL HEALTH

BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE

DOMESTIC VIOLENCE COMMITTEE RECOMMENDATIONS TO DIVISION FOR NEW DOMESTIC VIOLENCE PROGRAM

Program Name: _____ Location of Program: _____

Brief Description of Program's Services: _____

Division's Review of Program

Initial Application Requirements	Met	Not Met	Comments
Qualified Supervisor			
Qualified Provider of Treatment			
Submitted a Copy of the Curriculum & Instructional Materials Used in the Program			
Attests to/evidence of satisfying requirements of NAC 228.010 to NAC 228.225			

Recommendations of Committee: _____

☐ The Committee recommends the Division approve the program as presented.

☐ The Committee recommends the Division approve the program with Committee's recommendations.

☐ The Committee does not recommend the Division approve the program.

If the Committee recommends program not be approved, list reasons: _____

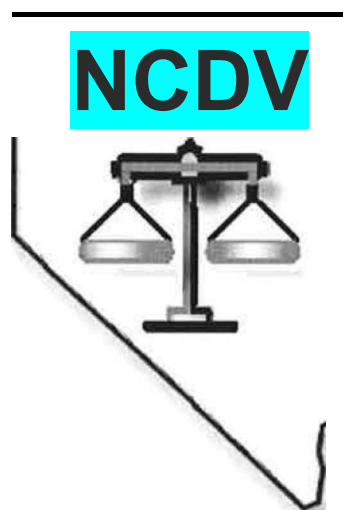
Name of Division Representative: _____ Date Heard by Committee: _____

Attachment Seven (7)

NCDV Agenda
November 28th, 2017

Contents: State of Nevada Domestic Violence
Prosecution Best Practice Guidelines

STATE OF NEVADA



DOMESTIC VIOLENCE PROSECUTION BEST PRACTICE GUIDELINES

As adopted on November 28, 2017

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I. INTRODUCTION

A. Purpose of Guidelines

The purpose of these guidelines is to provide a set of best practices for all levels of domestic violence prosecutions for the State of Nevada in the hope that they will be adopted in whole or in part by all agencies which have the prosecution of crimes of domestic violence as part of their duties to the community.

These guidelines are based upon the premise that domestic violence is criminal conduct. Prosecutors have the responsibility to prosecute these cases as aggressively as they do any other violent crimes. The public has a critical interest in reducing the number of incidents of domestic violence, as domestic violence tends to escalate in severity and frequency, and, unchecked, can lead to homicide.

Successful prosecution of crimes of domestic violence requires specialized techniques designed to protect the victim from retaliation by the perpetrator, allay the victim's fears of the criminal justice system, and to encourage her cooperation with the prosecution.¹ Adherence to these guidelines should help prosecutors to be more effective and ultimately further the goals set forth below.

B. Goals of Prosecution

The goals of prosecution in domestic violence cases are:

1. To protect the victim from additional acts of violence committed by the perpetrator;
2. To reduce the exposure and/or possible injury to children or other family members from domestic violence;
3. To deter the perpetrator from committing continued acts of violence in the community and hold him accountable for his actions;
4. To create a general deterrence to domestic violence in the community; and
5. To serve justice.²

NOTE: Victims and advocates may not necessarily share all these goals, and may have their own objectives separate and distinct from those of the prosecutor. For

¹ Throughout these guidelines, the victim is referred to in the feminine gender, because of the fact that in the overwhelming majority of domestic violence cases, the victim is female and the perpetrator is male. These policies should apply equally to male victims.

² These guidelines are not intended for prosecution of domestic violence victims who injure or kill their abusers in self defense. Prosecutors should be extremely careful in assessing assaults on men by their female partners to determine if the woman was acting in self defense based on the circumstances surrounding the incident and any past history of violence against her.

example, a victim may want the violence to stop, but to continue in a relationship with the perpetrator, while the prosecutor may want the perpetrator incarcerated. Prosecutors should take care to elicit the victim's objectives and to take them into consideration so as to formulate appropriate goals for each individual prosecution.

C. Definition of Domestic Violence

Domestic violence is defined by the relationship of the victim to the perpetrator, not by the acts committed. These relationships generally include current or former family or other household members, individuals who are related by blood or by shared biological parenthood, their own minor child, the child of one of the persons described above, or a child in the care or custody of the persons described above, sexual or intimate partners (including same-sex partners), and any qualified dating relationship. See NRS 33.018.

Although the prosecutor may be facing a single incident, such as domestic battery, domestic violence generally represents a pattern of behavior. This pattern can take many forms, all of them involving physical violence or threats of physical violence. The pattern almost always includes emotional, sexual, and economic abuse as well. The perpetrator's goal in committing these crimes is to obtain and maintain power and control over the victim. The violence may be accomplished with the use of hands, feet, weapons, or other objects. Injuries inflicted on the victim may be as serious as those inflicted in violent felonies. Some examples of felonies committed in a domestic violence context include assault with a deadly weapon, battery with a deadly weapon, battery causing substantial bodily injury, aggravated stalking, kidnapping, child endangerment, sexual assault, robbery, burglary, and murder. Some examples of misdemeanors commonly committed in a domestic violence context include assault, battery, brandishing a deadly weapon, harassment, stalking, false imprisonment, violation of a temporary protective order, destruction of property, and disturbing the peace. See NRS 33.018.

Prosecutors should be aware of the following characteristics of domestic violence :

- The vast majority of adult victims of domestic violence are women;
- Domestic violence occurs in every racial and socio-economic group;
- Perpetrators use violence as a tool to achieve power and control over their partners and children;
- Violence often increases in severity and frequency at the time of separation and thereafter;
- Most of the men who abuse their partners abuse their children as well;
- Victims of domestic violence and their children are often compelled to return to relationships with perpetrators for many reasons, including economic concerns, threats to abduct children or obtain physical custody of them, and threats of death or other harm to victims and their families.

II. CORE STRATEGIES

A. Specialization

Specialization results in a higher conviction rate of domestic violence perpetrators. Therefore, ideally, prosecutors should establish domestic violence units in large offices, or create specialists in smaller offices, in order to permit vertical prosecution and the enhancement of expertise on domestic violence cases. Specialization can help avoid situations in which domestic violence cases are afforded insufficient preparation or attention in favor of cases perceived as being bigger, more important, or less trouble. Absent the ability to specialize, periodic training is encouraged to insure that all prosecutors understand the issues of domestic violence and are familiar with appropriate resources and referrals in the community.

In order to promote willing victim participation in the prosecution of cases, victims should be provided with emotional support, information regarding the criminal justice system, and referrals to social service and legal assistance organizations. In order to effectively perform these functions, it is suggested that the prosecutor's office utilize a victim advocate and/or establish and maintain a close working relationship with local battered women's programs. The relationship should be characterized by the ability to make informed referrals rather than an expectation that advocates will support every decision of the prosecutor's office.

B. Early and Consistent Contact with Victims

Early, consistent contact with victims and immediate referral to appropriate support services is critical to preserving a case. The prosecutor's office should utilize available resources to create a dialogue with the victim to address their joint or individual concerns.

