



## **Investigating Domestic Abuse:**

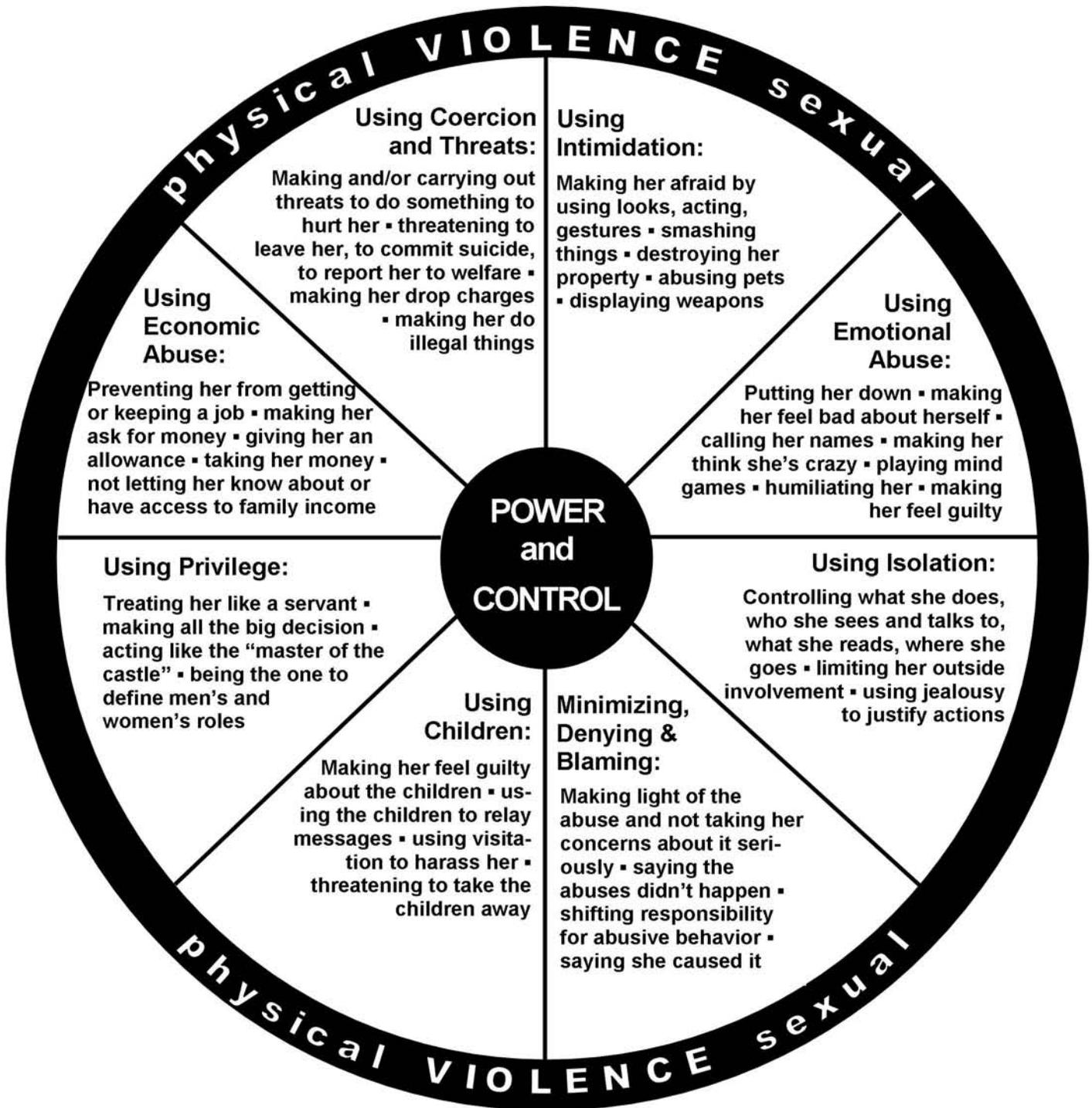
# Law Enforcement's Role in Homicide Prevention and Ending Intergenerational Violence

(Updated February 2010)

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# Power & Control Wheel



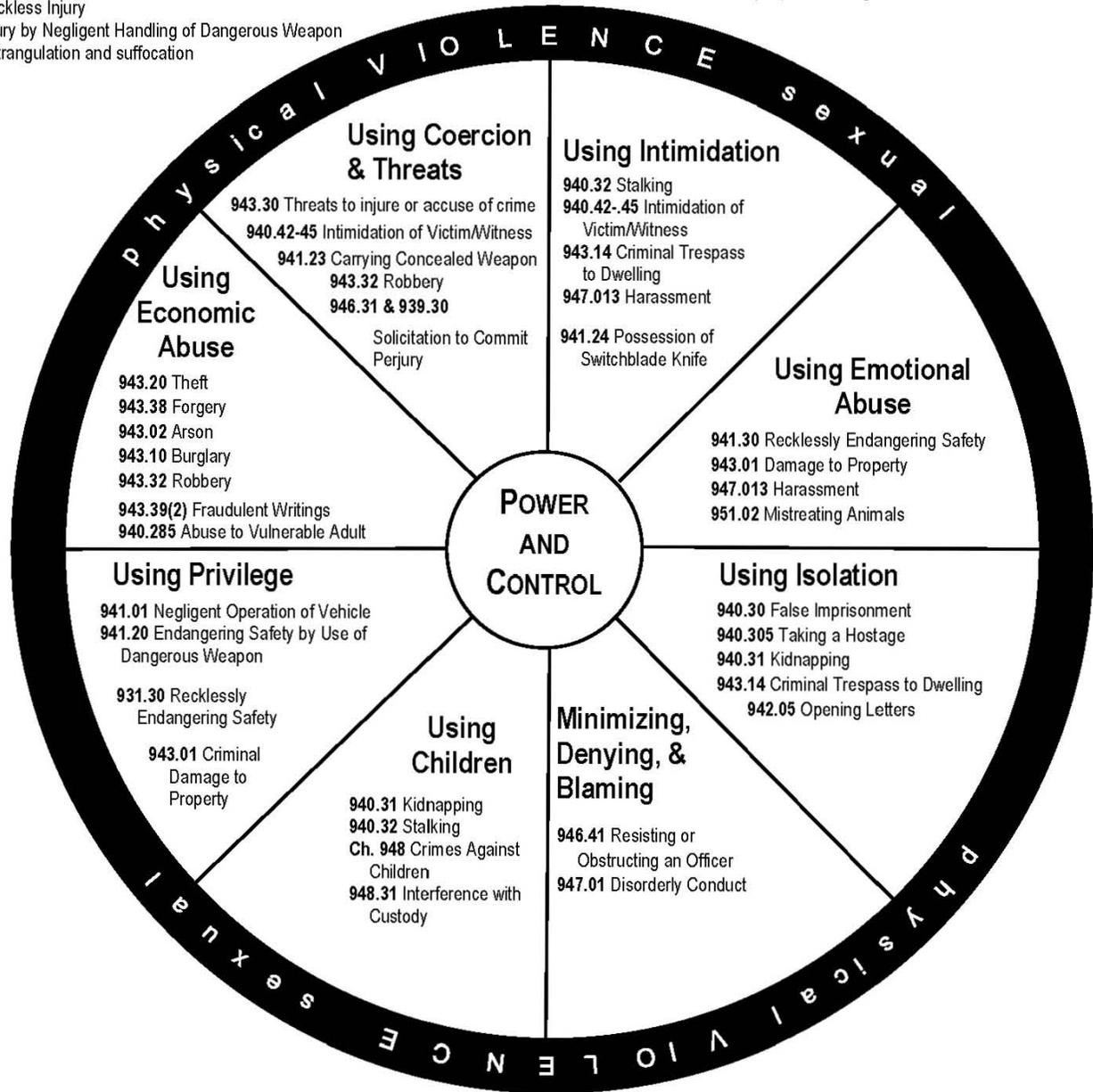
# Power & Control Wheel with Wisconsin State Statutes

## Crimes of Physical Violence

- 940.19(1)-(6) Battery – Simple, Substantial, Aggravated
- 939.32(1)&(3) Attempted Battery
- 940.20(1m) Battery to Person Subject to Restraining Order or Tribal Order
- 940.21 Mayhem
- 940.23 Reckless Injury
- 940.24 Injury by Negligent Handling of Dangerous Weapon
- 940.235 Strangulation and suffocation

