

Guidelines for Prosecution of Domestic Violence Cases

**A Report of the
Domestic Violence Prosecution Committee**

*Sponsored by the
Alabama Coalition Against Domestic Violence*

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Prosecution Committee Members

Daryl Bailey, Chair
Assistant District Attorney
15th Judicial Circuit
Montgomery, AL

Steve Marshall,
District Attorney
27th Judicial Circuit
Guntersville, AL

Robert Johnston,
Assistant District Attorney
9th Judicial Circuit
Fort Payne, AL

Scott Lloyd,
Assistant District Attorney
9th Judicial Circuit
Centre, AL

Patty Demos,
Assistant District Attorney
23rd Judicial Circuit
Huntsville, AL

J. Chris McCool,
District Attorney
24th Judicial Circuit
Aliceville, AL

Jill Beck,
Assistant District Attorney
6th Judicial Circuit
Tuscaloosa, AL

Judy Newcomb,
Managing Assistant District Attorney
28th Judicial Circuit
Bay Minette, AL

Susanna Smith-Naisbett,
Director, Harriet's House
Demopolis, AL

Jeannie Ingram,
Director, Family Violence Center
Birmingham, AL

Chris Wise,
Director, Safehouse Perpetrator Program
Pelham, AL

Project Staff

**Alabama Coalition Against Domestic
Violence**
Angelo V. Trimble
Jennifer Woods

For copies or additional information, please contact:
Alabama Coalition Against Domestic Violence
334-832-4842
www.acadv.org

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Recommendation material adapted and modeled in part from Model Criminal Justice System: Response to Domestic Violence: The Report of the Pro-Prosecution Task Force of the Advisory Council on Domestic Violence, State of New Jersey, 2000.

INTRODUCTION

Domestic violence involves a pattern of behavior rather than a single isolated event. Perpetrators use hands, feet, weapons, or other objects to inflict harm upon victims. As many segments of our society are beginning to understand, domestic violence is a crime against the state. It negatively influences our society by reducing our standard of living and our quality of life. Prosecutors have a responsibility to respond carefully and proactively to domestic violence crimes in order to ensure safety for victims and accountability for perpetrators. These guidelines are aimed at reducing domestic violence in our society.

Prosecutors have a unique opportunity, through effective early intervention, to prevent future incidences of domestic violence, including homicides.

Prosecutors should be mindful that a domestic violence perpetrator seeks to control the victim without regard to the victim's well being and often without regard as to whether children are spectators. This abusive condition necessitates that prosecutors carefully listen to the safety concerns of victims.

A pro-prosecution policy makes it clear to the perpetrator that the prosecutor, and not the victim, is responsible for decisions regarding criminal prosecution. By relying primarily on the evidence collected by law enforcement rather than solely on the victim's testimony, the prosecutor may be able to reduce the risk of retaliation by the perpetrator against the victim and increase the likelihood of a successful prosecution.

Violence in an intimate relationship is different from other acts or threats of violence. More than just a legal definition, such violence involves elements of control, domination, and manipulation as primary goals. Physical, verbal, emotional, and other forms of abuse are simply tools to accomplish these primary goals. Recurring domestic violence is not a blind lashing-out or a random, uncontrolled outburst of anger, although it may appear so to a person untrained in the dynamics of such violence. Domestic violence perpetrators often carefully pick the time, place, target, and means, no matter how "out of control" they may seem. In many instances, abusers are respected members of their communities and are violent only in the home "behind closed doors."

The guidelines presented in this document are suggested to assist state, county, and municipal prosecutors in promoting victim safety and enhancing the prosecution rate of domestic violence cases. These recommendations were created to provide general guidance and may not be appropriate for every case involving domestic violence and do not supersede the judgment and discretion of prosecution officials regarding individual cases.

Section A

GENERAL RECOMMENDATIONS

- 1A. Prosecution offices should develop policies, which emphasize the State's authority in case decisions.**
A victim's ability to pursue prosecution may be compromised by fear of retaliation and threats made by the perpetrator. Prosecution strategies must involve input from the victim. However, the ultimate decision regarding whether to prosecute the case should remain with the prosecutor. One strategy for accomplishing this goal is to develop "no drop" policies. "No drop" policies promote prosecution of all appropriate cases without placing the burden of the decision for prosecuting upon the victim. These policies effectively state that domestic violence is a crime, not a private family matter. However, if the concerns of the victims are not considered, these policies could create additional barriers to victim safety.
- 2A. Vertical prosecution should be used in domestic violence cases in order to provide coordinated victim-sensitive services.**
Vertical prosecution is the description for a management policy that designates the same specialized prosecutors and victim-witness staff to handle all aspects of a domestic violence case. One benefit to this approach is that it reduces the number of times and individuals in which the victim must recount the traumatic incident. In addition, vertical prosecution increases communication between the victim and the prosecution office thereby enhancing the ability of the prosecutor to effectively address victim concerns.
- 3A. Prosecution offices should encourage specialized training for domestic violence prosecutors.**
Specialization often results in higher conviction rates of domestic violence offenses. Domestic violence cases may be frustrating for prosecutors who do not understand the dynamics of domestic violence and the reasons for the victim's reluctance to participate in criminal prosecution. Specialization and training will enhance the ability of prosecutors to understand and therefore safely respond to victim behavior.
- 4A. Prosecution of misdemeanor and felony domestic violence cases should be actively pursued in order to prevent future violence.**
It is essential to the successful prosecution of domestic violence cases that trials occur as rapidly as possible without compromising victim safety or the ability of the prosecutor to effectively prosecute the case. The victim is often more willing to cooperate immediately after the incident, rather than later, when the perpetrator may have reasserted control over the victim. Additionally, delays in proceeding to trial increase the opportunity for, and the likelihood of, additional offenses, which may become more serious.

5A. Prosecution offices should develop a domestic violence identification system for case files.

Designating cases as domestic violence will assist in coordination and prosecution of the case. Case designation systems can also alert the prosecutor to the particular needs of the case such as heightened security and confidentiality.

6A. In order to maximize expertise and resources, prosecution offices should participate and take a lead in coordinating efforts with other agencies working on domestic violence cases.

Prosecutors play a key role in the education of law enforcement regarding appropriate charging determinations and evidence-based prosecution methods. This type of law enforcement training often results in an enhanced quality of evidence available in domestic violence cases.

7A. Prosecution offices should aggressively pursue prosecution of violations of Protection Orders. (See Family Violence Protection Order Enforcement Act §30-5A-1 et seq. and Protection from Abuse Act §30-5-9)

The purpose of protection orders is to prevent future episodes of abuse. Domestic violence perpetrators who violate protection orders show a clear intent to continue to harm the victim and show little regard for the ability of the system to hold them accountable. Prosecutors play a crucial role in the initiation of actions to punish domestic violence perpetrators for violations of court orders.

8A. Prosecutors should collaborate with local ACADV domestic violence programs to assist in enhancing the safety of victims.

ACADV member programs provide vital services to victims and can assist prosecution offices in developing safety plans and providing crisis services for victims.

Section B

WITNESS/VICTIM ISSUES RECOMMENDATIONS

- 1B. Victims should be routinely informed of the status of their case and provided an opportunity to have input in case decisions. (See *Crime Victims' Rights §15-23-601 et seq.*)**

One of the major contributors to case attrition in domestic violence cases is the lack of communication between the prosecutor and the victim. Early, consistent contact with victims and immediate referral to support services are critical for victim safety and successful prosecutions. The prosecutor's office should keep the victim informed of all proceedings, ideally creating a dialogue to fully advise the victim on the alternatives available at each stage of the proceedings.

Prosecutors and/or their staff should maintain contact with the domestic violence victim until the case is finally resolved.

- 2B. Prosecution strategies should focus on enhancing victim safety and holding perpetrators accountable.**

Before a victim is required to testify the following factors, at a minimum, should be considered: the necessity of the testimony to prove the case; safety of the witness; and the possible emotional impact.

- 3B. Prosecutors should aggressively protect the confidentiality of victim information. (See *Crime Victims' Rights Act §§15-23-60 et. seq*)**

It is crucial that information regarding a victim's location (home and work address, phone numbers, etc.) be kept confidential. All court documents, which are accessible to the public and/or the perpetrator, should be devoid of references to the victim's location.