C. Evidence-Based Prosecution

Due to the unique and complex dynamics of domestic violence, the victim may be unwilling or unavailable to cooperate at any point in the prosecution process. The burden of prosecuting domestic violence cases should be placed on the prosecutor and not the victim. Prosecutors should always expect the unexpected and be prepared for an evidence-based prosecution using evidence independent of the victim's testimony.

D. Speedy Prosecution

It is essential to the successful prosecution of domestic violence cases that trials occur as rapidly as possible. The victim is often more willing to cooperate immediately after the incident, rather than later, when the abuser may have had a chance to reassert control over her. Additionally, delays in proceeding to trial increase the opportunity for additional offenses before resolution of the initial case. Therefore, prosecutors should strenuously object to any unnecessary continuances.

E. Working With Victim Advocates

Prosecutors handling domestic violence cases should work in close conjunction with victim advocates whenever possible and practical. Working with an advocate who has an ongoing relationship with the victim greatly facilitates communication between the prosecutor and the victim, making it more likely that the victim will continue to cooperate in the case and will provide the prosecutor with information helpful to protect her safety during the proceedings. Victim advocates can provide important background information about the victim, the perpetrator, and the family circumstances which is helpful in the prosecution of the case and at sentencing.

When hiring a victim advocate, priority should be given to survivors of domestic violence, or those experienced in working with domestic violence programs.

F. Coordinated Community Response

The prosecutor's office should work closely with law enforcement agencies, domestic violence groups, and other community resources. Although prosecution is just one component of a coordinated community response to domestic violence, prosecutors are in a unique position to spearhead efforts to improve the criminal justice system's handling of domestic violence cases. Examples of a coordinated community response may include referral relationships, liaisons, task forces, inter-agency agreements, and multi-disciplinary training.

III. FILING CHARGES

In determining whether to file charges, which crimes to charge, and whether to charge them as misdemeanors, gross misdemeanors, or felonies, with or without enhancements, the prosecutor should consider and weigh a number of different factors.

Initially, the prosecutor should review all the facts of the case in light of the following:

- Existence and seriousness of the injuries and/or threats;
- Use of a weapon (including furniture or other household objects);
- Any history of violence by either party;
- Vulnerability of the victim;
- Presence and proximity of children at the location of the violence;
- Careful determination of the identity of the dominant aggressor, if any (See Appendix A);
- Potential lethality in the context of the relationship as a whole (See Appendix B);
- Strength of the case and the ability to prove the case beyond a reasonable doubt.

Where probable cause exists, the filing of criminal charges must be considered. In the filing determination, prosecutors should, at a minimum, take into account the existence of any of the following types of corroborating evidence:

- Any evidence of physical injury, including photographs;
- Any evidence of a party seeking medical attention, including medical records of injuries;
- Witnesses who observed the incident or the injuries, including competent children;
- Witnesses who heard sounds indicating that violence was taking place, i.e., screams, pounding noises, furniture being thrown, windows breaking;
- Witnesses who had contact with the victim or suspect contemporaneous with or immediately after the incident;
- Audio recordings, including 911 tapes, voice messages, monitored jail telephone calls;
- Physical evidence, i.e., weapons, broken furnishings, torn clothing;
- Admissions or other statements by the perpetrator;
- The existence of a timely report by the victim, or reasons for delay;
- Photographs of the crime scene;
- Spontaneous utterances by any person;
- Demeanor of all persons;
- Flight of either party;
- Presence or absence of written statements.

When a basis for filing charges exists, the prosecutor should determine whether to charge a felony or misdemeanor. As domestic violence incidents often constitute felonies, the prosecutor should charge accordingly. The prosecutor should also consider charging crimes, previous or concurrent, committed against the same victim if they occurred within the applicable statute of limitations. Careful consideration should be given to charging stalking, harassment, or aggravated stalking charges if there is a pattern of behavior which supports such charges.

Prosecutors of domestic violence cases will undoubtedly experience unique situations involving issues of double jeopardy and should acquaint themselves with recent and varied case law on the subject. They must be aware of and able to identify troublesome situations before they develop into a bar to a prosecution of another, perhaps much

more serious charge. In order to take advantage of this situation , a defendant may rush to plead guilty to a misdemeanor domestic battery as soon as the prosecutor, unaware of the defendant's two prior convictions, files the complaint.

Multiple prosecutions in family court, justice court and municipal court may exist simultaneously stemming from the same incident, filed by three separate prosecutors. Thus, different prosecuting agencies should communicate and be mindful of the effect of one proceeding, if any, on another possibly more serious prosecution.

The crimes of stalking and aggravated stalking, for example, require a course of conduct over a period of time which may encompass the commission of multiple criminal offenses, perhaps the subject of another prosecution(s). However, a defendant cannot be punished twice for exactly the same criminal act(s). Violations of protection orders also customarily involve separate prosecutions in civil and criminal courtrooms and may involve double jeopardy if sanctions or punishments are being sought in each case.

IV. PROCEDURE

A. Review of Arrest Cases

In all cases in which an arrest has been made and prosecution is warranted, a criminal complaint and/or indictment should be filed in a timely manner. As a matter of policy, the victim should not be expected to sign a criminal complaint in cases of domestic violence. Too often, a defendant will pressure a victim to drop the charges. This policy sends a consistent message to both victims and perpetrators that domestic violence is a crime against the community and not a private dispute.

If, after reviewing and weighing the factors set forth in Section III above, the prosecutor elects not to file charges, he or she should document the reasons why charges were not filed.³

B. Review of Nonarrest Cases

The prosecutor's office should establish a mechanism to review all domestic violence cases in which arrests were not made for the possible filing of charges. The decision to seek an arrest warrant should be based upon the factors set forth in Section III above. If charges are filed, a warrant should be sought, rather than a summons, since NRS 171.137 mandates arrest for domestic violence. Furthermore, NRS 171.1229 requires that subjects arrested for domestic violence be fingerprinted by law enforcement.

If charges are not filed, and the prosecutor observes deficiencies in the investigation, the prosecutor should inform the law enforcement agency of the deficiencies. Where prosecutors observe that law enforcement agencies are not making arrests when appropriate, the prosecutor should encourage and train agencies to upgrade arrest practice in domestic violence cases to conform to NRS 171.137.

³ Every jurisdiction should implement a process wherein an immediate attempt is made to notify the victim in the event charges are not filed.

V. CASE PREPARATION

CAVEAT: DIRECT PARTICIPATION BY A PROSECUTOR IN THE INVESTIGATION OF A CASE OR IN THE COLLECTION OF EVIDENCE CAN TURN THE ATTORNEY INTO A WITNESS, UNABLE TO PROSECUTE THE CASE, AND CAN STRIP THE ATTORNEY OF PROSECUTORIAL IMMUNITY.

Allowing for available resources, preparation of a domestic violence case for trial involves a thorough investigation which should include the following:

A. Ascertain Victim's Whereabouts

Victims of domestic violence are often forced to move with little or no notice, due to attempts to hide from abusers. In all cases the victim's whereabouts should be kept current. The prosecutor's office should establish relationships with any agencies providing victim shelter services and understand their respective processes for the release of information.

When the victim is first contacted, the prosecutor or victim/witness staff should stress the importance of keeping the office informed of any address changes. Addresses and phone numbers of close friends, coworkers or relatives who can serve as contact persons should be obtained in case the victim has to move suddenly and is unable to notify the prosecutor's office. Additional resources for locating victims may be available through animal control or other licensing authorities, utility or cable companies, felon registration authorities, traffic and other court records, DMV records, credit history records, school records, internet addresses, and businesses frequented by the victim.