## Crimes of Sexual Violence

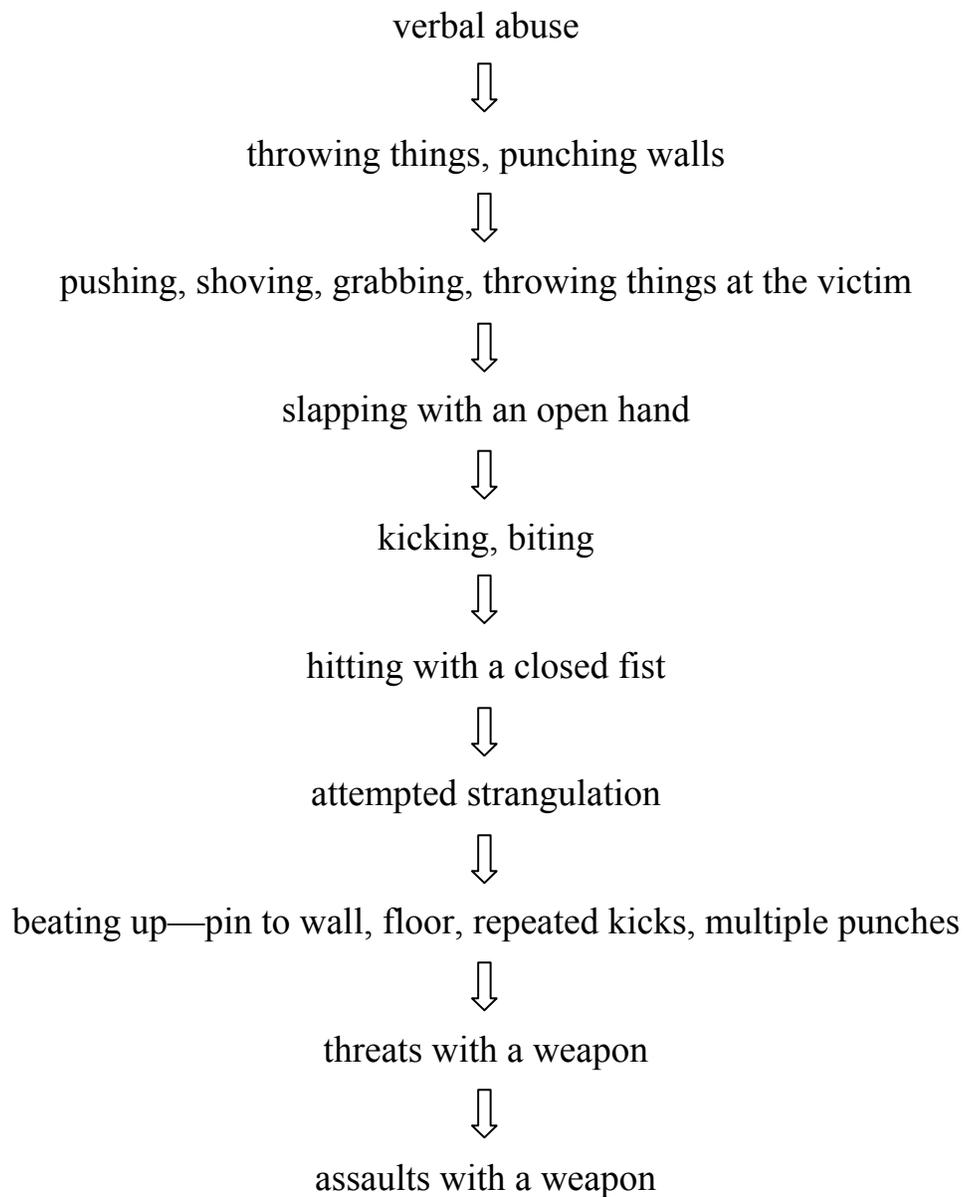
- 940.225(1) First Degree Sexual Assault
- 940.225(2) Second Degree Sexual Assault
- 940.225(3) Third Degree Sexual Assault
- 940.225(3m) Fourth Degree Sexual Assault



The following crimes might fit any of the behaviors listed on the wheel:

- |  |   |  |
|--|---|--|
| Chapter 813 Violation of a restraining order, including foreign orders of protection | 939.32 Attempted Crimes                   | 947.013 Harassment   |
| 939.05 Parties to Crime  | 939.46 Coercion                           | 947.012 Unlawful Use of Telephone                          |
| 939.24 Criminal Recklessness   | 946.49 Bail Jumping                       | 947.0125 Unlawful Use of Computerized Communication System |
| 939.25 Criminal Negligence   | 947.01 Disorderly Conduct                 | 940.285 Abuse of Vulnerable Adult                          |
| 939.30 Solicitation  | 940.42-.45 Intimidation of Victim/Witness | 943.30 Threats to injure                                   |
| 939.31 Conspiracy  | 940.32 Stalking                           |  |

## Escalation of Violence



*Many abusers do not use violence until other forms of control have failed. If law enforcement is called to the scene of an attempted strangulation it is probable that most of the lesser acts have occurred in prior incidents whether reported or not.*

## Dispelling the Myths of Domestic Violence

**Myth:** Domestic abuse is less serious than other crimes.

**Truth:** Domestic violence accounts for a significant proportion of all serious crimes –aggravated assaults, rapes and homicides.

**Myth:** Domestic abuse occurs mostly in poor families or in families of color.

**Truth:** Domestic abuse occurs in all economic, racial, religious and cultural backgrounds. People with few economic resources/options are more likely to call law enforcement for assistance.

**Myth:** “Minor” incidents of violence are normal in every relationship.

**Truth:** Violence usually does not occur until other forms of control have failed and tends to escalate. No level of violence should occur in a healthy relationship.

**Myth:** Bad relationships result in or cause domestic violence.

**Truth:** Violence is learned behavior where the abuser believes there is a right to abuse. This behavior can also be unlearned in treatment if an abuser recognizes it as a problem and wants to change how to deal with the need to control and use of violence.

**Myth:** Alcohol and drug use cause domestic violence.

**Truth:** Many people use alcohol and drugs and are not violent. However, when these substances are used during a violence incident, injuries tend to be more serious and the police are more likely to be contacted for assistance. Many abusers have substance abuse problems also.

**Myth:** Stress causes domestic violence.

**Truth:** Everyone has stress in his or her life. Abusers believe they have the right to “take out their stress” on their victims.

**Myth:** “It takes two to tango.”—Domestic abuse is often provoked.

**Truth:** No one can make another person be violent. It is a choice made by the abuser.

**Myth:** Men are abused at the same frequency as women.

**Truth:** Federal studies show that women are the victims in over 90% of violent incidents between intimate partners.

**Myth:** Batterers “just snap.”

**Truth:** If being out of control caused the violence, there would be more homicides. Many batterers are so in control they make sure that injuries inflicted on their victims will be on less visible parts of a victim’s body.

**Myth:** Leaving an abusive relationship will ensure safety for victims and their children.

**Truth:** When an abuser learns that a victim is leaving the relationship or has taken a step to stop the power and control (i.e. calling the police, getting a restraining order, filing for divorce) the risk of homicide or serious bodily harm to the victim and her children increases dramatically.

**Myth:** No one would hit a pregnant woman – especially not the father of the child.

**Truth:** There is a very high incidence of battering during pregnancy. Many victims are physically battered for the first time during the pregnancies.

**Myth:** Abuse to elders is not domestic violence.

**Truth:** Many elders are physically or emotionally abused or financially exploited by family members or others who hide behind the excuse of caregiver stress.

**Myth:** Abuse in same sex relationships is mutual.

**Truth:** Same sex domestic violence involves similar issues of power and control and the predominant aggressor analysis should be used.

**Myth:** Domestic abuse is more prevalent and is condoned in the immigrant population.

**Truth:** Immigrant populations are not more violent than the general population. Immigrant victims of domestic abuse may be afraid to report their abuse for fear of deportation of themselves, their children and their abusers.

## NEUROBIOLOGY OF TRAUMA

**Neurobiology** is the study of [cells](#) of the [nervous system](#) and the organization of these cells into functional [circuits](#) that process information and mediate behavior. It is a sub-discipline of both [biology](#) and [neuroscience](#).

**Trauma** is a single experience, or an enduring or repeating event or events, that completely overwhelm the individual's ability to cope or integrate the ideas and [emotions](#) involved with that experience. The sense of being overwhelmed can be delayed by weeks, years, even decades, as the person struggles to cope with the immediate circumstances. Trauma can be caused by a wide variety of events, but there are a few common aspects. There is frequently a violation of the person's familiar ideas about the world and of their [human rights](#), putting the person in a state of extreme [confusion](#) and insecurity. This is also seen when people or institutions depended on for survival violate or [betray](#) or disillusion the person in some unforeseen way.

**QUESTION: WHY IS IT IMPORTANT FOR INVESTIGATORS TO HAVE A WORKING KNOWLEDGE OF THE NEUROBIOLOGY OF TRAUMA?**

**ANSWER: TO UNDERSTAND HOW AND WHY VICTIMS AND WITNESS PROVIDE INFORMATION POST TRAUMATIC EVENT!**

Traumatic event occurs  
Hormonal cascade is triggered  
Evolutionary survival responses engage  
Physical and psychological reactions begin

**Adrenaline/Epinephrine:** is secreted by nerve endings and increases the heart rate, opens airways to improve oxygen intake, dilates pupils, cause auditory exclusion and increases blood flow to muscles when a person is scared, excited or under stress. Think OIS, pursuits. This is the hormone responsible for what is known as the "**Fight or Flight**" response.

**Oxytocin:** is a hormone released from the blood stream and nerve centers inside the brain. It is an endogenous opioid that controls pain and overwhelming emotions and is known to have an amnesia effect. It is the hormone that triggers labor and creates bonding, think childbirth/lactation. It lowers blood pressure and other stress-related responses. '**Tend & befriend**'.