Section C

TRIAL CONSIDERATIONS

- 1C. Prosecution offices should develop and strongly encourage the use of evidence-based prosecution strategies in domestic violence cases.**
Due to the power and control dynamics of domestic violence situations, victims may be reluctant to participate in the prosecution. Using evidence-based prosecution techniques reduces the prosecutor's dependency on victim participation in order to prosecute a domestic violence case. (*See Appendix for list of evidence collection techniques*).
- 2C. Prosecution protocols and guidelines should discourage the routine use of such dispositions as deferred prosecution, dismissals, and downgrades to ordinance violations or underlying offenses in domestic violence cases.**
These types of dispositions do not promote perpetrator accountability and generally do not include monitoring of the perpetrator for compliance with court orders. Furthermore, they fail to identify repeat offenders resulting in a lost opportunity for deterrence through application of increasingly severe sanctions.
- 3C. If the prosecutor determines that a plea bargain is an appropriate disposition in a domestic violence case, the prosecutor should recommend that the court refer the defendant to a certified domestic violence perpetrator intervention program.**
The goals of victim safety, defendant accountability, and prevention of future violence should be the primary basis for determining the appropriateness of a plea bargain recommendation.
- 4C. When appropriate, pre-trial conditions of release and protection orders should be requested by the prosecutor to promote victim safety and prevent future acts of violence.**
Perpetrators will often attempt to maintain control over the victim during the prosecution process. The success of maintaining this control is directly related to the degree the perpetrator has access to the victim. Domestic violence is too often lethal and the victim is at the highest risk for serious injury and death when separated from the perpetrator. Prosecutors should strongly consider revoking bonds for violations of conditions of release in addition to any violation of the protection order.
- 5C. Violations of subpoenas by victims should be assessed to determine if the reason for the violation is in response to a safety concern.**
Perpetrators will use various tactics to control the victim's ability to participate in court proceedings. The victim's assessment of danger posed by participating in the proceedings is a major factor in their ability to cooperate. Punitive measures taken against a victim may result in diminishing the victim's safety and increasing the perpetrator's control.

APPENDIX

EVIDENCE BASED COLLECTION CHECKLIST

Evidence-based prosecution is an effective method for responding to domestic violence cases. This method involves collecting all relevant evidence including, but not limited to: photographs of injuries of victim and children; photographs or sketches of the scene; bloody clothing; instruments used to cause harm; and written or audio statements including quotes, excited utterance, and spontaneous statements; and a description of the person's demeanor. Evidence-based collection reduces the dependency of the case on the victim's statements and increases the likelihood of a successful prosecution.

- | | |
|---|--|
| <ul style="list-style-type: none">• Statements documented from all parties• Excited utterances and spontaneous statements documented as quotes• Conditions under which statement was made documented• Appearance and demeanor of parties documented• Appearance of scene documented (written and photographed or sketched)• Injuries of all parties documented (written and photographed/sketched)• Victim asked of any pains or other non-visible injuries• Removed weapons used in incident, in plain view or if consensual search is conducted• Collect torn or bloodied clothing• Medical records obtained | <ul style="list-style-type: none">• Prior police or incident reports included• Booking records included• Restraining orders included• Phone records obtained• 911/Emergency call tape obtained• DV Supplemental Form used for documentation• Follow-up photos of injuries• DHR records• Employment records• Criminal history• Telephone records• Letters from Perpetrator• House Rules - Perpetrators often have a list (either verbal or written) of rules for the victim to follow.• Victim Diary |
|---|--|

DETERMINATION OF PREDOMINATE/PRIMARY AGGRESSORS

Individuals who defend themselves against violence/abuse or who are determined to not be the predominate/primary aggressor should not be arrested. When both individuals are arrested at a domestic violence scene, this dual arrest: further victimizes the victim, decreases the chances of the victim's seeking future assistance, increases the possibility of a more serious offense, including homicide, lessens the ability to prosecute, and increases liability for officers and departments. Alabama's statutes providing Crimes of Domestic Violence (§ 13A-6-20 et. seq.) outlines the factors of review required when determining predominate/primary aggressor.

Section 13A-6-134 outlines the following considerations:

- Prior complaints of domestic violence
- The relative severity of the injuries inflicted on each person
- The likelihood of future injury to each person
- Whether one of the persons acted in self-defense

Other recommended considerations:

- Body language – who displays an aggressive stance and consider size of parties
- History of abuse – examine the paper trail
- Neighbor and witnesses statements
- Excited utterances and spontaneous statements
- Crime scene – does the scene match the statements of the parties, does the story fit the evidence
- Evidence and statements of others
- Whose things are broken
- General violence

Defensive injury tips:

- Be aware of injuries that seem minor compared to their own injuries
- Persons using self-defense will often admit to their use of violence but may not know what to call it
- A person who is being assaulted or is about to be assaulted may realize that they are no match for the violence that is about to be used against them and will often use a weapon or object as an equalizer
- Remember that the basic human survival instinct is based on the premise of "fight or flight."

Self-defense wounds

- scratches to the back of hands, wrist, or arms
- scratches to face and neck
- bite marks on inside of arms
(indicates possible strangulation from behind)
- indications of hair being pulled
- groin or "kicking" injuries
- bite marks to chest or neck
- injuries caused by any hard object or weapon
- injuries located predominately on back, buttocks, and back of legs
(indicating defensive fetal position posture)
- injury to top of or back of head
- scratches to back
- eye injuries (gouging)

SAMPLE PROTOCOLS

Domestic Violence Prosecution Protocol

by District Attorney Steve Marshall

INTRODUCTION

Domestic violence is rooted in our social institutions and customs. It is supported by social beliefs that perpetrate the use of violence as a legitimate means of controlling particular family members at certain times. Most often, these beliefs are used to justify violence as an effective way to maintain control over women, children, and/or the elderly.

Until recently, domestic violence was viewed as a private family matter. The response of the criminal justice system reflected this view. Police were trained to mediate and abate family “disputes,” and to avoid making arrests except in the most serious cases. Prosecutors saw only the most serious domestic violence cases, and were reluctant to pursue domestic violence cases because of the difficulties presented by these cases, and the belief that they would have little success with the prosecution. The courts shared the view that these cases did not belong in the criminal courtroom, and were best handled through mediation, marriage counseling, or civil proceedings. These traditional approaches left the victim, the children, and the public unprotected from the devastating consequences of domestic violence.

The lethal consequences of domestic violence are well documented. FBI homicide studies report that one-third of female homicide victims are murdered by their partners, making domestic violence the single largest category of homicide for women. Two million women are victims of domestic violence every year; 30 percent of the victims are pregnant. Domestic violence victim’s account for the single largest category of women seeking care in hospital

emergency rooms, greatly outnumbering victims of automobile accidents. Indeed, domestic violence accounts for more injuries to women than muggings, rapes, and automobile crashed combined.

However, the toll is not limited to the partners of offenders. The effect of domestic violence on the children who witness the abuse is well documented. Children who witness domestic violence are affected the same way as children who are physically and sexually abused. Children who grow up in violent homes often commit crimes against others, abuse alcohol and other drugs, become teenage runaways and in the case of males the next generation of domestic violence perpetrators.

Ignoring the consequences of domestic violence only ensures that the cycle of violence will continue. It is not only the partners of offenders who suffer the effects of domestic violence; children who witness domestic violence are affected in the same way as children who are physically or sexually abused. Children who grow up in violent homes often commit crimes of violence against others, abuse alcohol and drugs, become runaways, and become the next generation of domestic violence perpetrators.

Research demonstrates that without intervention, domestic violence increases in both frequency and severity. To end violence within the family, a coordinated community response is required. Each part of the community has a role to play: the criminal and civil justice systems, mental/medical

health personnel, educators, clergy, social activists, the media, etc.

Research also shows that the response of the criminal justice system plays a critical role in stopping domestic violence and several studies have indicated that arrest acts as a deterrent to domestic violence. This has also been the finding in many jurisdictions that have instituted pro-arrest or mandatory arrest policies in these cases.

To end the cycle of violence, a coordinated community response is required. Each part of the community has a role to play: families, the criminal and civil justice systems, medical and mental health professionals, educators, clergy, service agencies, and the media. This protocol is part of a coordinated effort toward stopping that cycle of violence.

This protocol has been adopted and revised by the District Attorney's Office of Marshall County and was jointly developed in 2004 by the Marshall County District Attorney, Steve Marshall, members of the Marshall County Coalition Against Domestic Violence and Alabama Coalition Against Domestic Violence. It guides the prosecution of all domestic violence cases handled by the District Attorney's Office of Marshall County and our hope to be a model for all city court prosecutions in Marshall County. We acknowledge with our thanks the use of this protocol by all prosecutors in this county and the permission of all law enforcement and city prosecutors to utilize these procedures and policies.

PURPOSE OF PROTOCOL

The Marshall County District Attorney's Office believe that domestic abuse is serious criminal conduct, that all persons have a right to be safe in their own homes, and that the State, through the prosecutor, has an affirmative duty to intervene in domestic abuse cases. That duty, subject to moral and ethical considerations, extends to prosecuting perpetrators even

when victims are unwilling or unable to support that prosecution.