INFORMATION REGARDING THE VICTIM'S WHEREABOUTS OR CONTACT PERSONS SHOULD BE KEPT CONFIDENTIAL.

B. Document Victim's Injuries and Signs of Physical Contact

The victim's injuries should be photographed at the first opportunity, a signed medical release should be obtained, and all medical records should be obtained. Statements should be obtained from witnesses who observed the injuries when fresh. Subsequent photographs of the injuries, taken a significant time after the assault, are useful to show the severity of the attack. Photos are to be collected according to local procedures of evidence collection. Additionally, prosecutors should encourage the use of a body diagram for documentation of unphotographable injuries; for example, a knot on the head, broken bones, internal injuries, complaints of pain, or injuries which may not be apparent with flash photography.

C. Build on Police Investigation

Obtain and review any police reports immediately for accuracy and detail. Obtain any 911 tape that may exist for its potential evidentiary value, including: impeachment of recanting victims, identification of additional witnesses, and admissions, threats, or other excited utterances. If the investigation by the police was incomplete, request follow-up investigation in writing to obtain additional information, including: witness statements and contact information, photographs, and information on responding medical personnel. Explain why the information is needed to prosecute the case ..
This will serve to complete the pending case and to train the officer for future investigations.

Obtain information from the victim as to the identity and location of any corroborating witnesses

D. Statements of Witnesses

Obtain statements from any witnesses to the incident itself, including those witnesses who heard crying, screaming, gun shots, etc. Obtain statements of any witnesses who can document the relationship and the state of mind of the victim or the defendant immediately after the incident. Do not overlook children who are in the home at the time of the incident. Obtain supplemental statements as necessary.

E. Physical Evidence

The victim and any witnesses should be questioned closely about any physical evidence such as torn, wet or bloody clothing, weapons used in the incident, damaged property, or of answering machine tapes containing statements of the defendant, threats, harassment, or potential admissions. To preserve physical evidence for trial, immediately have an investigator or police obtain items of physical evidence not originally obtained by law enforcement. Consider asking an investigator or police to take photographs of the scene to show the violent nature of the incident or of the defendant, or to corroborate victim or witness statements.

F. Pleadings and Transcript From Protection Order Proceedings

If a request for a Temporary or Extended Protection Order was made, review the pleadings for supplemental information and to evaluate if any additional charges should be filed. Find out if there were hearings on a request for a Temporary Protective Order, or on contempt proceedings for violation of the Protective Order. Obtain transcripts which may contain admissions of the defendant, material for impeachment or cross-examination, or descriptions of the incident or past incidents of violence.

Beware: There may be double jeopardy implications in pursuing contempt sanctions and criminal charges simultaneously if such actions arise out of the same transaction or occurrence.

Every office should set a policy regarding prosecution of Protection Order violations, and should do so with close communication with the issuing court.

G. Ascertain Defendant's Criminal History and/or History of Domestic Violence

Whether or not the defendant has any prior convictions, he may have a lengthy history of acts of domestic violence against the present victim or other victims, which may include prior Protection Orders against him. This information is important for the purpose of enhancement, for determining the potential lethality of the present charge, and for proposing appropriate sentences to the court. The prosecutor should seek admission of this information at trial or sentencing as applicable. In contemplation of the introduction of prior bad act evidence at trial, a prosecutor should review NRS 48.045 and relevant case law.

VI. PRETRIAL ISSUES

A. Arraignment /Bail Conditions

Although prosecutors may not routinely appear at arraignments in domestic violence cases, it is critical that a prosecutor review the case in light of NRS 178.498 and 178.499 to determine if a bail increase is appropriate. In addition to the statutory considerations, the prosecutor should recommend the following conditions for any release where appropriate:

- A prohibition on any contact with the victim and/or her children and relatives either in person or by telephone, including contact through a third party;
- An order barring the defendant from approaching the victim's residence, school or place of employment;
- A prohibition on the defendant destroying or disposing of the victim's property or property held in common;
- A prohibition on drugs, alcohol or weapons;
- Any other conditions necessary for the victim's safety.

In most circumstances, release of the defendant on his own recognizance should be opposed based on the continued risk of danger posed in domestic violence situations. NRS 178.4851 *et seq.* provides for conditions of release without bail, and should be considered in recommending conditions to protect victims.

Body Cams

Agencies throughout Nevada will soon be implementing the use of body cams. Each department will need to implement policies and procedures regulating their use, including among other legal issues, how long recorded video must be retained both for purposes of discovery and for potential civil litigation, under what circumstances the camera must be turned on or off and whether the body cams can film inside a person's home. Each prosecuting agency should contact their individual law enforcement agencies regarding the use and implementation of body cams.

PROTECTING THE VICTIM

The prosecutor, in conjunction with the victim advocate, should make every effort during the pendency of the case to protect the safety of the victim. These efforts should include, but are not limited to the following:

B. Confidentiality of the Victim's Address

Pursuant to NRS 174.234(5), the prosecutor should zealously protect the confidentiality of any change of the victim's address and telephone number and this information should be redacted from police reports, witness statements, and all other discovery materials provided to the defense. In court, prosecutors should never ask for the victim to disclose her current address, should advise victims to refrain from giving an address when testifying to avoid inadvertent disclosure, and should object to requests for such information when made in the course of questioning by the defense.

If filed with the court, victims' addresses should not be placed on subpoenas or returns of service, or any other public document, to avoid disclosure of their locations to defendants.

C. Personal Service of Subpoenas

In the absence of an oral promise to appear, any subpoena going to the victim should be personally served to avoid the possibility of the defendant intercepting it in the mail.

D. Transportation to Court

The prosecutor's office should facilitate safe transportation for the victim to and from court, which could include police escort and the use of separate entrances at the courthouse. If the defendant is released following a court appearance, court officers should be directed to hold the defendant for a period of time sufficient to allow the victim to leave safely. Secure parking should be promoted, as should escort to and from parking facilities.

E. Designated Waiting Areas in Court

NRS 178.5696 requires that the court provide separate and secure waiting areas for victims so they are not subject to harassment or intimidation by the defendant immediately prior to testifying. If this mandate is not being met, the prosecutor should bring this requirement to the court's attention.

F. No Contact Orders

If appropriate, the prosecutor should request no contact orders as a condition of a defendant's release on bail, and should request revocation of bail for any violation of such orders. In addition, the prosecutor's office should advise the victim of the availability of Protective Orders, and explain the merits of such orders. NRS 200.591 provides for both pre-trial and post-conviction "stay away" orders in stalking and harassment cases; violation of such an order is a gross misdemeanor.

G. Child Custody Considerations

Prosecutors need to be aware of the unique danger faced by domestic violence victims in the child custody context. One characteristic which distinguishes domestic violence from other crimes is that the victim and perpetrator frequently have children together.

Thus, perpetrators often have long term, court-sanctioned access to victims pursuant to child custody orders which give them partial custody or visitation rights. New crimes are often committed as a result of this ongoing contact. Alternatively, if no custody order is in effect, the perpetrator has as much access to the children as their mother, and may use the threat or actuality of taking them to assert control over the victim.