**Testosterone:** is secreted from the testes, ovaries and the adrenal glands. In conditions of stress it increases rates of blood circulation, breathing and carbohydrate metabolism. This prepares muscles for exertion. It is known as the fight hormone. Both men and women produce and secrete testosterone in trauma situations. '**Stand and fight**'.

# Wisconsin Mandatory Arrest Law - 2005 Act 104

Effective April 1, 2006

## When Arrests Are Mandatory:

1. Arrest is mandatory if an officer has probable cause that a person has violated one of the following:
  - Domestic abuse restraining order or injunction
  - Child abuse restraining order or injunction
  - Harassment restraining order or injunction
  - Foreign protection order. *Or...*
2. There are circumstances requiring arrest under the mandatory arrest analysis (the officer has reasonable basis for believing that continued domestic abuse against the alleged victim is likely and/or there is evidence of physical injury to the alleged victim.)
3. There is a change from Analyzing the Primary Physical Aggressor to **Predominant Aggressor**. Predominant Aggressor is defined as the **most significant**, but not necessarily the first, aggressor in a domestic abuse incident.

## Legislative Intent That Officers Not Arrest Victim:

The law reflects the legislative intent to protect victims from arrest.

## Mandatory Investigative Strategies to Be Used in Determining the Predominant Aggressor:

- History of domestic abuse between the parties, if it can be reasonably ascertained by the officer and any information provided by witnesses regarding that history.
- Statements made by witnesses.
- The relative degree of injury inflicted on the parties.
- The extent to which each person present appears to fear any party.
- Whether any party is threatening or has threatened future harm against another party or another family or household member.
- Whether either party acted in self-defense or in defense of any other person.

## Immediate release of arrested person under mandatory arrest is prohibited.

Release of the predominant aggressor is not permitted until the person posts bail or appears before a judge or commissioner for an initial appearance.

## **Law Enforcement Agencies Must Have Policies Which Reflect:**

- A statement reflecting a pro-arrest policy if the officer has probable cause that a crime of domestic abuse has been committed which does not meet the requirements of mandatory arrest. (i.e. the officer has reasonable basis for believing that continued domestic abuse against the alleged victim is likely and/or there is evidence of physical injury to the alleged victim)
- The prohibition of immediate release in a domestic abuse arrest as stated above.
- A statement emphasizing that the officer's decision as to whether or not to arrest may not be based on the consent of the victim to any subsequent prosecution or the relationship of the parties.
- A statement emphasizing that law enforcement officer's decision not to arrest under this section may not be based solely upon the absence of visible indications of injury or impairment.
- A statement discouraging, but not prohibiting, the arrest of more than one party.
- A statement emphasizing that an officer, in determining whether to arrest a party, should consider whether the party acted in self-defense or in the defense of another.
- While the agency can establish policies that require arrests under more circumstances that set forth under mandatory arrest—those policies may not conflict with the presumption that the officer should only be arresting the predominant aggressor. Unless the arrest is mandatory, “it is generally not appropriate for a law enforcement officer to arrest anyone...other than the predominant aggressor.”
- The other requirements for departmental policies in this section of the statute regarding policies were not amended. They include:
  - A procedure for the written report and referral required where no arrest is made.
  - A procedure for notifying the alleged victim of the incident of the provisions of the No Contract Prohibition, the procedure for releasing the arrested person and the likelihood and probable time of the arrest person's release.
  - In the development of these policies, each law enforcement agency is encouraged to consult with community organizations and other law enforcement agencies with expertise in the recognition and handling of domestic abuse incidents.
  - The issuance of a citation for a misdemeanor for a domestic abuse crime meeting the requirements of mandatory arrest is prohibited.

**While not currently mandated by the State, it is a best practice for agencies to develop a policy for any officer-involved domestic call.**

## Felonies Common in Domestic Violence Cases:

- Possession of a firearm (when enjoined by injunction) - 941.29 (1) (f)
- Battery: special circumstances (battery by persons subject to injunction) - 940.20 (im)
- Increased penalty for certain domestic abuse offenses - 939.621(a) (2 acts w/in 72 hours)

In addition to:

- Felony Bail Jumping - 946.49(1)(b)
- False Imprisonment - 940.30
- Endangering Safety - 941.30
- Felony Criminal Damage to Property - 942.01 (2)
- Stalking – 940.32
- Aggravated Battery Offenses - 940.20
- Felony Intimidation of a Victim - 940.45
- OMVOC - 943.23
- Threats to Injure - 943.30
- Strangulation/Suffocation - 940.235

## Violating a Probation Condition of No Contact May be a Crime - ***IF DEFENDANT IS WARNED ON THE RECORD WHEN PLACED ON PROBATION:***

**941.39 Victim or co-actor contact.** Whoever intentionally violates a court order issued under [s. 973.049 \(2\)](#) is guilty of a Class A misdemeanor.

**973.049 (2)** When a court imposes a sentence on an individual or places an individual on probation for the conviction of a crime, the court may prohibit the individual from contacting victims of, or co-actors in, a crime considered at sentencing during any part of the individual's sentence or period of probation if the court determines that the prohibition would be in the interest of public protection. For purposes of the prohibition, the court may determine who are the victims of any crime considered at sentencing.

## U.S. Supreme Court Decisions Affecting Investigations:

- Hearsay statements made to law enforcement, Crawford v Washington 124 S. Ct. 1354 (2004). In Crawford, the United States Supreme Court held that statements which are *testimonial* are *not* to be admitted into evidence *unless* the witness takes the stand and is subject to cross-examination.
- The admissibility of 911 tapes as evidence. In Davis v Washington, 05-5224 the U.S. Supreme Court held that statements made during 911 calls are *non-testimonial* when made in the course of police interrogation under circumstances *objectively* indicating that the primary purpose of interrogation is to enable police assistance to meet an *ongoing emergency*.

# Federal Study Finds Two Thirds of Battered Women Also Raped

## Prevalence

- Over two-thirds (68%) of women physically assaulted by an intimate partner had been sexually assaulted by their partner
- Almost 80% reported more than one incident of forced sex
- Most of the women did not report the assault to law enforcement or seek assistance—6% contacted police after the first rape and 8 % applied for a protection order

## Reporting Can Protect Victims

- *Women reporting to law enforcement and the court were less likely to be re-victimized*
- 59 % of the women who contacted law enforcement after the first rape were 59 % less likely to be raped by the partner again, *whether or not the abuser was arrested*
- 70 % of the women who applied for a protection order after the first rape were less likely to be raped again by the abuser
- More likely to have had their abusers harass them at work
- More likely to have death threats

## Effects of Sexual Assault on Victims and Their Children

- Women who had been sexually assaulted by intimate partners have:
  - Worse mental and physical health than women who had been physically but not sexually abused
  - More post-traumatic stress disorder (PTSD) symptoms
  - More pregnancies resulting from rape
  - More sexually transmitted diseases.
- 27 % of the women surveyed began or increased their use of alcohol, illicit drugs (usually cocaine), or nicotine after they were sexually assaulted by an intimate partner.
- Almost 90 percent of children of women in the study who were physically assaulted or both physically and sexually assaulted were exposed to these incidents against their mothers.
- By the age of 3, 64 % of the children had witnessed the abuse; 30 percent of them received counseling.
- Older children (aged 12 to 18 years) of sexually abused mothers showed more depression and had appreciably more behavioral problems than children of mothers who had not been sexually assaulted.

Taylor, Lauren R. w/ Gaskin-Laniyan, Ph.D, Nicole “[Sexual Assault in Abusive Relationships.](#)” National Institute of Justice, No. 256. Jan 2007.

## **Sexual Assault and Domestic Violence: Assessing for Sexual Violence in the Relationship is Critical to Good Safety Assessments**

- Forced sex is associated with increased frequency and severity of physical violence
- Forced sex is associated with more severe injury
- Sexual assault in violence relationship are common and can range from “consensual” sex out of fear to violent assaults

### **How to Talk about Sexual Violence**

- Take your time getting to questions about sexual abuse
- Ask questions that do *not* call for conclusions (Ex. Have you ever been raped by your partner?)
- Go from the general to the specific
- Use the victim’s terminology when appropriate
- Ask about impact to the victim as well as the act
- Give something back to the victim—information/referrals, validation

### **Sample Questions (*if appropriate to situation*)**

- Does your partner respect you when you don’t want to have sex, but your partner does?
- Do you and your partner have disagreements about sex? How do you resolve those disagreements?
- Has your partner ever said or done sexually degrading things to you? What happened?
- Have you ever had unwanted sexual experiences with your partner? What happened? Was there force or pressure involved? What happened?
- Have you ever submitted to sex out of fear?
- Has your partner ever hurt you during sex? What happened?

Trujillo, J.D., Olga R. “Examining Sexual Violence in Battering Relationships.”  
[www.ortsolutions.org](http://www.ortsolutions.org)

## Protecting Victims' Rights to Contact Law Enforcement

**940.44 Intimidation of victims; misdemeanor.** Except as provided in s. 940.45, whoever knowingly and maliciously prevents or dissuades, or who attempts to so prevent or dissuade, another person who has been the victim of any crime or who is acting on behalf of the victim from doing any of the following is guilty of a Class A misdemeanor:

- (1) **Making any report of the victimization to any peace officer or state, local or federal law enforcement or prosecuting agency, or to any judge.**
- (2) Causing a complaint, indictment or information to be sought and prosecuted and assisting in the prosecution thereof.
- (3) Arresting or causing or seeking the arrest of any person in connection with the victimization.