This office believes that domestic violence is learned behavior in which physical and psychological coercion are used to assert and maintain control over an intimate partner, that domestic assaults are serious crimes, that intra-family abuse is often a cyclic pattern of behavior which escalates in severity, endangering the lives and emotional well-being of victims and their children. Domestic violence should be prosecuted aggressively and should be given a high priority in the criminal process. This office believes that victims are often unable to break the cycle of violence and that effective intervention by law enforcement and the courts is necessary in order to allow victims and their children an opportunity for a safe separation from a violent environment.

The purpose of this protocol is to provide a model set of policies and procedures for the handling of domestic violence prosecutions in Marshall County. This protocol is based on the premise that domestic violence is criminal conduct. Prosecutors have the same responsibility to aggressively prosecute these cases as they do with any other violent crimes. The State has a critical interest in reducing the number of incidents of domestic violence, as they tend to escalate in frequency and severity, and all too often result in homicides.

The successful prosecution of domestic violence requires specialized techniques designed to protect the victim from retaliation by the offender, allay the victim's fears of the criminal justice system and encourage a victim's cooperation with the prosecution's efforts. The purpose of this protocol is to provide goals, policies, and procedures for the prosecution of domestic assaults in Marshall County, which are consistent with these principles. Adherence to this protocol will help prosecutors to be more effective and ultimately increase the number of successful dispositions in domestic violence cases.

I. Domestic Violence Mission Statement

To intervene in family violence with a goal of reducing domestic abuse and homicides.

II. Goals of Prosecution

In prosecuting domestic assaults, the prosecutor should attempt to achieve the following goals:

- A. To reduce significantly domestic violence.
- B. To protect the victim from additional acts of violence committed by the defendant.
- C. To protect the children or other family members from domestic violence or exposure to domestic violence.
- D. To enhance the safety of the general public.
- E. To hold the abuser accountable for violent criminal conduct.
- F. To create a general deterrence to domestic violence in the community.
- G. To provide restitution and long-term protection to the victim and the children.
- H. To rehabilitate the abuser.

III. Domestic Violence: The Problem

The policies stated in this protocol are aimed at reducing domestic violence in society by increasing the number of positive dispositions in domestic violence cases. It is the position of the District Attorney that the aggressive prosecution of misdemeanor domestic violence cases will ultimately reduce the significant number of homicides, spousal rapes, aggravated assaults, and related felonies, which are presently attributed to escalating cycles of domestic violence.

Pro-active prosecution of domestic violence can only be achieved through a thorough understanding of the problem and

the dynamics of domestic violence in families and society.

“Domestic Violence” can be defined in legal and clinical terms. For clinical purposes, domestic violence is “assaultive behavior.” Domestic violence generally represents a pattern of behavior rather than a single isolated event. The pattern of behavior can take on many different forms, all of them involving physical violence or threats of physical violence. The violence may be accomplished through the use of hand, feet, weapons, or other objects.

The National Institute of Justice estimates that a woman is battered every 18 seconds in the United States.¹ Some studies have suggested that between 35 and 50 percent of the nation’s couples have experienced at least one violent incident in their relationship.

Historically, the problem of violence in the home has been surrounded by a number of myths and misconceptions, which has perpetuated spouse abuse in society and has hampered the effective response of law enforcement. Some of the most common myths and misconceptions are briefly addressed below.

A. Domestic Violence is a Private “Family Matter”

Some feel that violence between people in intimate relationships is somehow “different” than violence between strangers. The privacy of the marital relationship and the family unit has been elevated above the prohibitions against violence contained in existing laws. Nevertheless, a spouse has no right under existing laws to physically abuse their spouse in any manner.

B. Domestic Violence is Usually Provoked by the Victim

¹ National Institute of Justice, *Confronting Domestic Violence: A Guide for Criminal Justice Agencies* U.S. Department of Justice May 1986).

This myth stems from a belief that men have the right to discipline their spouses for behavior that the man does not approve of. Most studies agree that mutual combat or provocation is not the cause of domestic violence. Indeed, verbal “provocation,” no matter how severe, should never be a justification for violence. The failure of a batterer to take responsibility for his violent behavior and the victim’s tendency for self-blame should not lead society to the same erroneous conclusions. In the overwhelming majority of cases, it is women who are being routinely and severely victimized by men. To be sure, abused men do exist and must be protected, but the incidents of husband and boyfriend battering are rare.

C. Battered Women are Masochistic

Some believe that if battered women were really abused, they would leave. Others believe that if victims of abuse wished to end the abuse, they could simply seek outside help and leave the relationship. These views reflect an ignorance regarding the dynamics of abusive relationships. Battered women have often been in the relationships for a significant period of time and have strong mental and emotional ties. Often children are involved and the battered spouse must resolve how to provide for her children if she were to leave the abusive relationship and take her children with her. Battered women face enormous pressures to remain in an abusive relationship, including economic dependency, lack of support from relatives and friends, and threats of increased violence if any action is taken against their abuse. For a victim, low self-esteem further compounds the problem of removing herself from an abusive relationship.

D. Batterers are Always Drug or Alcohol Abusers

Many believe that men who batter women are predominantly working class substance abusers. Experts, however, have determined that domestic violence spans every

socioeconomic group and is not caused by substance abuse. Recent studies suggest that alcohol and drugs may increase the level of violence but do not precipitate the violence. The decision to use violence is often made before the batterer ingests the substance, which he will ultimately blame for his violence outburst. The drugs or alcohol, thereafter, becomes a convenient excuse for engaging in deviant behavior.

IV. Understanding the Cycle of Violence

Relationships, which involve any level of physical violence generally, evidence a recurring cycle of behavior. The “cycle of violence” in a violent relationship consists of three stages: (1) the tension building phase (2) the acute battering episode and (3) the aftermath: loving respite.

A. Tension Building Phase

The first phase is a tension-building stage. The woman senses the man becoming edgy and more prone to react negatively to any trivial frustration. Many women learn to recognize incipient violence and try to control it by becoming nurturing and compliant or by staying out of the way.

A woman often views the building rage in her partner as being directed toward her and internalizes the job of keeping the situation from exploding. If she does her job well, he will become calm; if she fails, it is her fault. A woman who has been battered over time knows that the tension building stage will aggravate, but denies this knowledge to help herself cope with her partner’s behavior. As the tension builds, he becomes more fearful that she will leave him; she may reinforce this fear by withdrawing from him to avoid inadvertently setting off the impending violence.

B. Acute Battering Episode

The second phase in the pattern of violence is the explosion. Many men report that they do not start out wanting to hurt the woman but

want only to teach her a lesson. This is the stage where police, the victim, or the batterer may be killed. The violence may involve pushing, shoving, shaking, or pulling hair. It may involve hitting with an open hand or a closed fist.

The violence may be over in a moment or last for minutes or hours. There may be visible injuries, but often an experienced batterer will leave no marks. The violence attack rarely takes a single consistent form. Most women are extremely grateful when the battering ends. They consider themselves lucky that it was not worse, no matter how bad their injuries are. They often deny the seriousness of their injuries and refuse to seek immediate medical attention.

C. Aftermath: Loving Respite

The third phase is a period of calm, loving, contrite behavior. The man is genuinely sorry for what he has done. His worst fear is that his partner will leave him so he tries as hard as he can to make up for his brutal behavior. He really believes he can control himself and will never again hurt the woman he loves. The battered woman wants to believe she will no longer have to suffer abuse. His reasonableness and his loving behavior during this period support her wish that he can really change. He lets her know that he would fall apart without her. So, she feels responsible for her own conduct that led to the beating and also responsible for his well being.

Victims will most frequently enter the criminal justice system after an acute battering episode; the “loving respite” phase usually follows immediately. Both parties may be horrified by what has happened. Both feel guilty about the event and both resolve to never let it happen again. The batterer very typically will treat the victim with apparent respect, love, and affection. This is a great relief to the victim and is precisely what the victim has wanted out of their relationship all along.

This “loving respite” phase makes criminal prosecution difficult. As long as the batterer

continues to behave affectionately, the victim may become increasingly reluctant to jeopardize such good behavior by cooperating with the prosecution. A victim-witness advocate who understands the dynamics of the battering cycle can effectively intervene by reminding the victim of similar remorseful periods in the past, predicting a return to the tension building phase, and explaining the likelihood of more frequent and severe injuries.

V. Beyond the Cycle of Violence

While most relationships involving violence do exhibit some type of cycle, it is important to be aware that violence relationships may not go through the cycle described above. Batterers may never express remorse or sorrow for their behavior. Victims may react in such a way that they do not deny or minimize the violence. Batterers may use threats, violence, and intimidation to discourage a victim from cooperating without resorting to apologies or flowers.

It should also be noted that the frequency between violent episodes may not follow a clear pattern. A batterer may appear calm or even light-hearted prior to a violent outburst. There may be no indication of a “tension building stage.” As experts in the field of domestic violence learn more about the dynamics, it appears that power and control issues are more central to the relationships than a simple anger/stress theory would indicate. Batterers use violence to exercise power and control over victims. Generally, the man has the power in a violent relationship and uses force or threat of force to exercise control over the woman. Although a victim may say that force was used for the first time, it remains true that once violence is used, it is likely to become a more common tool of the abuser to exercise control.