Protection Orders can also be obtained to protect the victim and give her temporary custody of her children, and can impose protective conditions such as third party or supervised visitations, or supervised exchanges of custody.

H. Domestic Strangulation

Under Nevada law, Domestic Battery by Strangulation is controlled by NRS 200.481 (1)(h), which states that "strangulation" "means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person in a manner that creates a risk of death or substantial bodily harm." While a typical domestic battery is punishable as a misdemeanor in Nevada, a domestic battery by strangulation is categorized as a Category C felony, punishable by 1-5 years in the Nevada State Prison and a fine of up to \$15,000. While NRS 193.130 states that the maximum fine for a Category C felony is a fine of up to \$10,000, NRS 200.485(2) grants a fine of up to \$15,000. Furthermore, NRS 200.481(2)(g)(2) states that if a domestic battery by strangulation is committed by a probationer, then the action is punishable by a Category B felony with a penalty of 2-15 years in the Nevada State Prison.

A charge of Domestic Battery by Strangulation will be elevated from misdemeanor jurisdiction to the county or the state for felony prosecution. While not all domestic batteries that involve choking or grabbing by the neck may rise to a felony level of offense, the misdemeanor prosecutor is often the initial attorney to evaluate a case for the proper level of prosecution. Therefore, it seems that there is an important responsibility to properly evaluate an offense and decide whether it needs to be referred to the county District Attorney for prosecution as a felony case.

Problems arise with this obligation, as "strangulation" is not always apparent at the time of arrest as compared to a misdemeanor battery that involves grabbing around the throat or neck area. According to a study performed by the City of San Diego in the late 1990s, there were few visible injuries to corroborate a strangulation case. Therefore, the San Diego study concluded, many strangulation cases were not given the proper level of prosecution.

While visible injuries were noticeable in a small percentage of the cases at arrest, they were often too subtle to photograph and identify at the time of emergency intervention in the case. Thus, it becomes important for the misdemeanor prosecutor to seek follow-up evidence to support a felony prosecution of an offender.

Typical symptoms of a strangulation are as follows: (1) Difficulty in swallowing or breathing: Although breathing changes may seem minor at the time of police intervention, underlying injuries may cause severe problems, up to and including death, up to 36 hours after the initial attack. (2) Visible injuries: The injuries would include scratches, abrasions, scrapes or bruising. These can be caused both by the assailant's actions or the victim's actions in trying to fight off the attacker. Issues arise because bruising and redness may not be immediately noticeable, or may be minor in comparison with the actual damage that was inflicted. Bruising from strangulation may not appear for hours or days after an attack, and may be light-colored bruises compared to a bruise that would occur from a punch or more direct injury to the body. It is also important to look for abrasions on the chin, as a victim of a choking will often instinctively lower their chin to protect the neck, resulting in scrapes against the chin caused by the assailant's hands. (3) Petechiae: Petechiae are red marks caused by the rupture of small blood vessels called capillaries. Petechiae may be seen in the eyes, often under the eyelid. However, in more severe cases, it may be seen

around the eyes in the orbital region or other areas of the face. (4) Swelling: Swelling may take several hours to appear based on trauma to the underlying muscle structure of the throat and neck. (5) Lung Damage: victims may suffer from damage caused by aspiration of vomit during the strangulation episode which can cause damage to lining of the throat and lungs, along with edema (lungs filling with fluid) caused by trauma to the respiration systems.

Therefore, it is important for misdemeanor prosecutors to perform follow-up investigation when there is any indication of choking or strangulation in a domestic battery case. This information can be gathered from both medical professionals and the victim themselves. If subsequent injuries are apparent, or symptoms of the initial injury become more severe, prosecutors should consider referring a misdemeanor case to the District Attorney for consideration of treating the offense as a felony, rather than a simple misdemeanor domestic battery.

VII. VICTIM'S RIGHTS

Prosecutors should be familiar with victims' statutory rights, which are especially important in a domestic violence context. These rights include:

- Right, upon written request, to notice of any release of defendant from pre-trial custody, amount of bail, and disposition of charges [NRS 178.5698];
- Right to secure waiting areas at court separate from those used by jurors, defendants and their families [NRS 178.5696(1)];
- Right to an attendant to provide support in court during testimony [NRS 178.571];
- Right to notice of the date of sentencing [NRS 176.015(4)] and to be heard at sentencing after the defendant and/or his counsel speaks [NRS 176.015(3)];
- Right to notice of the disposition of harassment and stalking cases [NRS 200.601(1)] and a certified copy of any no contact order imposed as a condition of sentencing [NRS 200.601(2)];
- Right to notice within 30 days of the defendant's conviction under NRS 205.980 and resulting civil liability for damage to the victim's property [NRS 205.980(3)]; and
- Right, upon written request, to notice of the date of any meeting to consider the defendant for parole and to submit documents and be heard at the meeting [NRS 213.130(4)].

In addition, the prosecutor should consider responding to the victim's needs as follows:

A. Recommended Notification

The prosecutor's office should be responsible for notifying the victim, when possible, in a timely fashion of developments in the case, including, but not limited to, the following:

- Nature and type of charges filed;
- Any changes in the defendant's custodial status, including any short term release;
- Date, in advance, of any court hearing in which the victim may have an interest, including bail hearings and sentencing; and
- Outcome of all court appearances at which the victim was not present, including continuances, bail hearings, and motions.

B. Victim Input

The prosecutor should actively seek victim input throughout the pendency of the case. In particular, victim impact statements which emphasize the continuing risk of harm to the victim and her family should be utilized. In those cases, the prosecutor should make sure the victims' opinions are solicited and considered at sentencing.

Prosecutors should be aware that even in the most serious cases, the victim may try to minimize the violence. While the victim should be listened to with compassion, prosecution of the case should never be dismissed or deferred based solely upon her assessment of the violence.

C. Crime Victim Compensation/Restitution

The prosecutor should seek restitution wherever available, should notify the victim of the availability of crime victim compensation under NRS chapter 217, and make appropriate referrals for assistance in obtaining it.

NRS 176.033 requires a sentencing court, *in any case where imprisonment is required or permitted by statute*, to set an amount of restitution for each victim in cases where restitution is appropriate. There is no requirement that any portion of the sentence be suspended to order restitution in such cases.

Under NRS 205.980, a person convicted of any crime involving damage to property is civilly liable for the amount of damage done to the property, and an order of restitution signed by the judge in whose court the conviction was entered shall be deemed a judgment against the defendant for the purpose of collecting damages.

VIII. VICTIM/PROSECUTOR CONTACTS

A member of the prosecutor's office, preferably a victim advocate, should attempt to contact the victim at the earliest possible opportunity to discuss any concerns and orient the victim to the process and available resources.

Different methods of contact offer different benefits:

- Face-to-face - This method offers the best opportunity to establish a rapport with the victim, determine the victim's potential impact on the case and assess the potential future risk and lethality of the situation .
- Telephonic - This method also offers an opportunity to dialogue with the victim if face-to-face contact is not possible.
- Written -Although one-sided, this method allows information on the process and available resources to be conveyed in a consistent, comprehensive manner.

The prosecutor should determine on a case-by-case basis which method of contact is most appropriate.