**940.45 Intimidation of victims; felony.** Whoever violates s. 940.44 under any of the following circumstances is guilty of a Class G felony:

- (1) Where the act is accompanied by **force or violence or attempted force or violence**, upon the victim, or the spouse, child, stepchild, foster child, treatment foster child, parent, sibling or grandchild of the victim or any person sharing a common domicile with the victim.
- (2) Where the act is accompanied by **injury or damage to the real or personal property** of any person covered under sub. (1).
- (3) Where the act is accompanied by **any express or implied threat of force, violence, injury or damage described in sub. (1) or (2).**
- (4) Where the act is in furtherance of any conspiracy.
- (5) Where the act is committed by any person who has suffered any prior conviction for any violation under ss. 940.42 to 940.45, s. 943.30, 1979 stats., or any federal statute or statute of any other state which, if the act prosecuted was committed in this state, would be a violation under ss. 940.42 to 940.45.
- (6) Where the act is committed by any person for monetary gain or for any other consideration acting on the request of any other person. All parties to the transactions are guilty under this section.

Attempts to prevent victims of crimes from reporting crimes are minimally misdemeanors, and are frequently felonies, whether or not the attempt to stop the reporting is successful. When speaking with victims and witnesses, officers should always inquire if attempts were made to call 911. Some failed attempts will never be reported if not asked about. This is especially true with children. Witnesses disturbed by acts or attempted acts of violence are victims of disorderly conduct and therefore are victims under these two statutes.

# Officer Safety

## **MOST OFFICERS KILLED INVESTIGATING DOMESTIC VIOLENCE ARE KILLED DURING THE FIRST 60 SECONDS**

Considerations when approaching the scene:

1. How was the call received? If the call originated from the home—chances are the offender knows that law enforcement is responding.
2. If the suspect is on probation or has been drinking, the suspect may flee the scene.
3. The suspect may be on the property and can ambush the first responders.
4. If the call originated elsewhere, law enforcement may have the element of surprise, but the victim may feel “ambushed” and may not cooperate.
5. If you have been at the scene before, suspect may assume you will approach as you have in the past.

Safety Steps to Consider:

1. If you are alone, wait for backup, if possible
2. Consider the threat level (Have you been there before? Weapons?)
3. Emergency lights/sirens let the parties know you are coming and may raise the agitation level of a suspect.
4. Park away from the scene, if possible.

Observations:

1. What do you see and hear? Stand outside for a few minutes and listen.
2. Are there broken windows or doors?
3. Consider approaching indirectly, no up the front walk, if possible.

Safety Steps to Consider:

1. Do not join in the dispute. Stay calm. Watch your voice and body language.
2. Separate all parties. Keep your partner in sight. Keep witnesses in sight. Avoid kitchens, bathrooms and bedrooms.
3. Take control of any obvious weapons. Ask where other weapons may be located. Check furniture and cushions before you sit down or allow anyone to sit down.
4. Try to seat the parties. This makes assaults on officers more difficult.
5. Keep instructions calm, simple and direct.
6. When making an arrest, the parties should still be separated.
7. Follow handcuffing protocols to safety handcuff suspects.

# Mandatory Arrest Cop Card

This is an example of the Mandatory Arrest Cop Cards produced by the Justice System Training Program at the WI Office of Justice Assistance. The actual card is orange and comes as a 3x5 pocket card.

<b>Domestic – Mandatory Arrest</b>	<b>Domestic – Investigative Strategies</b>
<p style="text-align: center;"><i>Pro-arrest policies are urged in dating relationships.</i></p> <hr/> <ol style="list-style-type: none"> <li>1. Do you (the officer) have PC to believe the suspect's actions constitute a crime?</li> <li style="padding-left: 20px;">2. Is the relationship domestic?               <ol style="list-style-type: none"> <li>a. Spouse</li> <li>b. Former spouse</li> <li>c. Adults residing together</li> <li>d. Adults who formerly resided together</li> <li>e. Adults with a child in common</li> </ol> </li> <li style="padding-left: 20px;">3. Did the suspect's acts:               <ol style="list-style-type: none"> <li>a. Intentionally inflict physical pain, injury or illness?</li> <li>b. Intentionally impair victim's physical condition?</li> <li>c. Constitute 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> degree sexual assault?</li> <li>d. Cause the victim to fear they are about to be physically harmed or assaulted?</li> </ol> </li> </ol> <hr/> <ol style="list-style-type: none"> <li>4. Do you (the officer)               <ol style="list-style-type: none"> <li>a. Reasonably believe there is a likelihood of continued abuse (bodily harm, sex assault, impairment or threat of harm or assault) against the victim? <b>and/or</b></li> <li>b. Have evidence of physical injury to the victim?</li> </ol> </li> </ol> <hr/> <p>5. Was the crime reported within 28 days of occurrence?</p> <hr/> <p style="text-align: center;"><b>Arrest is DISCRETIONARY when:</b></p> <ol style="list-style-type: none"> <li>1. You have PC to believe the suspect committed a crime, <b>and</b></li> <li>2. The relationship is not a "domestic relationship" <b>and/or</b></li> <li>3. You do NOT have an injury or believe that future violence is likely, <b>and/or</b></li> <li>4. The crime was reported more than 28 days after the occurrence.</li> </ol> <hr/> <p style="text-align: center;"><b>ARREST MANDATORY IF TRO/INJUNCTION VIOLATED. IF MANDATORY ARREST – MUNICIPAL CITATIONS <u>CANNOT</u> BE ISSUED</b></p>	<div style="border: 1px solid black; padding: 2px; width: fit-content; margin-bottom: 10px;"> <p style="font-size: small; margin: 0;">All DV investigations should include screening for Child Abuse (physical or sexual). All Child Abuse investigations should include screening for DV.</p> </div> <ol style="list-style-type: none"> <li><b>A. Interviews – Parties</b> <ol style="list-style-type: none"> <li>1. Separate parties/interview</li> <li>2. History of Abuse (reported and unreported)</li> <li>3. Document elements of offense (If suspect not present, ATL and complete PC affidavit and proceed as above)</li> </ol> </li> <li><b>B. Adult Family Members and Other Adult Witnesses</b> <ol style="list-style-type: none"> <li>1. Statements seen/heard</li> <li>2. History of abuse (reported and unreported)</li> <li>3. If not on scene, canvass for witnesses</li> </ol> </li> <li><b>C. Interviewing Children</b> <ol style="list-style-type: none"> <li>1. Separate from all parties and other children</li> <li>2. Assess for child abuse (physical or sexual) (If child abuse: report as mandated reporter)</li> <li>3. Interview about DV incident and DV history</li> <li>4. Document demeanor/emotional state</li> <li>5. Ask about safety of parties, siblings, pets</li> </ol> </li> <li><b>D. Sexual Assault – Adults and Children</b> <ol style="list-style-type: none"> <li>1. Contact SANE program if available in your jurisdiction</li> </ol> </li> <li><b>E. Physical Evidence</b> <ol style="list-style-type: none"> <li>1. Injuries – victim/suspect (Describe – Photograph – Get Medical Release)</li> <li>2. Damage to property (Describe – Photograph where significant)</li> <li>3. Collect evidence including any object used to injure</li> </ol> </li> <li><b>F. Record Observations – Parties/Witnesses</b> <div style="border: 1px solid black; padding: 2px; width: fit-content; margin-bottom: 10px;"> <p style="font-size: small; margin: 0;">Resolving a DV case with a Mandatory Arrest or a decision not to arrest does NOT satisfy the requirement of Mandatory Reporting of Child Abuse.</p> </div> <ol style="list-style-type: none"> <li>1. Demeanor</li> <li>2. Signs of substance abuse</li> <li>3. Physical condition of people and surroundings</li> <li>4. Physical sizes</li> </ol> </li> </ol>

To order any quantity of these 3x5 cards, contact the Justice System Training Program at the WI Office of Justice Assistance at (608) 266-3323 or [OJAJusticeSystemTraining@Wisconsin.gov](mailto:OJAJusticeSystemTraining@Wisconsin.gov).