Prosecution Procedures and Guidelines

I. Policy

The Marshall County District Attorney's Office is committed to employing a comprehensive approach to actively intervene in all domestic violence cases. On a case-by-case basis, the goal shall be to implement the most effective response to the perpetrator (i.e., sentencing alternatives), the most effective method of protecting and assisting the victim, and the most effective method of ending violence in that family.

II. Prosecution Guidelines

The intent of the following guidelines is to provide guidance and structure rather than establish a rigid formula.

A. A case will not be dismissed solely because the victim requests that charges be dismissed or indicates an unwillingness or inability to participate in the prosecution (see No-Drop Policy attached hereto).

Defendants will be required to enter a plea of guilty; proceed to trial; or use plea bargaining alternatives including the Diversion Program.

B. Victims of domestic violence will be contacted as soon as possible after the incident. They will be assisted throughout the court process and informed of the availability of community services for support, counseling, legal, and other assistance.

C. Role of Prosecutor

Prosecutors in domestic violence cases shall enforce all municipal ordinances and state laws reflective of domestic violence in an attempt to maximize the ability of the court to place controls on defendants and deter further acts of violence. The following guidelines shall apply:

1. Seek to obtain convictions in appropriate cases
2. Proceed with as few continuances as possible to increase the likelihood of a conviction and decrease the opportunity for the defendant to continue to commit violent acts

against the victim or to pressure the victim

3. Cooperate with law enforcement officials, victim advocates, and victims to increase access to evidence and information regarding cases.
4. Plea bargaining. The prosecutor shall approach plea bargaining with the intent of furthering the policies and goals set forth in further detail herein.
5. Cases in which the victim does not participate will be dealt with on an individual basis. While the intent is not to re-victimize the victim, the integrity of the system established to protect citizens from abuse must be preserved
6. If a victim fails to appear for trial, a continuance should be requested. If the defendant requests a continuance, it should be strongly opposed if the prosecution is prepared to proceed. If a continuance is granted, it should be brought to the attention of the court and made clear to the defendant on the record that any conditions of bond, such as no contact with the victim, remain in effect. If the victim desires a no contact order, and one has not already been issued, the prosecutor should request one of the courts.
7. Statements in aggravation or requests for restitution should be made to the court by the prosecutor's office when the situation warrants such action.
8. Prosecutors in domestic violence cases have a responsibility to request whatever measures may be necessary to protect victims in these cases. Some of these measures include no contact orders, special conditions of bond, suspended sentences, and to pursue bond revocations, probation revocations, suspended sentence revocations.

D. **The responsibilities of the Victim Coordinator for the Marshall County Coalition Against Domestic Violence shall include:**

1. Victim contact at the earliest possible time, including possible scene, hospital, or law enforcement center response. Safety issues should be discussed and referrals and information about the Marshall County Coalition Against Domestic Violence Program and other community resources should be given. The accuracy of the victim's statement concerning the violent incident should be reviewed with the victim.
 1. The coordinator should assist in tracking new assaults and protective order violations and should assist the prosecutor in preparing for trials and hearings. The coordinator should be sure that a criminal history is available and that appropriate records have been checked for previous assaults and possible charge enhancements.
 2. File contents should be checked prior to the trial information deadline to be sure that all of the following is available:
 - a. Police reports
 - b. Photographs
 - c. Dispatch log
 - d. 911 tape
 - e. Additional interviews
 - f. Medical records
 - g. History of prior assaults
 4. The coordinator should track and inform the prosecutor of other pending assault charges and new charges against the same defendant, the existence of civil protective orders and violations of civil or criminal protective orders.
 5. The coordinator should check for concurrent dissolution or juvenile court cases.

6. The coordinator should assist the victim in making requests to the court for no contact order modifications, extensions, and terminations.

IV. Investigation

- A. All cases should be approached with a goal of proceeding without the participation of the victim. In many cases, the victim will decline to participate from the outset or will decide during the prosecution not to participate further. Even in cases in which the victim is willing to participate, the victim should be allowed the opportunity of having the prosecution go forward without the victim's participation.
- B. Law enforcement agencies will be requested to conduct all domestic assault investigations under the assumption that the victim's testimony will not be available. Prosecutors should participate in training officers concerning obtaining other kinds of admissible evidence.
- C. The following evidence should be sought whenever possible in domestic violence cases:
 1. Photographs of the victim, including detailed photographs of injuries.
 2. Photographs of the defendant, including detailed photographs showing injuries or the absence of injuries.
 3. Photographs of the crime scene.
 4. Interviews of all witnesses.
 5. Photographs and interviews of all children.
 6. 911 tapes.
 7. Statements made by the victim following the violent incident, including excited utterances, statements made for purposes of medical

- treatment, and statements concerning prior abuse.
- 8. Statements made by the defendant.
- 9. Emergency medical services run sheets.
- 10. Medical records, including nurses notes and photographs.
- 11. Evidence from the crime scene, photographed in place and seized (weapons, broken telephones, furniture, or other items, torn clothing, notes, etc.).

V. Plea Negotiations and Dispositions

A. Victims should be informed concerning plea negotiations and proposed dispositions. Victims should be encouraged to complete victim impact statements and should be allowed an opportunity to make a statement to the sentencing court. The views of victims concerning plea negotiations and dispositions should be considered but should not control the prosecution.

B. Except in extraordinary circumstances, no domestic violence charge should be dismissed in exchange for a guilty plea to another charge.

C. In conducting plea negotiations, prosecutors should attempt to achieve the goals of domestic violence prosecution. In addition, prosecutors should consider the factors:

- 1. The nature of the offense.
- 2. The degree of the offense charged.
- 3. Any possible mitigating circumstances.
- 4. The relationship between the accused and the victim.
- 5. The age, background, and criminal record, if any, of the accused.

- 6. The attitude and mental state of the accused at the time of the crime, the time of arrest, and the time of plea discussion.
- 7. The age of the victim.
- 8. Sufficiency of admissible evidence to support a verdict.
- 9. Undue hardship caused to the accused.
- 10. Possible deterrent value of prosecution.
- 11. Aid to other prosecution goals through non-prosecution.
- 12. A history of non-enforcement of the statute violated.
- 13. The expressed wish of the victim not to prosecute.
- 14. The age of the case.
- 15. Possible improper motives of a victim or witness.
- 16. Likelihood of prosecution in another jurisdiction.
- 17. Any provisions for restitution.
- 18. The character, attitude, demeanor, physical characteristics, and credibility of the victim, and/or any of the witnesses, as well as their availability for court appearance.

D. Cases in which all of the following factors are present may be considered for an immediate offer for a guilty plea to simple misdemeanor domestic assault and a recommended deferred judgment:

- 1. First offenders.
- 2. No significant injuries.
- 3. No use or threat to use weapons.

4. No lethal threats against the victim or others.
 5. No history of other serious criminal activity or uncharged violent incidents.
 6. No victim harassment in the present case after arrest.
 7. Consultation with the victim.
 8. Immediate enrollment in the Batterers Education Program.
 9. The defendant agrees to plead immediately.
- E. In determining what sentencing recommendation to make to the court after conviction, prosecutors should seek to achieve the goals of domestic violence prosecution and, in addition, should consider the following factors:
1. The defendant's criminal record.
 2. Whether the defendant was on probation at the time of the crime.
 3. Whether the defendant violated a protective order.
 4. The defendant's history of violence.
 5. The impact of the crime on the victim.
 6. The seriousness of the victim's injuries.
 7. The use of a weapon.
 8. The defendant's potential for rehabilitation.
 9. The defendant's use of drugs or alcohol.
 10. Whether children were present or have previously been exposed to the defendant's violence.

Marshall County District Attorney's Policy Regarding Drop Charge Requests

The District Attorney is sworn to uphold the laws of the State of Alabama and to protect the public, including crime victims and witnesses. Decisions regarding pending cases in the Marshall County District Attorney's office, including whether to proceed with charges against a defendant, rest solely with the prosecutors of this office.

The District Attorney has established a no-drop policy as it pertains to victims wishing to drop charges against defendants. All victims who inquire about dropping charges are referred to the victim coordinator for the Marshall County Coalition Against Domestic Violence. This policy does not mean the District Attorney's office will not reduce or dismiss a case, it means the decision is the responsibility of the District Attorney, not the victim. It is the State of Alabama vs. the Defendant, not the Victim vs. the Defendant. Crime victims wishing to discuss the possible reduction or dismissal of charges in a pending case must schedule an appointment with a victim coordinator

Multiple reasons exist for this policy. Some victims who are being coerced or feel compelled to drop charges have changed their minds and cooperated with the prosecution after talking with a victim coordinator, while other victims who inquire about our no-drop policy are relieved to discover they do not carry the burden and responsibility of pressing charges and prosecuting the case. The no-drop policy also gives victim coordinator the opportunity to further research a case and present a more complete profile to the prosecutor, who then has the opportunity to review the file and make better-informed decisions about the pending case.