The prosecutor's office should explain that the ultimate responsibility for prosecuting a case lies with the prosecutor, not the victim, and that the case may proceed without her cooperation. It is important that this message be communicated as it may relieve pressure to drop charges. The prosecutor's office should also carefully explain the sentencing alternatives, negotiated pleas, and provisions for the victim's protection during the pendency of the case.

In the event the victim is reluctant to participate, prosecutors should keep in mind the goals of prosecution set forth in Section I.

IX. VICTIMLESS PROSECUTION

In the frequently domestic battery scenario, a couple gets into an argument which escalates into a physical confrontation. When police respond, an upset victim recounts the incident to police. However, as time passes the couple makes amends or the Defendant persuades the victim to not cooperate with prosecution. The victim, no longer willing to participate in prosecution, disappears, forcing the City to make the determination as to whether it can proceed with prosecution victimless. However, with the thoughtful use of hearsay and confrontation clause exceptions, such cases may be provable.

The Sixth Amendment Confrontation Clause has been the subject of much litigation, particularly since the 2004 case of *Crawford v. Washington*, 541 U.S. 36. In *Crawford*, the Court held that testimonial statements are inadmissible at trial against the accused unless (1) the witness is unavailable and (2) the Defendant had a prior opportunity to cross-examine the witness (*Id.* at 68). "Unavailability" requires that the proponent of the evidence demonstrate that he or she was unable to procure the attendance of the witness at trial, despite reasonably diligent efforts (See, e.g. *Christian v. Rhode*, 41 F.3d 461, 467 (9th Cir. 1994).) "Prior opportunity" to cross-examine generally means that the defendant must have had a prior chance to develop the witness's testimony. (See *United States v. Yida*, 498 F.3d 945, 950 (9th Cir. 2007).) However, there are several avenues that a prosecutor may use to overcome the confrontation clause barrier.

A. Forfeiture by Wrongdoing

Where the Defendant causes the victim to not appear at trial and where the City can prove the Defendant caused the victim to evade the subpoena, the City may invoke the

principal of “forfeiture by wrongdoing”. If the Defendant has engaged in conduct with the intent to prevent the victim’s attendance at trial, the Defendant loses the safeguard created by the confrontation clause. (*Giles v. California*, 554 U.S. 353 (2008); *Reynolds v. U.S.*, 98 U.S. 145 (1879).) As a result, the Defendant forfeits the ability to object to the victim’s testimonial hearsay statements and, by the Defendant’s own actions, eliminates the opportunity to cross-examine those statements.

Forfeiture by wrongdoing may present itself in multiple facets—jail calls, pictures, letters to the victim or her family, journal entries, emails, voicemail messages, postings on social media, interactions between the victim and advocate or interviews between police and the victim or the victim’s family or friends. Prior to admitting the victim’s statements at trial the prosecutor should proffer to the court, or prove up through witness testimony, that the victim is unavailable; proffer the due diligence used in trying to obtain the victim’s presence for court; call witnesses and present evidence that the Defendant’s actions were responsible for the victim’s unavailability at trial.

B. The “Ongoing Emergency”

Where the victim is unavailable for court, the two most common objections a prosecutor must overcome in admitting a victim’s statement are hearsay and the invocation of the Defendant’s right of confrontation. However, there are exceptions to both hearsay and the confrontation clause which may make the admissibility of the victim’s statement feasible.

1. Overcoming Hearsay—Excited Utterance (NRS 51.095)

Oftentimes, well trained officers and prosecutors will anticipate the hearsay objection and are prepared to lay the appropriate foundation for excited utterance to admit some or all of the victim’s statements at trial.

NRS 51.095 defines excited utterance 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.

In domestic battery cases excited utterances generally take form in the victim’s 911 call or initial statements made to law enforcement on-scene. In analyzing whether a statement falls under the excited utterance exception several factors should be evaluated:

- The contents of the 911 call. Is there a battery in progress, is the victim in immediate need of assistance, is the victim’s safety otherwise in jeopardy?
- The amount of time which has elapsed between when the 911 call is received and when law enforcement makes contact with the victim. Clearly, the more time which has elapsed the less likely that the victim’s statements will be admitted under excited utterance.
- The demeanor of victim. Is the the victim crying, hysterical, short of breath? The more the victim appears to be influenced by the stress of the event, the more likely that her statements will fall under excited utterance.

- The physical condition of the victim. Is the victim actively injured, bleeding, holding her face, huddled in the corner? Injuries that tend to prove recency of the event are more likely to make accompanying victim statements admissible.

2. Confrontation Clause—Victim’s 911 call and Statements to Police On-Scene

Once a prosecutor has overcome the hearsay hurdle, the Defense will surely invoke their client’s right of confrontation. However, recent developments in this area of law may provide prosecutors a route to admit the victim’s statements, whether made during the course of a 911 call or to the police on-scene.

In *Davis v. Washington*, 547 U.S. 813 (2006), a 911 operator received information from the victim that she was actively being battered by her former boyfriend. (*Id.* at 817-18.) During the initial portion of the 911 call, the suspect was on scene, but as the call progressed the suspect fled. (*Id.*) Officers made contact with the victim within four minutes of the 911 call being placed. (*Id.* at 818.) They observed the victim to have what appeared to be fresh injuries and was shaken and frantic. (*Id.*) The victim failed to appear for trial, but the Court allowed the portion of the 911 recording where the Defendant was present to be admitted at trial. In upholding *Bryant*’s conviction, the United States Supreme Court distinguished between testimonial and non-testimonial statements saying that “statements are non-testimonial when made in the course of police interrogation under circumstances objectively indicating that the primary purposes of the interrogation is to enable police assistance to meet an ongoing emergency. They are testimonial when the circumstances objectively indicate that there is no such ongoing emergency, and that the primary purpose of the interrogation is to establish or prove past events potentially relevant to later criminal prosecution.” (*Id.* at 822.) The Supreme Court ruled that the conversation between the 911 operator and the victim, prior to the suspect leaving the scene were non-testimonial and therefore admissible.

Since *Davis* the Court has further clarified what was meant by “the primary purpose of the interrogation is to enable police assistance to meet an ongoing emergency” In *Michigan v. Bryant*, 562 U.S. 344 (2011), police were dispatched to a gas station where they found the victim mortally wounded. (*Id.* at 344.) Prior to perishing, law enforcement inquired into “what happened, who had shot him, and where the shooting had occurred”. (*Id.* at 349.) The victim told law enforcement that he had been shot by the Defendant and where the incident occurred. (*Id.*) The United States Supreme Court held that the description of the shooter and the location of the shooting were not testimonial statements because the “primary purpose” was “to enable police assistance to meet an ongoing emergency” and therefore did not violate the confrontation clause. (*Id.* at 364 & 378.)

Bryant went on to state that the primary purpose determination is highly context specific and should objectively take into account all of the relevant circumstances. (*Id.* at 359 & 369.) Moreover, while the existence of an

“ongoing emergency” at the time of the encounter is the most important factor informing the interrogation’s primary purpose, there may be other circumstances in which a statement is not procured with a primary purpose of creating an out-of-court substitute for trial testimony. (*Id.* at 358 & 361.)