# Types of Domestic Violence Injuries

## Offensive Injuries on the Victim

- Lacerations, fractures, welts, abrasions or contusions from being punched, pushed, kicked, slapped and/or hit with an object
- Injuries and symptoms associated with strangulation. (note: not all victims who are strangled will have visible external injuries)
- Fingernail scratches, bite marks and cigarette, rope and carpet burns
- Pattern injury to the neck from jewelry being pulled
- Pattern injury to the face from rings during a backhand slap or from a fist
- Wrinkle injuries to the back of the ear from pulling, pinching or punching
- Clumps of hair or other indications of hair being pulled
- Injury on top or back of head
- Eye injuries (gouging)

## Offensive Injuries on the Offender

**A person who is being assaulted or in fear of being assaulted may realize they are no match for the violence that is about to be used against them and may use a weapon or other object as an “equalizer”**

- Injuries to the hand and/or wrist cause by trauma of striking victim
- Abrasions and cuts on the knuckles
- Injuries caused by a hard object or weapon used to equalize a threat of force

## Defensive Injuries on the Victim

**A person using self-defense will often admit to using violence, but may not know what to call it.**

- Injuries to the back of the arms or palms of hands from blocking blows
- Injuries to the bottoms of the feet from kicking away the assailant
- Injuries to the back, leg, buttocks or back of head from being struck while in the fetal or other protective position

## Defensive Injuries on the Offender

- Scratch marks to the face, hands and/or arms caused when a victim is defending from attempted frontal strangulation
- Bite marks and/or scratches on chest and arms caused by a victim trying to escape from being straddled or held down
- Bite marks to the hand caused when a victim is trying to avoid having his/her mouth covered
- Bite marks on arms caused when victim is defending an attempted “choke hold”

## Interviewing Perpetrators

- Interview the suspect separately, by sight and sound from all the other parties. (If only one officer, or for safety reasons, suspect can be detained in squad car during interview).
- Remain neutral until you have made the predominant aggressor analysis.
- Do not use accusatory words.
- Document any attempts to manipulate you or to divert or control the interview.
- Let the suspect tell the story (spontaneous statements, excited utterances) Ask suspect to tell you what was happening before the incident and what led up to it. Lock the suspect into a story. Get specific details.
- Document any admissions.
- Do not collude with the suspect.
- Document demeanor
- Document any indication of alcohol or drug use

***Perpetrators tend to blame an incident on the victim, deny that anything took place or minimize actions and injuries.***

## Interviewing Victims

- Interview the victim separately, by sight and sound. (If only one officer, or for safety reasons, suspect can be detained in squad car during interview of victim).
- Establish trust. Consider body language, tone of voice, inflection, and eye contact and choose words carefully.
- Do not attempt to intimidate the victim into speaking with you.
- If victim is agitated, distract. A victim who has been scared may now feel safe in your presence and angrily vent her anger towards the perpetrator.
- Let the victim tell the story (spontaneous statements, excited utterances) Ask victim to tell you what was happening before the incident and what led up to it.
- Get non-consent statements, if applicable to elements of the crime.
- Ask about history of abuse in the relationship, including information about prior arrests and any restraining orders.
- Ask if perpetrator is violent to anyone else in the home.
- Ask if victim has confided in anyone else about past abuse.
- Ask lethality risk questions.
- Be non-judgmental and acknowledge any expressed fear, anxiety or ambivalence.
- Do not make promises to the victim that you cannot keep.
- Be sensitive to cultural makers, differences
- Advise the victim of her right to 72 hour no contact protection.
- Discuss safety planning and refer victim to local domestic abuse program.

***Victims tend to take responsibility for the violence towards them or to minimize or deny it in fear of the perpetrator.***

## Evidence Collection Summary

Evidence	Action
Penetrating injury	<ul style="list-style-type: none"> <li>• Photograph/document before and after cleaning and repair of wound</li> </ul>
Bullet wound	<ul style="list-style-type: none"> <li>• Collect any object that comes between the muzzle and the wound</li> <li>• When the object is an article of clothing, do not destroy the bullet hole</li> <li>• Photograph/document before and after cleaning and repair of wound</li> </ul>
Gun shot residue (GSR)	<ul style="list-style-type: none"> <li>• Photograph/document</li> <li>• Sample for firearms residue test</li> </ul>
Bullet	<ul style="list-style-type: none"> <li>• Collect carefully; avoid using metal instruments or storage on metal trays</li> </ul>
Incised wound	<ul style="list-style-type: none"> <li>• Photograph/document before and after cleaning and repair of wound</li> </ul>
Damaged clothing	<ul style="list-style-type: none"> <li>• Cut around (not through) bullet holes, incisions, and tears.</li> <li>• Document/photograph</li> <li>• Maintain chain of custody</li> </ul>
Damp/wet clothes	<ul style="list-style-type: none"> <li>• DRY, DRY, DRY</li> <li>• Place each piece of clothing in separate paper bag</li> </ul>
Bindings/restraints	<ul style="list-style-type: none"> <li>• Do NOT cut through knots or stains</li> </ul>
Blood spatter	<ul style="list-style-type: none"> <li>• Photograph/document</li> <li>• Preserve patterns until someone trained in blood spatter patterns can examine them</li> </ul>
Body fluid stains and standards	<ul style="list-style-type: none"> <li>• Liquid blood: Collect swab, dry, package</li> <li>• Dried recovery: If stained object is transportable, collect intact. If not, collect using moistened swabs, dry, package</li> <li>• Bodies of victims and suspects: SANE consult</li> </ul>
Bite marks	<ul style="list-style-type: none"> <li>• Swab the bite mark for DNA evidence collection</li> <li>• Photograph by someone trained in bite mark photography</li> </ul>
Toxicology samples	<ul style="list-style-type: none"> <li>• Liquid blood and urine samples must be refrigerated</li> <li>• Samples from crimes of violence should be sent to the State Crime Laboratory</li> </ul>
Strangulation	<ul style="list-style-type: none"> <li>• Voice recording</li> <li>• Photograph injury, how strangled</li> <li>• SANE / physician consult</li> </ul>

### ***Crime Laboratories***

There are three state crime laboratories within the Division of Law Enforcement Services, Wisconsin Department of Justice:

- Madison: (608) 266-2031
- Milwaukee: (414) 382-7500
- Wausau: (715) 845-8626

If unable to reach any of the Laboratories at any time call the Time Control Center at (608) 266-7633.

## Best Practices in Forensic Photo-documentation

- Explain the importance of photographic documentation and obtain consent to obtain photographs.
  - Separate rolls of film should be used for each case to avoid losing or mixing up evidence.
  - The first 3 images should be:
    - a) a full body image of the clothed person,
    - b) a close-up facial view and
    - c) a close-up view of the patient's identification card or plate.
- Each injury should have a medium distance body part image and then at least 2 close-ups with one at a 90 degree angle and one tangential to the injury.
  - Take photographs that attempt to duplicate patient and perpetrator positions.
  - Take many pictures from different angles and distances (more is better than less).
- Take color photographs and use a measuring standard (such as a ruler) to assess the size of each individual injury, ideally taking one image with the standard and one without so as to avoid suspicion that something was hidden behind the standard.
  - A scale or inclusion of an anatomic landmark establishes perspective.
  - Use security measures and software to assure that the photographs cannot be altered.
  - Offer the patient a visit for follow-up photographs at a later visit (2 - 4 days) to document the duration and progression of injuries.
  - Obtain photographs of areas of permanent residual injury (as permanent injuries can increase penalties if a case is prosecuted).
- Use a colposcope (SANE consult) for documenting small findings or injuries to the mouth or genital area.
- Include a label on each hard copy photograph that includes the date, patient's name, record number and photographer's name.
  - Keep a log of all photographs taken.
- Consider photographs of clothing, strangulation posture (victim and suspect), suspect tattoos and piercings.
- Forensic bite mark photography is a specialized field of photography – consult an expert for these photographs. Remember that a bite mark will distort with time (swelling) so obtain the consult ASAP.
- If a suspect is not consenting, Wisconsin statutes require a court order be obtained for photographs of genitals.
- Adhere to the highest standards for privacy and confidentiality regarding developing, storage, retrieval and review of photographs.

## Domestic Violence Report Checklist

- Indicate reason for response to scene
- Time of dispatch and response, details of dispatch
- Time of incident and if is still in progress
- Name of other officer(s) responding
- Noises, shouting, breakage heard
  - On arrival, also note if quiet
  - Heard by dispatch, and/or
  - Reported to dispatch by reporting party
- How entry was made by law enforcement
- Position of parties at arrival
- How entry was made—if forced, describe exigency
- Documentation of on-going emergency questions of excited utterances
- Identification of and physical description of all parties (including medical personnel)
  - Name, address, DOB, phone numbers (including **confidential** third party contact information where messages can be left or used to contact victim in the future.)
  - Height, weight, hair and eye coloring and other identifiers
  - Appearance, including specific location and description of injuries, limitations of movement, indicating injury
  - Condition of clothing
  - Demeanor, mental state, alcohol or drug use
  - Non-verbal communication
- Description of scene
  - Signs of forced entry by anyone other than law enforcement
  - Signs of struggle
  - Disarray/order of room and scene
  - Signs of alcohol/narcotic use
  - Blood stains or spatter
  - Evidence of violence from this or prior incidents
  - Weapons collected or noted

- \_\_\_ Detailed interviews of subject(s), children, witnesses
  - \_\_\_ What happened and how
  - \_\_\_ Each person's version of events
  - \_\_\_ Prior history related
  - \_\_\_ Each persons' safety/fear level from present incident and past history
  - \_\_\_ Interview all children
  - \_\_\_ Check for safety of pets
- \_\_\_ If needed, find interpreters, use language line, NO CHILD INTERPRETERS
- \_\_\_ Correct use of quotations for:
  - \_\_\_ Statements
    - \_\_\_ Excited utterance heard prior to making contact with declarant
    - \_\_\_ Excited utterance heard by witnesses prior to officer contact at scene
    - \_\_\_ Excited utterances made after arrival on scene
    - \_\_\_ Excited utterances made in response to on-going emergency questions
- \_\_\_ Note protective orders in place (include restraining order/injunction, current 72 hour no contact, bail condition, probation condition)
- \_\_\_ Establish through detailed description:
  - \_\_\_ Relationship criteria
  - \_\_\_ Elements of crimes charging (including non-consent)
  - \_\_\_ Determination of predominant aggressor
- \_\_\_ Indicate action taken, including arrest rights per Miranda, whether suspect invoked rights or if further statement made
- \_\_\_ Document if any evidence was collected
- \_\_\_ Document if any evidence has been recorded (i.e. video, DVD)
- \_\_\_ Document that Victim's Rights information given and information regarding community resources/safety planning
- \_\_\_ Record evidence log, photo log
- \_\_\_ Indicate needed follow up directions/requests
- \_\_\_ Prior history, including criminal record, dispatched calls to scene, medical treatment, past protective orders, prior bail jumpings, prior victims, etc
- \_\_\_ Documentation of questions asked regarding on-going emergency if responses are excited utterances