Sample Prosecution Protocol Overview

I. INTRODUCTION

Domestic violence represents a pattern of behavior rather than a single isolated event. Perpetrators use hands, feet, weapons, or other objects to inflict harm upon victims. As many segments of our society are beginning to understand, domestic violence is a crime against the state. It influences all of society by reducing our standard of living and our quality of life. Prosecutors have a responsibility to respond carefully and proactively to crimes involving domestic violence in order to ensure safety for victims and accountability for perpetrators. These guidelines are aimed at reducing domestic violence in our society.

Prosecutors have the unique opportunity to prevent future incidences of domestic violence, including homicides through early effective intervention.

Prosecutors must be mindful that in domestic violence cases the perpetrator; seeks to control the victim, to have the victim comply with the perpetrator's directives without regard to the victim's well being, and often without regard to whether children are spectators. A pro-prosecution policy makes it clear to the perpetrator that the prosecutor, and not the victim, is responsible for decisions regarding criminal prosecution. By relying primarily on the evidence collected by law enforcement rather than on the victim's testimony, the prosecutor may be able to reduce the risk of retaliation by the perpetrator against the victim.

Victims of domestic violence are often in difficult situations necessitating that prosecutors carefully listen to the concerns of the victim and consider victim safety.

Violence in an intimate relationship is different from other acts or threats of violence. More than just a legal definition, such violence involves elements of control, domination, and manipulation as primary goals. Physical, verbal, emotional, and other forms of abuse are simply tools to accomplish these primary goals. Recurring domestic violence is not a blind lashing-out or a random, uncontrolled outburst of anger, although it may appear so to a person untrained in the dynamics of such violence. Domestic violence perpetrators often carefully pick the time, place, target, and means, no matter how "out of control" they may seem. In many instances, abusers are respected members of their communities and are violent only in the home "behind closed doors."

These recommendations were created to provide general guidance and may not be appropriate for every case involving domestic violence and do not supersede the judgment and discretion of prosecution officials regarding individual cases. The goal of the following guidelines is to provide overall guidance and not a rigid formula.

II. PURPOSE

The District Attorney is committed to responding with a comprehensive approach to all domestic violence cases. On a case-by-case basis, the goal shall be to hold the batterer accountable and provide the most effect method for providing protection and assistance to victims.

Goals of Prosecution

- To promote victim and public safety
- To provide protection for victims and their children
- To hold batterers accountable for their violence
- To enhance the response of the criminal justice system to domestic violence cases

III. VICTIM RESPONSE

- Victims will be provided with written information on the status of the case, kept apprised of changes in case status, and provided an opportunity to give input in the prosecution process. All contact, including attempts, between the prosecution office and victims will be documented.
- Final decisions regarding prosecution are the responsibility of the prosecutor. However, such decisions should involve input from the victim and an assessment of safety concerns.

IV. CASE MANAGEMENT

- Designated prosecutors and staff will manage domestic violence cases. To the degree possible, the same prosecutor and victim advocate will work with a victim until completion of the case.
- Prosecutors and staff assisting in domestic violence cases will receive on-going training on domestic violence issues.
- Misdemeanor offenses will be actively prosecuted, as appropriate, in order to prevent future incidences of domestic violence.
- Domestic violence case files will include a designation code in order to assist in prioritization, coordination, management, and ensure confidentiality.
- Designated prosecutors and staff will provide training to local law enforcement on evidence-based prosecution. These evidence-based prosecution techniques will be used in domestic violence cases.
- Prosecutors should request information regarding the location of the victim, including home and business, be designated confidential by the court.

V. PROSECUTION RESPONSE

- Charges of violations of protection orders should be assessed in addition to other crimes committed in conjunction with the violation. Violations of protection orders should be aggressively prosecuted.
- Prosecutors will work in cooperation with victim services in making referrals and assisting victims in receiving services.
- Recommendations for deferred prosecution, dismissals, and downgrade of charges will be made only in appropriate cases after considerations of perpetrator accountability and victim safety have been addressed. Such recommendations, when possible, will include a request for the perpetrator to attend a certified batterer's intervention program.
- Conditions of Release and Protection Orders will be requested when appropriate to provide safety to victims.
- Violations of subpoenas by victims should be assessed to determine if the reason for noncompliance was the result of actions by the perpetrator or due to safety concerns.

Additional Resources for Prosecutors

San Diego Domestic Violence Unit – <http://www.sandiegodvunit.org/unitlib.htm>

American Prosecution Resource Institute – <http://www.ndaa-apri.org/apri/>

Department of Justice – http://www.ojp.usdoj.gov/prosecution/technical_assistance.htm

American Bar Association – <http://www.abanet.org/domviol/home.html>

Victim Participation in Prosecution

There are many reasons why a victim may be unwilling and/or unable to participate in criminal prosecution. Prosecutors who understand these reasons are more likely to avoid developing an antagonistic relationship with victims. Victims are more likely to respond positively to empathetic and proactive prosecution strategies that address the specific concerns of individual victims.

Victims are often reluctant to participate in criminal prosecution due to one or more of the following reasons:

Victims may believe:

- The criminal justice system will not hold the batterer accountable
- The violence will end on its own or through counseling
- That no one will believe them
- The children are better off with both parents
- The violence and abuse is their fault
- They are unable to survive financially without the batterer

Victims may fear:

- The batterer will further harm or kill them if they participate in the prosecution
- The batterer will harm other family members or children
- The batterer will retaliate against them

Batterers may:

- Interfere with the victim's ability to appear in court (physical restraint, discarding mailed notices, erasing voice messages regarding the case, disabling transportation, etc.)
- Intimidate the victim directly or indirectly
- Pressure friends and family to convince the victim not to participate

PROTECTION ORDERS AND FEDERAL FIREARMS PROHIBITIONS

Persons subject to a qualifying protection order under federal law are generally prohibited from possessing any firearm or ammunition in or affecting commerce (or shipping or transporting any firearm or ammunition in interstate or foreign commerce, or receiving any such firearm or ammunition). Violation of this prohibition while the order remains in effect is a federal offense punishable by up to ten years imprisonment. 18 U.S.C. §§ 922(g)(8), 924(a)(2).

The following list enumerates the elements that define a qualifying protection order under the federal firearms prohibition. **Generally, a defendant/respondent subject to a protection order that includes one element (indicated by a diamond) from each section listed below is covered by the federal firearms prohibition.**

I. HEARING

- ❖ Defendant/Respondent received **actual notice** and had an **opportunity to participate**.

II. INTIMATE PARTNER

Plaintiff/Petitioner is an **intimate partner** of the Defendant/Respondent, (18 U.S.C. § 921(a)(32)) that is:

- ❖ a **spouse** of Defendant/Respondent;
- ❖ a **former spouse** of Defendant/Respondent;
- ❖ an individual who is a **parent** of a child of Defendant/Respondent; **or**
- ❖ an individual who **cohabitates or has cohabited** with Defendant/Respondent.

III. RESTRAINS FUTURE CONDUCT

- ❖ The order **restrains** Defendant/Respondent from **harassing, stalking, or threatening** the intimate partner, child of the Defendant/Respondent, or child of the Defendant/Respondent's intimate partner; **or**
- ❖ The order **restrains** Defendant/Respondent from engaging in other conduct that would place the intimate partner in **reasonable fear of bodily injury** to the partner or child.

IV. CREDIBLE THREAT OR PHYSICAL FORCE

- ❖ The order includes a finding that Defendant/Respondent is a **credible threat** to the physical safety of the intimate partner or child; **or**
- ❖ The order, by its terms, explicitly prohibits the use, attempted use, or threatened use of **physical force** against the intimate partner or child that would reasonably be expected to cause bodily injury.

For further information about firearms prohibitions or section 922(g)(8), contact your local Field Division of the Bureau of Alcohol, Tobacco and Firearms by calling (800) 800-3855. For general information about protection orders and firearms, contact the Full Faith and Credit Project at (800) 256-5883.

MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE AND FEDERAL FIREARMS PROHIBITIONS

Persons who have been convicted in any court of a qualifying misdemeanor crime of domestic violence (MCDV) generally are prohibited under federal law from possessing any firearm or ammunition in or affecting commerce (or shipping or transporting any firearm or ammunition in interstate or foreign commerce, or receiving any such firearm or ammunition). This prohibition also applies to federal, state, and local governmental employees in both their official and private capacities. Violation of this prohibition is a federal offense punishable by up to ten years imprisonment. See 18 U.S.C. § 922(g)(9); see also 18 U.S.C. §§ 921(a)(33), 924(a)(2), 925(a)(1); 27 C.F.R. §§ 178.11, 178.32.