Specifically, *Bryant* found the following factors persuasive in determining the primary purpose of the interrogation:

- (1) A victim’s medical condition (*Id.* at 365-66.)—a victim’s injuries may be so debilitating as to prevent her from thinking sufficiently clearly to understand whether the statements are for the purpose of addressing an ongoing emergency or for the purpose of future prosecution; (*Id.* at 369.)
- (2) Existence and magnitude of a continuing threat to the victim and the public—the suspect was armed and at large. However, *Bryant* did distinguish the typical domestic violence case which often have a narrower zone of potential victims than cases involving threats to public safety; (*Id.* at 364.)
- (3) Informality of the encounter between victim and law enforcement (eg. hasty fact gathering at scene of violence versus formal interview at police station)—formality suggests the absence of an emergency, but informality does not necessarily indicate the presence of an emergency; (*Id.* at 366.)
- (4) Context of the questions posed by law enforcement (*Id.* at 367.)—elicited statements may be necessary to be able to resolve the present emergency, rather than simply to learn what had happened in the past;
- (5) Statement and actions of both the declarant and the interrogators provide objective evidence of the primary purpose of the interrogation (eg. law enforcement arrives on scene within minutes versus hours later; victim describing events as they are unfolding versus past criminal acts now being investigated; victim was seeking help for a current danger; victim frantic and shaken versus calm and collected).

In sum, when trying to admit a victim’s statements, the prosecution should attempt to paint a picture of a hectic, unorganized crime scene with a dangerous, erratic suspect at large and a fragile, frantic victim in need of medical attention.

3. Practically speaking, there are typical scenarios a prosecutor may encounter when faced with a confrontation clause issue:

Situation #1: Law enforcement responds to a 911 call, upon arrival the victim is visibly upset and the defendant has fled the scene.

- *Bryant*: “The Michigan Supreme Court erroneously read *Davis* as deciding that the statements made after the defendant stopped

assaulting the victim and left the premises did not occur during an ongoing emergency.” (*Id.* at 363.)

- Key factors: 911 call, visibly upset victim, potentially injured victim, defendant’s location is unknown posing possible danger to kids, family members or victim should defendant return.

Situation #2: Law enforcement responds to 911 call, parties involved in altercation are *not* separated, visibly upset and/or injured victim responds to “what happened” question by law enforcement.

- *Bryant*: “we consider the informality of the situation and the interrogation...the situation was fluid and somewhat confused: the officers arrived at different times” indicating that the primary purpose remained responding to an ongoing emergency. (*Id.* at 377.)
- Officers’ immediate concern is securing the scene to eliminate threats to the victim, officers and the public.
- The typical “what happened” question is the exact type of question necessary for law enforcement to figure out what caused the emergency and to determine what action should be taken to prevent further harm.
- Key factors: 911 call, distressed and/or injured victim, ascertaining victim’s safety, potential for other suspects or victims, informality of interrogation.

Situation #3: Law enforcement responds to a 911 call, parties involved in altercation are separated, visibly upset and/or injured victim responds to “what happened” question by law enforcement.

- Separation is part of the response to the emergency, for law enforcement to ascertain what the emergency is and to get honest and complete answers from all parties involved.
- Primary purpose is to neutralize a potentially dangerous situation.
- Key factors: 911 call, distressed and/or injured victim, establishing victim’s safety, potential other suspects or victims, informality of interrogation.

Situation #4: Law enforcement responds an hour later to reported “domestic disturbance”, parties involved in altercation are separated and no objective need for medical attention.

- Statements by victim are likely testimonial.
- *Hammon*, 547 U.S. 813, 814-15 (2006)—Since there was no emergency in progress at the time law enforcement arrived on-scene, the primary purpose of the investigation was to investigate a possible crime.

C. Victim’s Statements to Family and Friends

A testimonial statement is defined as a statement about a past event or fact that the declarant would reasonably expect to be used later in a criminal prosecution. An accuser who makes a formal statement to government officers bears testimony in a sense that a person who makes a casual remark to an acquaintance does not (*Crawford* at 51).

A victim’s friends or family members are oftentimes very useful to prosecution as

they may have physically present with the parties during the altercation, they may have been on the phone with the victim as the altercation was occurring or they may have observed the victim immediately following the altercation. These witnesses can usually identify the respective parties (or their voices' on a 911 call) and their relationship, describe the demeanor of the victim in person or over the phone during the altercation, describe the victim's demeanor immediately following the incident or detail the physical injury which resulted and evolved in the days following the incident.

D. Victim's Statements to Medical Personnel

Medical records also provide an avenue for proving domestic violence cases where a victim is unavailable for trial. Certified medical records are generally admissible pursuant to the business records exception to the hearsay rule. (NRS 51.135) Furthermore, medical personnel who made firsthand observations of the victim's physical condition may testify about their observations. Likewise, the confrontation clause is not implicated because statements made to a medical professional for treatment are not testimonial.

The AMA Guidelines dictate that "it is imperative that physicians inquire about the battered woman's safety" and that a "plan for the woman's safety should be discussed before she leaves the physician's office". Further, the American College of Emergency Physicians state that it is imperative that emergency personnel assess the patients for domestic violence and routinely inquire as to "what happened, when, where and whom".

Where this becomes a bit more problematic is proving the attackers identity. However, there exists a growing body of authority upholding the introduction of medical records and testimony from treating physicians regarding the victim's identification of the attacker in domestic violence cases. The rationale is that such information is necessary for diagnosis or treatment insofar that it bears on advice to seek counseling or therapy. (see e.g., *United States v. Peneaux*, 432 F.3d 882 (8th Cir. 2005).)

X. DISPOSITIONS

A. Negotiated Pleas

NRS 200.485 prohibits plea bargains for a battery that constitutes domestic violence pursuant to NRS 33.018 unless it is determined that the charge is not supported by probable cause or cannot be proved at the time of trial. Before negotiating any plea, the prosecutor should consider the following factors:

- Realistic assessment of the possibility of successful prosecution without a plea;
- Seriousness of the offense;
- Prior criminal history of the defendant;
- Victim's input;
- Any history of violence in the relationship and the probability of recurrence; and
- Any other relevant circumstances.

B. Sentencing

The prosecutor's sentencing recommendations should be commensurate with sentences for other violent crimes. In some cases, it may be argued that sentencing should be in the higher range of the sentencing limits due to the relationship between the victim and defendant. In no event should the prosecutor ever recommend or stipulate to less than the mandatory minimum provisions of the sentencing statute.

As set forth in Section VIII, the victim has a right to be heard at sentencing, generally referred to as the victim's impact statement. The sentencing hearing is also an opportunity to have the victim testify about past violent incidents that were not admissible at trial, but are admissible at the sentencing stage. Offering additional witnesses, including experts, should also be considered. The prosecutor should stress the pattern of abusive behavior, along with any violations of previous court orders, so the court can evaluate future risk to the victim and sentence accordingly. Be prepared, as even in the most serious cases the victim may try to minimize the violence.

1. Suspended Sentences

NRS 200.485 provides that a court shall not grant probation to and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend a sentence for a battery that constitutes domestic violence pursuant to NRS 33.018.

The defendant's behavior while on a suspended sentence should be carefully monitored and conditioned upon strict compliance with conditions carefully tailored to protect the victim and community.