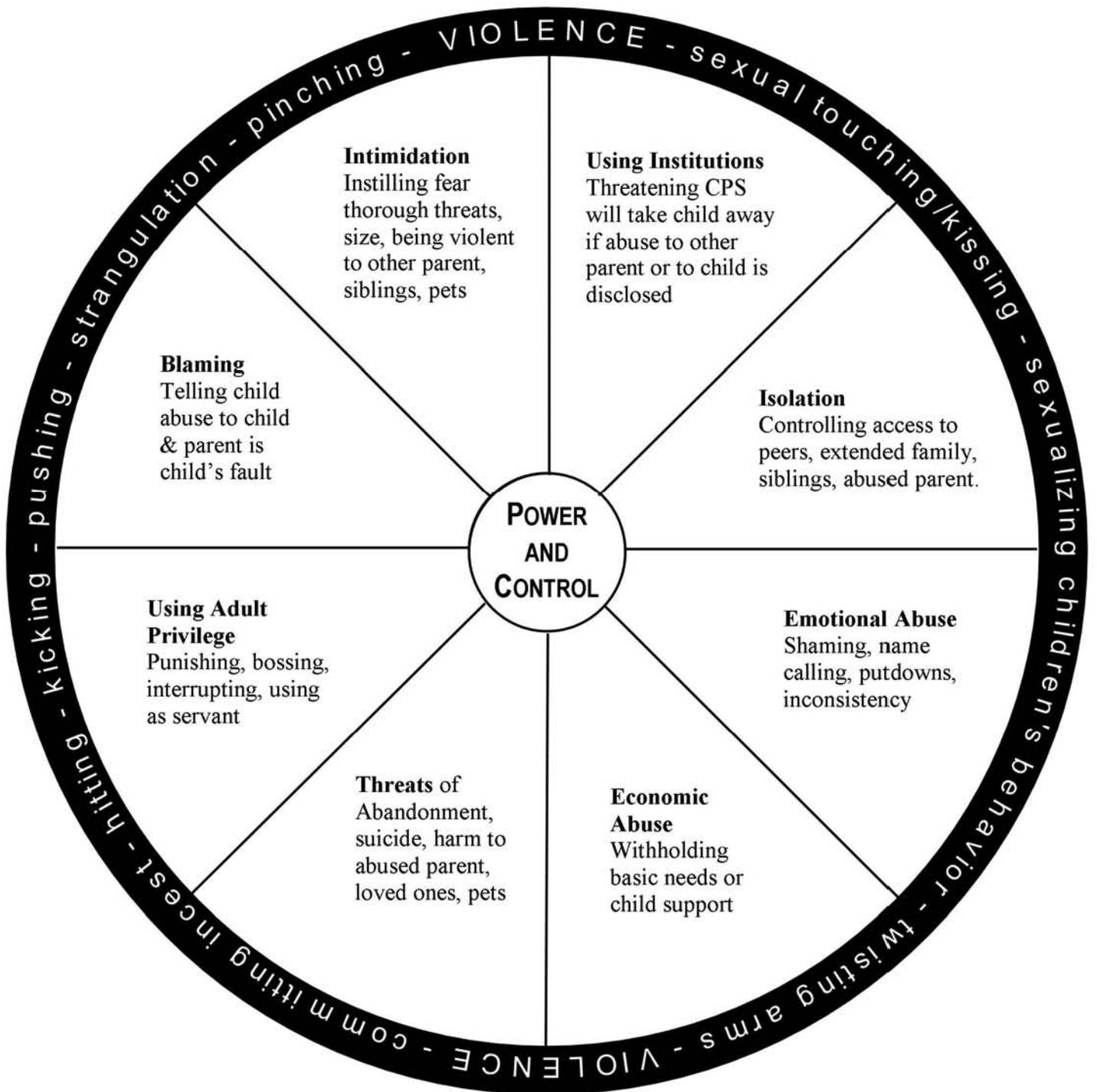
The diagram on the following page was produced in La Crosse showing how many agencies/people might have access to your police report.



## Best Practices in Domestic Violence Investigations

- Assess for officer safety
- Separate ALL the parties, including witnesses
- Secure the crime scene
- Analyze information to determine predominant aggressor, using minimally mandated investigative strategies
- Keep suspect interview non-custodial and without Miranda attaching (pre-arrest silence can be used to impeach in defendant testifies at trial.)
- Never use children, family or other witnesses as interpreters
- Document everyone's spontaneous statements
- Document everyone's demeanor (including children)
- Lock everyone into a story, asking for details
- Document any attempt made by suspect to intimidate victim or manipulate the interview
- Document, describe, and photograph injuries. If applicable, get signed medical release
- Collect evidence (bloody clothes, weapons, damaged property)—anything that will help corroborate your report in front of a jury
- Do not ask a victim if the victim wants to “press charges” or “sign a complaint”
- Speak with the victim about safety planning and inform the victim regarding the earliest the suspect may be released on bail
- Identify community resources to address disability affecting ability to communicate with law enforcement

# Power & Control: An Abuser's Use of Children



## Tips for Interviewing Children: Best Practices

### Never use a child as an interpreter.

- Interview the child away from eye and ear shot of everyone else at the scene, including other children.
- Get down on the child's level
- Talk about something appropriate to the child's age until you have established some rapport with the child
- Assure the child that he/she is not in trouble (especially if the child called for assistance)
- Assure the child that he/she is not responsible for the violence
- Assure the child that he/she is not responsible for anyone being arrested
- Do not say negative things about the abuser
- Do not ask the child leading questions
- If a child gives you information, follow up by asking non-leading questions like, "Can you tell me more about that?"
- Ask the child if he/she was afraid
- Ask the child if he/she is *still* afraid
- Ask the child about anything the child heard or saw
- Ask the child about any history of violence in the home (if he/she is afraid for anyone in the home)
- Ask the child if there are any pets and if he/she has ever been afraid for a pet.
- Safety plan with the child what to do if the child is ever afraid
  - Ask the child to identify 5 people he/she could tell if ever afraid
  - Identify a safe room in the house
  - Have the child call 911 if it is safe

## My Nightmare

*(This poem was read at a sentencing for sexual assault of a child. The writer, 14 years old, was molested at age 13 by her step-father who had been physically abusing her mother. He ensured her silence by threatening to kill her and her mom if she told anyone. When her step-father was arrested for domestic violence, she disclosed the sexual and physical abuse she suffered to her mother, in the presence of a detective.)*

You're a nightmare...a disaster  
You're a lost cause...not a hero  
We're not gonna let you control us anymore  
Spit all your insults  
Go ahead and judge me  
Say what you want...cause you can't win  
We're not gonna be a part of your games  
We're not gonna be just the victims anymore  
You've taken our dreams...and tore them apart  
Controlled our lives  
Made my life a living hell...so I had no where to run  
No where to feel safe  
All you did was watch me fall...over and over again

Well I'm standing tall now

You've done so many things to me  
You've taught me things I can't learn at school  
Things I shouldn't have learned so early if life  
You've taught me to trust NO ONE!  
Not even someone who has practically been your father  
Never trust anyone with your caring love or making any decisions  
Cause all they'll do is mess everything up

Everyone's alone here...there are no loyal friends  
We're born alone...we'll die alone...and we're all lost in life  
The most important thing you have showed me is that life is just a dead end  
The hardest thing I've had to learn was that drugs can kill someone deep inside  
People can change dramatically on drug  
I think NO ONE should be a part of this...no matter their age  
Cause why should anyone go through that

You've showed me weed...and its mind-alliterating course shows real life  
There's no smiley faces...cause no one is really happy inside  
You've showed me alcohol  
And how people don't know themselves enough...to know their own limit  
You've showed me cocaine  
And how everyone else should be punished...for your mistakes  
And how paranoia takes over cause you know your doing something wrong  
You've help addict me to cigarettes...this taught me the eager feeling people get  
When they need something that makes them happy

But I've never got that...I've got kicked...I've got punched  
I've got thrown down the stairs...I've got choked...I've got cut  
I've got pushed around...and I stood there and took it

Now tell me who's the real man...how could you sit there and hit on a little kid  
What did I do that could of made you that mad

But wait how could you treat my mom the way you did  
All she did was love you...like she should of  
Cause she didn't know the real you...or me...cause I had to keep the secret deep inside  
Which hurt every time she smiled at me  
Cause I didn't want to be the one who broke her heart  
She didn't know...I had to pretend we were the perfect family  
I had to pretend that you loved me