A qualifying MCDV is an offense that:

- ❖ Is a federal, state, or local offense that is a misdemeanor under federal or state law;
- ❖ Has as an element the use or attempted use of physical force, or the threatened use of a deadly weapon; and,
- ❖ At the time the MCDV was committed, the defendant was:
 - ◆ A current or former spouse, parent, or guardian of the victim;
 - ◆ A person with whom the victim shared a child in common;
 - ◆ A person who was cohabiting with or had cohabited with the victim as a spouse, parent, or guardian; or,
 - ◆ A person who was or had been similarly situated to a spouse, parent, or guardian of the victim.

EXCEPTIONS: A person has not been convicted of a qualifying MCDV:

- ❖ IF the person was not represented by counsel — unless he or she knowingly and intelligently waived the right to counsel;
- ❖ IF the person was entitled to a jury trial AND the case was not tried by a jury — unless the person knowingly and intelligently waived the right to jury trial; or,
- ❖ IF the conviction was set aside or expunged; the person was pardoned; or, the person's civil rights — the right to vote, sit on a jury, and hold elected office — were restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense).

BUT: This exception does NOT lift the federal firearms prohibition if:

- ◆ the expungement, pardon, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms; or,
- ◆ the person is otherwise prohibited by the law of the jurisdiction in which the proceedings were held from receiving or possessing any firearms.

FOR FURTHER INFORMATION ABOUT SECTION 922(g)(9) OR FEDERAL FIREARMS PROHIBITIONS GENERALLY, CONTACT YOUR LOCAL FIELD DIVISION OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS BY CALLING (800) 800-3855. FOR FURTHER INFORMATION ABOUT DOMESTIC VIOLENCE GENERALLY, CONTACT THE NATIONAL CENTER ON FULL FAITH AND CREDIT AT (800) 256-5883 EXT. 2.

DOMESTIC VIOLENCE SUPPLEMENTAL REPORT FORM

CASE NUMBER: _____

LOCATION: _____

TIME: _____

DATE: _____

CALLER: VICTIM HOSPITAL NEIGHBOR FAMILY MEMBER OTHER

CALLER'S NAME: _____

VICTIM	CONDITION OF VICTIM UPON ARRIVAL		VICTIM NAME(L,F,M): _____	DOB: _____
	<input type="checkbox"/> ANGRY	<input type="checkbox"/> COMPL. OF PAIN		GENDER: <input type="checkbox"/> M <input type="checkbox"/> F
	<input type="checkbox"/> APOLOGETIC	<input type="checkbox"/> BRUISE(S)	ADDRESS: _____	HOME PHONE: _____
	<input type="checkbox"/> CRYING	<input type="checkbox"/> ABRASION(S)		WORK PHONE: _____
	<input type="checkbox"/> FEARFUL	<input type="checkbox"/> MINOR CUT(S)	AT TEMPORARY ADDRESS? <input type="checkbox"/> YES, SPECIFY _____ <input type="checkbox"/> NO	
	<input type="checkbox"/> HYSTERICAL	<input type="checkbox"/> BITE(S)	TEMPORARY PHONE #: _____	CONTACT PERSON: _____
<input type="checkbox"/> CALM	<input type="checkbox"/> FRACTURE(S)	SPONTANEOUS STATEMENTS: _____ _____		
<input type="checkbox"/> AFRAID	<input type="checkbox"/> CONCUSSION(S)			
<input type="checkbox"/> IRRATIONAL	<input type="checkbox"/> GUNSHOT(S)			
<input type="checkbox"/> NERVOUS	<input type="checkbox"/> DEEP CUT(S)			
<input type="checkbox"/> THREATENING	<input type="checkbox"/> SEXUAL ASSAULT			
<input type="checkbox"/> OTHER:	<input type="checkbox"/> OTHER:	ALCOHOL/DRUG USE? <input type="checkbox"/> YES <input type="checkbox"/> NO TYPE OF SUBSTANCE: _____		

SUSPECT	CONDITION OF SUSPECT UPON ARRIVAL		SUSPECT NAME(L,F,M): _____	DOB: _____
	<input type="checkbox"/> ANGRY	<input type="checkbox"/> COMPL. OF PAIN		GENDER: <input type="checkbox"/> M <input type="checkbox"/> F
	<input type="checkbox"/> APOLOGETIC	<input type="checkbox"/> BRUISE(S)	ON PROBATION? <input type="checkbox"/> YES <input type="checkbox"/> NO	WHERE: _____
	<input type="checkbox"/> CRYING	<input type="checkbox"/> ABRASION(S)		PROB. OFC: _____
	<input type="checkbox"/> FEARFUL	<input type="checkbox"/> MINOR CUT(S)	SPONTANEOUS STATEMENTS: _____ _____	
	<input type="checkbox"/> HYSTERICAL	<input type="checkbox"/> BITE(S)		
<input type="checkbox"/> CALM	<input type="checkbox"/> FRACTURE(S)	ALCOHOL/DRUG USE? <input type="checkbox"/> YES <input type="checkbox"/> NO TYPE OF SUBSTANCE: _____		
<input type="checkbox"/> AFRAID	<input type="checkbox"/> CONCUSSION(S)	SUSPECT PRESENT? <input type="checkbox"/> YES <input type="checkbox"/> NO ARRESTED? <input type="checkbox"/> YES: <input type="checkbox"/> ON-SCENE <input type="checkbox"/> WARRANT		
<input type="checkbox"/> IRRATIONAL	<input type="checkbox"/> GUNSHOT(S)	CHARGE: _____		
<input type="checkbox"/> NERVOUS	<input type="checkbox"/> DEEP CUTS)	IF <input type="checkbox"/> NO WARRANT ISSUED? <input type="checkbox"/> YES <input type="checkbox"/> NO		
<input type="checkbox"/> THREATENING	<input type="checkbox"/> SEXUAL ASSAULT	IF NO ARREST, EXPLAIN FULLY IN REPORT NARRATIVE.		
<input type="checkbox"/> OTHER:	<input type="checkbox"/> OTHER:			

RELATIONSHIP

CHECK ALL THAT APPLY	<input type="checkbox"/> SPOUSE	LENGTH OF RELATIONSHIP: YRS _____ MTHS _____	REL. ENDED? <input type="checkbox"/> YES <input type="checkbox"/> NO	DATE ENDED: _____	
	<input type="checkbox"/> FORMER SPOUSE	PRIOR HISTORY OF DV? <input type="checkbox"/> YES <input type="checkbox"/> NO	PRIOR HISTORY DOCUMENTED? <input type="checkbox"/> YES <input type="checkbox"/> NO		
	<input type="checkbox"/> COHABITANT	NUMBER OF PRIOR INCIDENTS: _____	<input type="checkbox"/> SERIOUS <input type="checkbox"/> MINOR		
	<input type="checkbox"/> FORMER COHABITANT	INVESTIGATING AGENCY: _____	CASE#: _____		
	<input type="checkbox"/> DATING	PROTECTIVE ORDER EVER ISSUED? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> CURRENT <input type="checkbox"/> EXPIRED EXPIRATION DATE: _____			
	<input type="checkbox"/> FORMER DATING	TYPE OF ORDER: <input type="checkbox"/> EX PARTE <input type="checkbox"/> ONE-YEAR DVPO DEFENDANT SERVED? <input type="checkbox"/> YES <input type="checkbox"/> NO			
<input type="checkbox"/> CHILD IN COMMON	IF NOT SERVED, DID OFFICER GIVE NOTICE TO DEFENDANT OF PROTECTIVE ORDER? <input type="checkbox"/> YES <input type="checkbox"/> NO				
	CONFIRMED BY: <input type="checkbox"/> VICTIM'S COPY <input type="checkbox"/> DEPARTMENT <input type="checkbox"/> OTHER: EXPLAIN: _____				