A credible threat of incarceration must exist to ensure compliance. If not ordered by the court, the prosecutor should ask for status reviews to monitor compliance. The prosecutor should appear at such status reviews and any probation violation proceedings.

Counseling and Treatment Programs

NRS 200.485 mandates counseling for a battery that constitutes domestic violence pursuant to NRS 33.018. In addition, prosecutors should recommend the following programs for the defendant when appropriate:

- Substance abuse counseling;
- Parenting classes; and/or
- Mental health evaluations.

Studies have shown that couples therapy is *not* appropriate and is often dangerous to the victim. In a couples environment, the defendant's control over the victim is reinforced and the victim is intimidated from speaking candidly and honestly.

NRS 5.055 (Municipal Court) and NRS 4.373 Justice Court) provide for suspended sentences, and counseling as a condition thereof in the courts of limited jurisdiction.

The prosecutor should request that the court require the defendant, as a condition of sentencing, to provide the police narrative report to the court-ordered counseling program. Any report provided by the prosecutor's office should comply with any policies regarding the confidentiality of information.

A. Diversion

Diversion is generally defined as an action that suspends criminal justice case processing of a domestic violence charge, with one or more of the following results: 1) charges not filed, 2) charges dismissed, and/or 3) sealing of records. Diversion, in other words, offers an alternative to a criminal conviction. The goal of diversion in domestic battery cases is to modify a defendant's behavior by providing treatment to address domestic violence, mental health conditions and/or substance use, while at the same time, providing eligible offenders the opportunity to have a domestic battery charge dismissed and/or sealed.

In Nevada, domestic battery diversion is limited by statute. For example, a criminal offender who is found to be addicted to either drugs or alcohol may be eligible for diversion under NRS 458.300, but a person charged with domestic battery, even if deemed an addict, is specifically excluded from NRS Chapter 458 diversion eligibility. Additionally, as of October 1, 2017, justice courts and municipal courts are required to consider, prior to entry of plea, whether an offender is eligible for a NRS Chapter 174 pre-prosecution diversion program. Domestic battery offenders are also specifically excluded from this program.

On the other hand, domestic battery offenders are eligible for diversion if they participate and successfully complete a NRS 176A.250 mental health court program. An offender is eligible for admission, if, among other requirements, the offender is diagnosed with a serious mental illness and the prosecuting authority stipulates to the offender's participation. Upon successful completion of the mental health court program, a domestic battery offender may be eligible for a dismissal of the proceedings. A dismissal upon completion of the program, under NRS 176A.290, is not considered a conviction for any private or public purpose, but is considered a conviction for a second or subsequent conviction.

Additionally, domestic battery offenders may be eligible for diversion upon participation and successful completion of a NRS 176.280A veteran's court program. To be eligible for a veteran's court program, the domestic battery offender must, among other requirements, suffer from a mental illness, alcohol or drug abuse, or posttraumatic stress disorder, and the prosecuting authority must be willing to stipulate to the offender's participation in the program. As with mental health court, in accordance with NRS 176.290, successful completion of the program may result in the dismissal of the domestic battery proceedings, but the charge is considered a conviction for enhancement purposes.

It is important to note that domestic battery offenses charged in municipal court are eligible for diversion through mental health court or veteran's court participation if jurisdiction of the case is transferred pursuant to NRS 5.050. NRS 5.050 gives municipal courts authority to transfer original jurisdiction of a domestic battery charge to a district court for the purpose of assigning a domestic battery offender to either mental health court or veteran's court.

B. Veteran's Court

Veteran's courts are a creature of statute envisioned by the Legislature to provide for diversionary treatment of cases involving veterans or members of the military. NRS 176A.208 grants authority to district courts, justice courts and municipal courts to establish a program for treatment for veterans or members of the military who also suffer from mental illness, alcohol or substance abuse, posttraumatic stress disorder or a traumatic brain injury which appear to be related to military service, including readjustment to civilian life. Assignment to such a court is also available for those who appear to suffer from military sexual trauma, which includes psychological trauma related to sexual harassment or an act of sexual assault that occurred while the veteran or member of the military was serving active duty, active duty for training, or inactive duty training.

Historically, the Nevada Legislature only permitted district court to establish Veteran's treatment courts. However, in the 2017 legislative session, the Legislature granted authority to municipal and justice courts to enact their own veteran's courts. Several lower jurisdiction courts now have active Veteran's courts. NRS 176A.285 permits lower jurisdiction courts which do not yet have active Veteran's courts to transfer original jurisdiction to the district court for treatment through that jurisdiction's Veteran's Court.

To be eligible for veteran's court the defendant must be a veteran or member of the military who appears to suffer from: (1) mental illness, alcohol or drug abuse, post traumatic stress disorder or a traumatic brain which appears to be related to military service; or (2) Military sexual trauma, as defined in NRS 176A.280. Additionally, an eligible defendant is one who would benefit from assignment to the program and has not previously been assigned to such a program. Finally, except under extraordinary circumstances, a veteran must not have been discharged under dishonorable conditions.

Eligible offenders assigned to veteran's court are required to participate in the treatment court for not less than 12 months and will undergo treatment related to the individual issue(s) that brought them in contact with the criminal justice system. Veteran's courts work in collaboration with the Veteran's Administration both in identifying possible candidates as well as assisting with connecting the veteran with appropriate treatment, housing, education, mental health services and other recovery support services.

Assignment to a veteran's treatment court is discretionary but the Legislature did not appear to place limits on the types of crimes eligible for assignment to these courts. Indeed, the only limitation on assignment to such a court is regarding crimes of violence. If the crime committed by the offender involved the use or threatened use of force or violence, or if the offender was previously convicted of a felony that involved the use or threatened use of force or violence, a court may not assign an offender to the program unless the prosecuting attorney stipulates to the assignment.

Eligible offenders charged with the crime of domestic battery may be assigned to veteran's court upon stipulation of the prosecuting attorney and also be eligible for diversionary treatment of the case. When an offender charged with domestic battery successfully completes the program of treatment, the court will conditionally dismiss the charge for purposes of restoring the offender to the status occupied prior to the arrest but remains a conviction for purpose of additional penalties imposed for second or subsequent convictions or for the setting of bail in future cases.

Restitution

If allowable by law the prosecutor should seek restitution for expenses resulting from the crime. The prosecutor should request payment be made prior to payment of fines or court costs, and that payment be made according to a specific, short timetable.

NRS 176A.430 requires that a court *shall* order restitution as a condition of probation or suspension of sentence, or the court is required to set forth the circumstances upon

which it finds restitution impracticable.

NRS 5.055 (municipal court) and NRS 4.373 Justice court) provide for suspended sentences, and restitution as a condition thereof in the courts of limited jurisdiction.

NRS 213.126 requires that, unless complete restitution was made during a parolee's incarceration, the board *shall* impose such as a condition of parole.

Parole Hearings

If the defendant commits a felony and he is ultimately convicted and sentenced to prison, eventually he will come up for parole while serving his sentence. The State Board of Parole Commissioners, upon receiving an application from the defendant, will hold a periodic meeting to consider the application. The victim is entitled to submit documents to the board and may testify before the board at the meeting held to consider the application. No application for parole may be considered until the board has notified the victim of her rights and she is given an opportunity to exercise those rights, if she so requests in writing and provides a current address [NRS 213.130].