All you are is a druggy alcoholic molester...and a bum that has no life  
Whose goal is to do wrong...and getting away with as much as you can  
You're someone with no heart...no feeling...no soul  
You have a steady blood stream...but no heart beat...cause you're dead inside

Well now the tables have turned...now it's your time to deal  
Cause I don't have to worry about getting beaten up  
Cause of a bad day at work...or a bad trip  
I don't have to worry about someone coming into my bedroom...while I'm asleep  
Or someone pulling my pants down to my knees

OK...now look at me  
I'm no longer happy and blonde  
My hair is black...so everyone's warned not to bring things up  
My lip is pierced...to show the pain and fear...and so everyone knows to leave me alone

I'll never get over what you have done to me...I'll be scarred for life  
No matter what anyone tells me  
You should be blamed for the horror and the pain...you put everyone thru

Well now.....  
I'm the pain you feel...the scars that won't heal  
The tears you shed...the voice in your head  
The reason you cry...why you want to die  
I'm the promises you broke...the sweat on your face  
The blood in your veins...The fear your gonna face

The future is now mine...it's in my hands  
I've got nothing more to lose...So I take the stand

TO SHOW I NOW OVERPOWER YOU!!!!!!!!!!!! ( by Karissa)

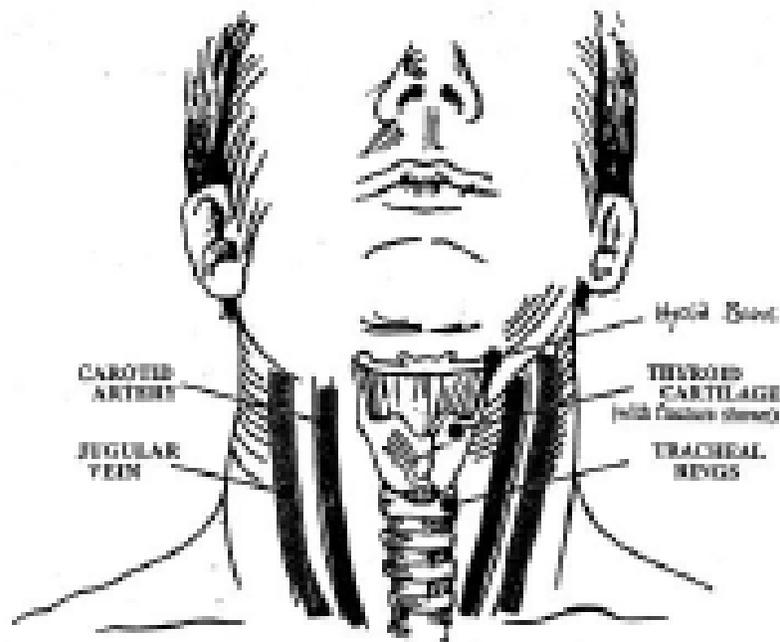
## Weapons Seizure

- Weapons used in the commission of a crime should always be seized as evidence. Possession of a firearm by a felon is prohibited and is a felony. The person should be arrested and the weapon should be seized.
- When there is an injunction, possession of a firearm by a domestic abuse or child abuse respondent is prohibited for the duration of the injunction. If a respondent has a firearm, it is a felony. The respondent should be arrested and the weapon should be seized.
  - \*Note that, while not automatic, there may be a no firearm prohibition provision in a harassment injunction. The injunction should be reviewed to determine its terms. If the respondent is not allowed to have gun, treat the case as you would with a domestic violence or child abuse injunction. Arrest the respondent for a felony and seize the weapon.
- **Possession of a firearm OR ammunition by a person prohibited from possession by the Lautenberg Gun Ban:** If the person is prohibited from possessing a firearm or ammunition due to a prior domestic abuse conviction, take the contraband and refer case to the U.S. Attorney's Office.
- **Taking weapons for safekeeping.** If you are at the scene of a domestic and no weapons were used in the commission of a crime, you should still ask about access to weapons. REMEMBER: The danger to the victim may be escalating now that the police are involved. If the victim is a spouse, ask her if she would like you to take the weapons (marital property) for safekeeping while the case is pending.

You may be called back to the scene when the perpetrator returns from jail, angry with the victim for his arrest. It is safer for officers if there are no longer any firearms in the house.

**If you have seized a weapon and the owner asks how to have the guns returned to them, refer the question to his/her lawyer. Do not give them legal advice.**

## Strangulation Checklist



Strangulation is a form of asphyxia (lack of oxygen) characterized by closure of the blood vessels and/or air passages of the neck as a result of external pressure on the neck. A victim may refer to it as “choking.”

When an abuser strangles his victim, he is committed a potentially lethal act. Encourage medical treatment especially if any of the following symptoms are observable or elicited from the victim:

- **Mild hoarseness**
- **Complete loss of voice**
- **Difficulty swallowing** - may feel like lump in the throat
- **Painful swallowing**
- **Difficulty breathing**
- **Raspy breathing**
- **Unable to breath**
- **Mental status changes**
  - Early stages:
    - restlessness or combativeness
  - Long term effects
    - psychosis, amnesia
- **Involuntary urination or defecation**
- **Redness of the neck** may be fleeting
- **Bruises** - may not appear for hours or days

**Finger tip bruises** are circular and oval and often faint. A single bruise on the neck is most frequently caused by the thumb.

- **Tiny red spots (petechiae)** - ruptured capillaries. Found around the eyes, anywhere on the face and neck in and above the area of constriction. Most common in ligature strangulation.
- **Blood red eyes** are due to capillary rupture in the white portion of the eyes. May suggest a vigorous struggle or intermittent pressure.
- **Swelling** of the neck may be caused by any one or combination of the following: internal bleeding, injury of any of the underlying neck structures or fracture of the larynx allowing air to escape into tissues of the neck.

Strangulation Checklist:  
**Document in Police Report**

**Questions to Determine Strangulation**

Did he use one or two hands?  
Did he shake you while strangling you? If so, how much?  
A little or did he whip you back and forth?  
How much force did he use and how hard did he grab you?  
Did he grab from the front or from the back?  
How long did he strangle you?  
Did he use his hands or his arm?  
Did he use an object?  
Was he wearing rings?  
Did you try to get his hands off?  
Did he say anything while he was strangling you?

**Questions to Determine Internal Injuries**

Did you have difficulty breathing? Describe.  
Did you feel light-headed, faint, or close to losing consciousness?  
Did you experience any loss of bodily functions?  
Are you experiencing nausea or vomiting?  
Are you in pain or discomfort?  
Are you having trouble swallowing?  
Have there been past incidents of strangulation or choking?

**Physical Evidence on the Subject**

Scratches or cuts  
Bite marks on the arms, hands, or chest  
Finger impressions on hands or arms

**Physical Signs, Symptoms, & Evidence on Victim**

Spots around eyes or face from ruptured capillaries (petechiae)  
Bruising  
Impression marks  
Rope or cord burns  
Swelling of the neck  
Loss of bodily functions  
Ringing ears or light-headedness  
Hoarse and/or raspy voice  
Difficulty talking, breathing, or swallowing  
Sore throat  
Bleeding from the mouth  
Fainting

**Charges Based on Method Used, Symptoms, Expressed Intent and Reason for Disengagement**

Battery §940.19 (1)  
Substantial Battery §940.19 (2)  
Aggravated Battery §940.19 (4)  
Aggravated Battery §940.19 (5)  
1st Degree Reckless Injury §940.23 (1)  
2nd Degree Reckless Injury §940.23 (2)  
1st Degree Recklessly Endangering Safety § 941.30 (1)  
2nd Degree Recklessly Endangering Safety §941.30 (2)  
Attempted Homicide §940.01/939.32  
Strangulation/Suffocation §940.235

## Strangulation and Suffocation – New Wisconsin Laws

As of April 2008, the acts of strangulation and suffocation become felonies. Wisconsin Stats. §940.235 Strangulation and suffocation. (1) Whoever intentionally impedes the normal breathing or circulation of blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person is guilty of a Class H felony.

Wisconsin Stats. § 939.22 (23) added the following definition: “Petechia” means a minute colored spot that appears on the skin, eye, eyelid, or mucous membrane of a person as a result of localized hemorrhage or rupture to a blood vessel or capillary.

The Legislature also added new terms added to definitions:

Wisconsin Stats. §939.22 (10) added to “Dangerous weapon” means... any ligature or other instrumentality used on the throat, neck, nose, or mouth of another person to impede, partially or completely, breathing or circulation of blood...

In Wisconsin Stats. §939.22 (38) “Substantial bodily harm” means... a petechia...

# Dried Secretions and Skin Cell Evidence Collection Technique

April 2009

TO: Field Services Personnel  
FROM: Marion Morgan, Detective, Madison Police Department  
SUBJECT: Dried Secretions and Skin Cell Evidence Collection Technique

Described below is the best practice method for the collection of dried secretions and skin cell (epithelial cell) collection for DNA purposes. This applies to any investigation where one might find biological substances such as saliva, semen, vaginal fluid, urine, fecal material, skin or blood. It also applies to the presence of saliva at bite mark sites. Biting occurs frequently in many cases such as batteries, sexual assaults, domestic assaults and/or physical abuse to children. A key application of this method is in strangulation or smothering incidents.