INCIDENT INFORMATION

MARK APPROPRIATELY TO DESCRIBE WHAT OCCURRED	<input type="checkbox"/> DESTROYING PROPERTY	<input type="checkbox"/> BITING	WEAPONS USED BY:		PHOTOS TAKEN OF:	TYPE OF FILM:
	<input type="checkbox"/> THROWING OBJECTS	<input type="checkbox"/> KICKING	<input type="checkbox"/> SUSPECT	<input type="checkbox"/> VICTIM	<input type="checkbox"/> VICTIM	<input type="checkbox"/> 35MM
	<input type="checkbox"/> PUSHING/SHOVING	<input type="checkbox"/> SLAPPING	<input type="checkbox"/> NONE	<input type="checkbox"/> NONE	<input type="checkbox"/> SUSPECT	<input type="checkbox"/> POLAROID
	<input type="checkbox"/> HITTING WITH FIST	<input type="checkbox"/> CHOKING	<input type="checkbox"/> KNIFE	<input type="checkbox"/> KNIFE	<input type="checkbox"/> CHILDREN	<input type="checkbox"/> DIGITAL
	<input type="checkbox"/> THREAT W/ WEAPON	<input type="checkbox"/> BEATING	<input type="checkbox"/> BLUNT OBJECT	<input type="checkbox"/> BLUNT OBJECT	<input type="checkbox"/> CRIME SCENE	<input type="checkbox"/> VIDEO
	<input type="checkbox"/> PREVENTED FROM LEAVING	<input type="checkbox"/> BURNING	<input type="checkbox"/> FIREARM	<input type="checkbox"/> FIREARM	<input type="checkbox"/> WEAPON(S)	# OF PHOTOS: _____
<input type="checkbox"/> THREAT OF PHYSICAL VIOLENCE	<input type="checkbox"/> STALKING	<input type="checkbox"/> OTHER:	<input type="checkbox"/> OTHER:	PHOTOS TAKEN BY: _____		
<input type="checkbox"/> THREAT OF SEXUAL VIOLENCE	<input type="checkbox"/> USED WEAPON	WEAPON SEIZED? <input type="checkbox"/> YES <input type="checkbox"/> NO		OFFICER MUST INFORM VICTIM OF:		
<input type="checkbox"/> SEXUAL ASSAULT	<input type="checkbox"/> HOMICIDE	DOES SUSPECT OWN FIREARMS?		<input type="checkbox"/> DVPO	<input type="checkbox"/> BOND PROCESS	
<input type="checkbox"/> GRABBING	<input type="checkbox"/> OTHER	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> DV AGENCY	<input type="checkbox"/> WARRANT PROCESS	
		IMPOUNDED FOR SAFETY?		<input type="checkbox"/> VICTIM'S COMP	<input type="checkbox"/> CASE #, OFC.'S NAME	
		<input type="checkbox"/> YES <input type="checkbox"/> NO				

TO BE COMPLETED BY VICTIM--MEDICAL RELEASE TO ALL HEALTH CARE PROVIDERS:

I hereby consent to the release of my medical records to law enforcement and the attorney general. I have been advised of my right to refuse.

Por este medio autorizo a que mis expedientes médicos se entreguen a oficiales de la policía y al Procurador, he sido notificado/a sobre mi derecho de rehusar.

SIGNATURE: _____ DATE: _____

CHILDREN

PRESENT DURING INCIDENT?
 YES NO
NUMBER PRESENT: _____
DID THEY HEAR THE INCIDENT?
 SEE

NAMES AND AGES:
1. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

2. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

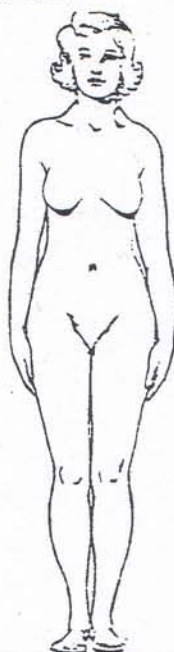
3. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

STATEMENTS TAKEN?
 YES NO

VICTIM
 SUSPECT

HEIGHT: _____

WEIGHT: _____



DRAW ON DIAGRAMS NOTING THE LOCATION OF INJURIES WITH AN "X" FOR THOSE SEEN AND AN "O" FOR THOSE REPORTED BY VICTIM/SUSPECT

WITNESSES

WITNESSES PRESENT DURING INCIDENT? YES NO
NUMBER PRESENT: _____
WITNESS INFO ON INCIDENT RPT?
 YES NO IF NO:

NAME, ADDRESS, AND PHONE
1. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

2. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

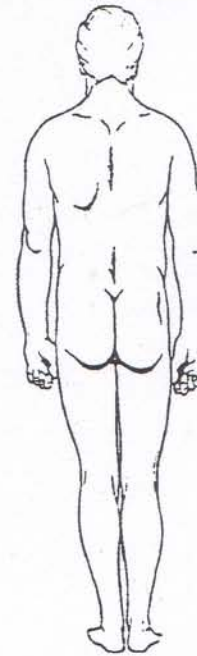
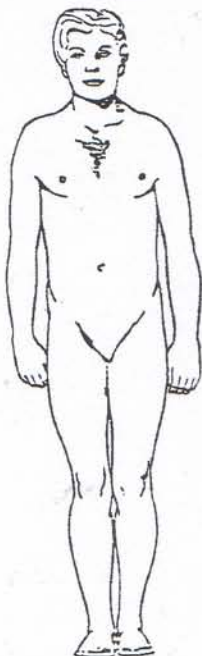
3. _____
 AFRAID CRYING
 ANGRY CALM
 APOLOGETIC OTHER: _____

STATEMENTS TAKEN?
 YES NO

VICTIM
 SUSPECT

HEIGHT: _____

WEIGHT: _____



Documentation Chart for Attempted Strangulation Cases
Use this chart when a victim reports being "choked" or strangled.

Symptoms and/or Internal Injury

Breathing Changes	Voice Changes	Swallowing Changes	Behavioral Changes	Other
<input type="checkbox"/> Difficulty Breathing <input type="checkbox"/> Hyperventilation <input type="checkbox"/> Unable to breathe Other:	<input type="checkbox"/> Raspy voice <input type="checkbox"/> Hoarse voice <input type="checkbox"/> Coughing <input type="checkbox"/> Unable to speak	<input type="checkbox"/> Trouble swallowing <input type="checkbox"/> Painful to swallow <input type="checkbox"/> Neck Pain <input type="checkbox"/> Nausea <input type="checkbox"/> Vomiting	<input type="checkbox"/> Agitation <input type="checkbox"/> Amnesia <input type="checkbox"/> PTSD <input type="checkbox"/> Hallucinations <input type="checkbox"/> Combativeness	<input type="checkbox"/> Dizzy <input type="checkbox"/> Headaches <input type="checkbox"/> Fainted <input type="checkbox"/> Urination <input type="checkbox"/> Defecation



diagrams to mark visible injuries:

Face	Eyes & Eyelids	Nose	Ear	Mouth
<input type="checkbox"/> Red or flushed <input type="checkbox"/> Pinpoint red spots (petechiae) <input type="checkbox"/> Scratch marks	<input type="checkbox"/> Petechiae to R and/or L eyeball (circle one) <input type="checkbox"/> Petechiae to R and/or L eyelid (circle one) <input type="checkbox"/> Bloody red eyeball(s)	<input type="checkbox"/> Bloody nose <input type="checkbox"/> Broken nose (ancillary finding) <input type="checkbox"/> Petechiae	<input type="checkbox"/> Petechiae (external and/or ear canal) <input type="checkbox"/> Bleeding from ear canal	<input type="checkbox"/> Bruising <input type="checkbox"/> Swollen tongue <input type="checkbox"/> Swollen lips <input type="checkbox"/> Cuts/abrasions (ancillary finding)

Under Chin	Chest	Shoulders	Neck	Head
<input type="checkbox"/> Redness <input type="checkbox"/> Scratch marks <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Abrasions	<input type="checkbox"/> Redness <input type="checkbox"/> Scratch marks <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Abrasions	<input type="checkbox"/> Redness <input type="checkbox"/> Scratch marks <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Abrasions	<input type="checkbox"/> Redness <input type="checkbox"/> Scratch marks <input type="checkbox"/> Finger nail impressions <input type="checkbox"/> Bruise(s) <input type="checkbox"/> Swelling <input type="checkbox"/> Ligature mark	<input type="checkbox"/> Petechiae (on scalp) Ancillary Findings: <input type="checkbox"/> Hair Pulled <input type="checkbox"/> Bump <input type="checkbox"/> Skull fracture

MEDICAL RELEASE

To all Health care providers: Having been advised of my rights to refuse, I hereby consent to the release of my medical / dental records related to this incident to the Travis County Sheriff's Office, Travis County District Attorney's Office and the Travis County Attorney's Office

SIGNATURE: _____ DATE: _____

Documentation Chart for Attempted Strangulation Cases

Use this chart when a victim reports being "choked" or strangled.

Method and/or Manner:

How was the victim strangled?

One Hand (R or L) Two hands Forearm (R or L) Knee/Foot

Ligature (Describe): _____

How Long? _____ seconds _____ minutes Also smothered?

From 1 to 10, how hard was the suspect's grip? (Low): 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 (high)

Multiple attempts: _____ Multiple methods: _____

Is the suspect RIGHT or LEFT handed?
(Circle one)

What did the suspect say while he was strangling the victim?

Was she shaken simultaneously while being strangled?

Was her head being pounded against the wall, floor or ground?