The prosecutor may request to be heard at a meeting to consider the application of the defendant. The prosecutor may also submit his or her name to the parole board and obtain the name and address of the victim for this purpose at the close of the case and notify the victim of any parole consideration meetings regarding the defendant when the prosecutor is notified.

A. Dismissals

Dismissal is a last resort. In most cases, delay dismissal until the time of trial. This gives the prosecution one last chance to persuade a reluctant victim to go forward or to otherwise develop sufficient evidence. In addition, it ensures that the defendant appears in court so that the seriousness of the domestic violence charge may be impressed upon him.

Note: Dismissal of felony charges at the time of trial acts as a dismissal with prejudice [NRS 178.554 and NRS 178.562(1)]. Unfortunately, it also may confirm in the defendant's mind his power over the victim or that she does not view the offense as being serious. Thus, it should be made clear on the record that the prosecutor, not the victim, has made the decision to dismiss.

B. Future Prosecutions

When a dismissal is granted, the prosecutor should advise the victim that the dismissal will not be held against her and that the office of the prosecutor stands ready to assist and prosecute any future domestic violence crimes.

C. DATA COLLECTION AND EVALUATION

The prosecutor's office should collect and evaluate data concerning domestic violence prosecutions to facilitate system improvement. The prosecutor's office should also engage local victim advocates in a continuing process of evaluation of its policies, procedures and performance with regard to domestic violence prosecution.

APPENDIX A - Determining the Dominant Aggressor

In situations where more than one domestic violence incident may have occurred, the "primary" aggressor is the person determined to be the dominant aggressor, not necessarily the first person to use force or violence. In making this determination, the following should be considered:

- a. The comparative extent of injuries or serious threats creating a fear of physical injury.
- b. The domestic violence history between the parties involved.
- c. The comparative sizes and vulnerability of the parties involved.
- d. The demeanor of the parties involved, paying attention to excited utterances and emotional state.
- e. Any weapons used or threatened for use by either party.
- f. Any claims of self-defense, defense of others, defense of property, coercion or trespass. The presence of defensive wounds, which may include scratches to the suspects, face, arms and hands or to the victim's neck in cases involving strangulation.
- g. Any witness statements.
- h. Whether there was an excessive response to the other parties' actions and/or time delay between domestic violence incidents.
- i. Whether there was a time delay between domestic violence incidents.
- j. The environment in which the violence occurred.

APPENDIX B - Lethality Assessment

Conduct a lethality assessment by considering, without limitation, the following factors in the context of the relationship as a whole:

- a. Is there a history of domestic violence?
- b. Does the perpetrator have obsessive or possessive thoughts?
- c. Has the perpetrator threatened to kill the victim?
- d. Does the perpetrator feel betrayed by the victim?
- e. Is the victim attempting to separate from the perpetrator?
- f. Have there been prior calls to the police?
- g. Is there increasing drug or alcohol use by the perpetrator?
- h. What is the prior criminal history of the perpetrator?
- i. Is the perpetrator depressed?
- j. Does the perpetrator have specific "fantasies" of homicide or suicide?
- k. Does the perpetrator have access to or a fascination with weapons?
- l. Has the perpetrator abused animals/pets?
- m. Has the perpetrator demonstrated rage or hostile behavior toward police or others?
- n. Has there been an increase in the frequency or severity of the violence (whether documented or not)?
- o. Has the perpetrator been violent toward children?
- p. Has there been strangulation involved and how often?
- q. Is there a history of stalking behavior?

Attachment Eight (8)

NCDV Agenda
November 28th, 2017

Contents: CAP Brochure

WHO WE ARE

Nevada's Confidential Address Program (CAP) was established during the 1997 Legislative Session to help victims of crime.

The CAP program is a confidential mail forwarding service for survivors of domestic violence, human trafficking, sexual assault, or stalking. The program greatly reduces the risk of being tracked by public records, including voter registration records.



**Nevada Department of
Health and Human Services**
DIVISION OF CHILD AND FAMILY SERVICES

CONTACT US

888-432-6189

PO Box 2743
Carson City, NV
89702

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nvcap@dcfs.nv.gov



NEVADA'S CONFIDENTIAL ADDRESS PROGRAM

Mail forwarding service
for survivors of domestic
violence, human
trafficking, sexual assault,
or stalking.

ELIGIBILITY REQUIREMENTS

Must be a resident of Nevada.

Must be a survivor of domestic violence, human trafficking, sexual assault, or stalking.

Must be able to provide specific evidence such as: Temporary Restraint Order (TPO), Police Report, or Court Order.

Must apply using one of our Certified CAP Agencies. To locate a Certified CAP Agency visit our website dcfs.nv.gov or call 775-684-5707.

IMPORTANT NUMBERS

National Domestic Violence Hotline
800-799-SAFE

Sexual Assault Support Services
775-221-7600

Human Trafficking Hotline
888-373-7888

Victim Information & Notification Everyday (VINE)
888-2NV-VINE

Nevada 211
*211
866-535-5654

Suicide Prevention Hotline
800-273-8255

BECOME A CERTIFIED CAP AGENCY

If you are a victim advocate agency and would like to become a Certified CAP Agency to help enroll participants into the Nevada Confidential Address Program, please contact us.



Attachment Nine (9)

NCDV Agenda
November 28th, 2017

Contents: Domestic Violence Treasurer Report

Committee/Ombudsman Budget	\$	44,826.00
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Object	Expended
6100	\$ 210.00
PER DIEM OUT-OF-STATE	\$ 210.00
6130	\$ 27.20
PUBLIC TRANS OUT-OF-STATE	\$ 27.20
6200	\$ 887.04
PER DIEM IN-STATE	\$ 887.04
6210	\$ 34.21
MP DAILY RENTAL IN-STATE	\$ 34.21
6230	\$ 18.84
PUBLIC TRANSPORTATION IN-STATE	\$ 18.84
6240	\$ 24.38
PERSONAL VEHICLE IN-STATE	\$ 24.38
6250	\$ 899.32
COMM AIR TRANS IN-STATE	\$ 899.32
7044	\$ 1.56
EXCESS PRINT CHARGES-COPIERS	\$ 1.56
7045	\$ 122.93
STATE PRINTING CHARGES	\$ 122.93
7054	\$ 98.57
AG TORT CLAIM ASSESSMENT	\$ 98.57
7060	\$ 6,425.10
CONTRACTS	\$ 6,425.10
7112	\$ 155.25
NON-STATE OWNED RENTAL MISC	\$ 155.25
7285	\$ 45.67
POSTAGE - STATE MAILROOM	\$ 45.67
7290	\$ 33.98
PHONE, FAX, COMMUNICATION LINE	\$ 33.98
7291	\$ 208.57
CELL PHONE/PAGER CHARGES	\$ 208.57
7750	\$ 2,220.70
NON EMPLOYEE IN STATE TRAVEL	\$ 2,220.70
7760	\$ 738.90
NON EMPLOYEE OUT OF STATE TRAV	\$ 738.90
7981	\$ 9.88
OPERATING LEASE PAYMENTS - A	\$ 9.88
Total Expended	\$ 12,162.10

Remaining Budget	\$	32,663.90
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