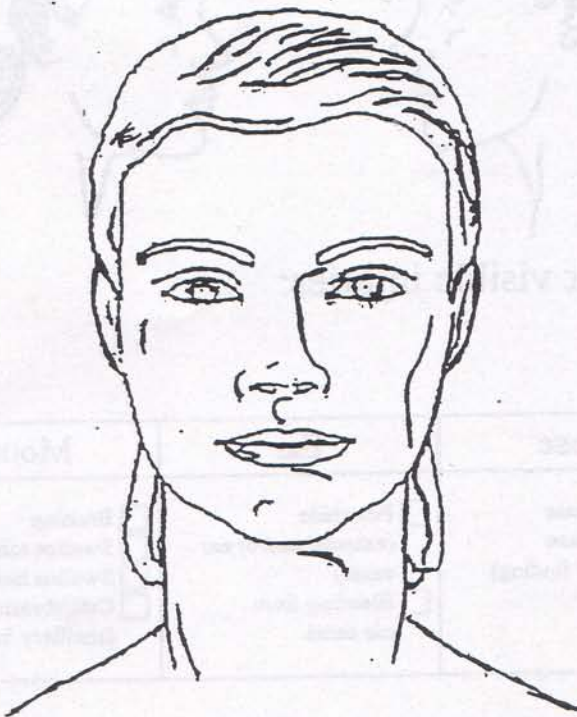
What did the victim think was going to happen?

How or why did the suspect stop strangling her?

What was the suspect's demeanor?

Describe what the suspect's face looked like during strangulation.

Describe prior incidents of strangulation.



DOMESTIC VIOLENCE RESOURCE CARD

Domestic Violence First Degree {See §13A-6-130 Ala. Code 1975}

- Commits Assault 1 (§13A-6-20) AND has qualified relationship with the victim.
- Qualified relationship is a current or former spouse, current or former household member, child, parent, have child in common, or involved in dating/engagement relationship with offender.
- Class A Felony

Domestic Violence Second Degree {See §13A-6-131 Ala. Code 1975}

- Commits Assault 2 (§13A-6-21) AND has qualified relationship with victim.
- Class B felony

Domestic Violence Third Degree {See §13A-6-132 Ala. Code 1975}

- Commits Assault 3 (§13A-6-22), Menacing (§13A-6-23), Reckless Endangerment (§13A-6-24), Criminal Coercion (§13A-6-25), Harassment (§13A-11-8(a)), AND has qualified relationship with victim.
- Class A Misdemeanor

Protection Order Violations {See §30-5-9 & §30-5A-3, 4 Ala. Code 1975}

A willful violation of a protection order is a Class A misdemeanor and the officer may arrest without a warrant.

Warrantless Arrest {See §15-10-3 (8) Ala. Code 1975}

When an offense involves domestic violence and the arrest is based on probable cause regardless of whether the offense is a felony or misdemeanor, an officer may arrest a person without a warrant.

Holding Period Required Before Release {See §15-13-190 Ala. Code 1975}

Offender may not be admitted to bail until after an appearance before a judge or magistrate within 12 hours of the arrest and if the person is not taken before a judge or magistrate within 12 hours, he or she shall be released on bail. Prior to the release of the person, the judge or magistrate shall review the facts of the arrest to determine whether the person is a threat to the alleged victim, is a threat to public safety, and is reasonably likely to appear in court.

Primary Aggressor Determination {See §13A-6-134 Ala. Code 1975}

If law enforcement officer receives complaints from two parties, the officer shall evaluate each complaint separately to determine who was the primary aggressor and need not arrest the other person alleged to have committed domestic violence. The officer shall consider: prior complaints, relative injuries, likelihood of future injuries, and who may have acted in self-defense.

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EVIDENCE-BASED PROSECUTION CHECK LIST

Evidence-based prosecution is a very effective method in responding to domestic violence cases. This method involves collection of all relevant evidence. Evidence-based prosecution techniques reduce the dependency of the case on merely the victim's statements, increase the ability of the officer to build a credible case, and enhance the likelihood of successful prosecution.

Example of items to collect, but not limited to:

- Statements documented from all parties
- Excited utterances and spontaneous statements
- Appearance and demeanor of all parties documented
- Appearance of scene documented
- Injuries of all parties photographed, described and/or diagramed
- Remove weapons used in incident, in plain view or if consensual search is conducted
- Collect torn clothing
- Medical records
- Prior police reports
- Copies of restraining orders
- 911/emergency tape
- Use supplemental forms
- Follow-up photographs

Predominate/Primary Aggressor Determinations

Other considerations to assist in making a determination:

- Self-defense wounds (scratches to the back of hands, face and neck, bite marks on inside of arms or chest, injury on top of head, injuries on back, buttocks and back of legs indicating defensive fetal position).
- Body language
- History of abuse
- Witness statements
- Excited utterances
- Crime scene (does it match the statements of the parties)
- Whose things are broken?

Domestic Violence Crisis # 1-800-650-6522

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Dynamics of Domestic Violence

Domestic violence involves physical, mental, sexual, or emotional abuse in an intimate relationship. It occurs when one person uses abusive tactics to gain power and control over a current or former intimate partner. The batterer chooses when, where and how the violence and abuse will occur. The victim does **NOT** cause domestic violence.

You Do Not Deserve To Be Abused

If you are a victim, you can get help. The Alabama Coalition Against Domestic Violence is dedicated to serving you. Call our toll-free 24-hour crisis line (1-800-650-6522) for assistance. Safe shelters across the state can provide services for you and your children

There is No Excuse for Domestic Violence

Safety Planning

Batterers pose a danger to you. It is important to consider your safety. A few things to consider include:

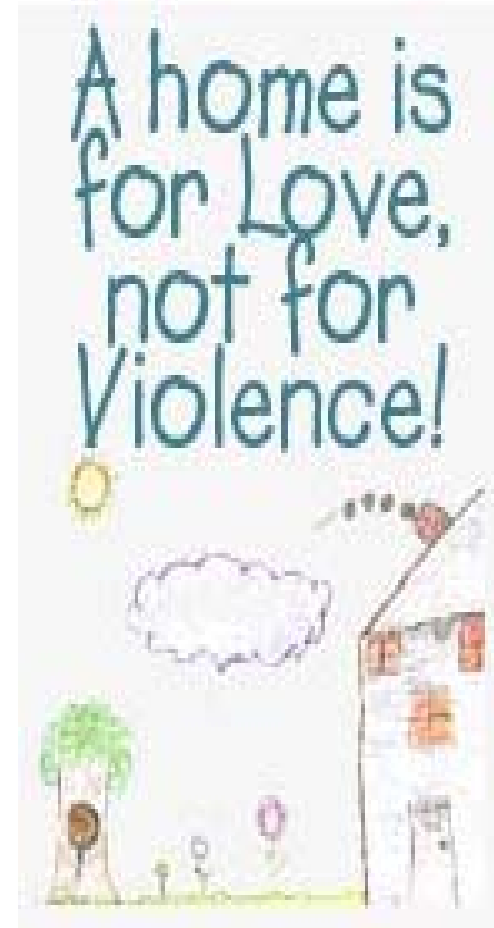
- Do you have a safe place to go?
- Do you know the number to the local domestic violence shelter?
- Do you have access to resources?

Protection from Abuse Orders

A Protection from Abuse (PFA) Order provides a legal option for someone who is being abused or threatened by their spouse, ex-spouse, household member, former household member, common law, or former common law spouse. A PFA order may be obtained by filling out and submitting a petition to the Circuit Court. PFA Orders are civil orders that prohibit the abuser from causing further harm. For additional information regarding PFA Orders or for assistance in obtaining a PFA Order please contact the domestic violence hotline number or your local legal service office.

Domestic Violence is a Crime

The state of Alabama passed new legislation in 2000, which created domestic violence as a separate crime in the criminal code and stiffens penalties for abusers.



Domestic Violence Victim Information and Resources

1-800-650-6522

**CRIME VICTIMS
COMPENSATION**

Now there is hope for victims of crime. You can begin the healing process by calling the Alabama Crime Victims Compensation Commission in Montgomery to find out if you qualify for assistance.

**Alabama Crime Victims
Compensation Commission**
P.O. Box 1548
Montgomery, Alabama
36102-1548
Phone (334) 242-4007
Fax (334) 353-1401
<http://www.acvcc.state.al.us>
1-800-541-9388

**LAW ENFORCEMENT
CONTACTS**

Officer's Name:

Agency Phone:

If within 60 days you are not notified of an arrest in your case, you may call the telephone number of the law enforcement agency for the status of the case.

**DISTRICT ATTORNEY
CONTACTS**

For Information Regarding Prosecution of Domestic Violence Crimes please contact the District Attorney's Office at:

For information regarding the judicial system in Alabama go to the Alabama Administrative Office of Courts website: <http://www.alacourt.org/>