The preferred technique for collection is to use two swabs, the first a wet swab with distilled or tap water. Please note in your report which water source is used. DO NOT use saline solution as it will create crystals and degrade the sample. The second swab is a dry swab. So as not to overwhelm the sample with the source DNA, instead of rubbing the site with the swabs, roll them over the site. First roll the wet swab over the location and then follow by rolling the dry swab in the same location. The two swabs can be placed in the same envelope for air-drying.

Another application for this collection method is skin-to-skin contacts such as strangulation cases, battery cases or any situation where a person is grabbed by another. We would be swabbing for skin (epithelial) cells on the contact surface. There may not be **visible injuries** with strangulation cases so listen to the victim and let his/her statement drive your evidence collection. If the suspect used his/her hands or other body parts to strangle the victim there is a high probability there will be epithelial cells present on both the victim and suspect. Any place where there has been kissing, sucking licking or biting is a possible location for DNA recovery.

If a suspect grabs a victim's clothes, pr other object remember to take the clothing or item and note where the contact occurred so that analysis for skin cells can be conducted.

If you have specific questions about this, do not hesitate to contact me by email at [mmorgan@cityofmadison.com](mailto:mmorgan@cityofmadison.com) or phone, 608-266-4324.

**REMEMBER  
ALWAYS WEAR GLOVES  
WHEN COLLECTING  
BIOLOGICAL SUBSTANCES**

## Law Enforcement Article New Requirements for CODIS Searches

The CODIS (Combined DNA Index System) is operated and controlled by the FBI. Before an evidence profile can be uploaded to the National level of CODIS, the FBI requires that standard samples be obtained from anyone that could have legitimately contributed a DNA profile. The purpose of the standard sample is to determine if the forensic profile developed from a crime scene sample actually came from the perpetrator or from someone else who legitimately had access to the forensic evidence. If someone other than the criminal perpetrator could have contributed the DNA profile, the other individuals must be eliminated or the samples cannot be uploaded and searched at the National level of the CODIS system. This rule should help prevent innocent individuals from having their DNA profile entered into the National index, which is prohibited by federal law. If these elimination samples are not obtained or if there is not a valid reason why they cannot be obtained, the profiles cannot be searched at the National level of CODIS. The laboratory must document the submission of the elimination standards or the reason they have not been obtained in order to send the profiles to the National level.

For instance if a cigarette butt is obtained from a crime scene, the police agency must inquire as to whether anyone at the scene, victims or others legitimately there, smoked. If they smoked, did they smoke that particular brand that was recovered? If anyone smoked that brand then elimination buccal swabs from those individuals must be submitted with the case.

In the case of a sexual assault, elimination samples must be submitted from the victim's consenting sexual partner(s) if she engaged in sexual activity in the last five days prior to the assault. If the elimination samples are not obtained or reasons why they were not submitted are not documented, any evidentiary profiles developed in the case cannot be uploaded to the National level of CODIS.

In cases where neither the elimination samples are provided nor a legitimate reason given as to why they weren't provided, the laboratory can and will search the profiles at the state level of CODIS. These profiles will be entered into a special state index and maintained there until either the proper elimination samples are provided or a rationale for why they can't or won't be submitted is documented. When required elimination samples are provided and analyzed, and it is determined that the forensic profile probably originated from the criminal perpetrator, the forensic crime scene profiles will be moved to the National level and searched there.

## §940.32 Stalking

**(1)** In this section:

(a) “Course of conduct” means a series of 2 or more acts carried out over time, however short or long, that show a continuity of purpose, including any of the following:

1. Maintaining a visual or physical proximity to the victim.
2. Approaching or confronting the victim.
3. Appearing at the victim’s workplace or contacting the victim’s employer or coworkers.
4. Appearing at the victim’s home or contacting the victim’s neighbors.
5. Entering property owned, leased, or occupied by the victim.
6. Contacting the victim by telephone or causing the victim’s telephone or any other person’s telephone to ring repeatedly or continuously, regardless of whether a conversation ensues.
- 6m. Photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim. This subdivision applies regardless of where the act occurs.
7. Sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim’s family or household or an employer, coworker, or friend of the victim.
8. Placing an object on or delivering an object to property owned, leased, or occupied by the victim.
9. Delivering an object to a member of the victim’s family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim.
10. Causing a person to engage in any of the acts described in subds. 1. to 9

**(2)** Whoever meets all of the following criteria is guilty of a Class I felony:

- (a) The actor intentionally engages in a course of conduct directed at a specific person that would cause a reasonable person under the same circumstances to suffer serious emotional distress or to fear bodily injury to or the death of himself or herself or a member of his or her family or household.
- (b) The actor knows or should know that at least one of the acts that constitute the course of conduct will cause the specific person to suffer serious emotional distress or place the specific person in reasonable fear of bodily injury to or the death of himself or herself or a member of his or her family or household.
- (c) The actor’s acts cause the specific person to suffer serious emotional distress or induce fear in the specific person of bodily injury to or the death of himself or herself or a member of his or her family or household.

(2e) Whoever meets all of the following criteria is guilty of a Class I felony:

- (a) After having been convicted of sexual assault under s.940.225, 948.02, or 948.025 or a domestic abuse offense, the actor engages in **any** of the acts listed in sub. (1) (a) 1. to 10., if the act is directed at the victim of the sexual assault or the domestic abuse offense. (b and c) same as above.

**Statute creates higher penalties for repeater offenders or for offenders who are stalking prior victims**

# Sample Stalking Warning Letter

**ANYTOWN POLICE DEPARTMENT  
CITY OF ANYTOWN, MY COUNTY, WISCONSIN  
SERVICE OF WARNING - STALKING LETTER**

CASE NUMBER \_\_\_\_\_

RE \_\_\_\_\_  
(Complainant)

Warning letter served to \_\_\_\_\_, \_\_\_\_\_  
(DOB)  
\_\_\_\_\_  
(HOME ADDRESS)

The *Anytown* Police Department has recently investigated a complaint about your behavior toward the above-named individual.

The behavior you have engaged in could be interpreted as “stalking” as defined by WI State Statute 940.32. Stalking can be described as intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person under the same circumstances to suffer serious emotional distress, or place the specific person in reasonable fear of bodily injury. Your behavior has induced such fear or distress in the above named individual.

The Wisconsin law makes stalking a crime. The *Anytown* Police Department takes this law very seriously.

Please consider this a formal warning that any future stalking behavior done by you towards the above named individual could result in arrest by law enforcement and prosecution by the *My County* District Attorney’s Office.

Chief of Police

Served in hand \_\_\_\_\_ by \_\_\_\_\_  
(date) (Name of Officer and IBM)  
of the \_\_\_\_\_ Police Department  
at \_\_\_\_\_  
(location)

White to recipient; yellow & pink to *Anytown* PD, 211 S Main St, *Anytown*, WI 53703

**POLICE DEPARTMENT  
DOMESTIC ABUSE  
SUSPECT ADVISEMENT**

Incident # \_\_\_\_\_

1. You have been arrested for a domestic-related offense.
2. During the next 72 hours you are required:
  - a. to stay away from the victim's residence or temporary residence.
  - b. to avoid contact with the victim and to avoid having any other person contact the victim, except for your attorney.
3. If you violate the above restrictions, you are subject to a fine of up to \$1,000. in addition to the penalties for the original offense(s).
4. If you violate the above restrictions, you may also be charged with stalking, which is a felony in Wisconsin.
5. If you commit an act(s) of domestic abuse to this or any other victim during the next 72 hours and the act(s) is a crime, the second offense may become a felony.

I acknowledge receipt of this notice and understand the requirements explained above. I agree to refrain from any threats or acts of domestic abuse against this or any other victim.

\_\_\_\_\_  
Name printed

\_\_\_\_\_  
Signature

Date \_\_\_\_\_

Officer \_\_\_\_\_

## No Contact Provisions Under Wisconsin Law

Type Of Order	Who Determines	Criminal Sanction	How Long In Effect
<b>72 Hour No Contact Order</b>	Victim decides if there will be a no contact order	Violation is a forfeiture	72 hours begins from time of arrest, unless waived by victim
<b>No Contact Bail Condition</b>	Condition set at initial appearance by commissioner or judge	Violation is a crime –a misdemeanor if underlying charge is a misdemeanor, a felony if underlying is a felony	Condition is in effect until defendant is sentenced
<b>TRO/Injunction Condition of No Contact</b>	Condition set at civil hearing by commissioner or judge	Violation of condition is a crime (misdemeanor)	No contact condition if TRO or injunction granted. *See below.
<b>Probation Condition of No Contact</b>	Condition set by a judge at sentencing or imposed by probation agent	Violation is a crime <b>IF</b> notified by the judge at sentencing. Officers should always contact probation agent to see a “hold” should be ordered.	Condition in effect for length of probation unless modified by judge or agent
<b>Family Court Order</b>	Condition set by family court in civil action	Violation is not a crime but person can be held in contempt by the court	

### \*\* Domestic Violence - TRO (temporary restraining order)

*Ex parte* proceeding (only the petitioner) meets with a commissioner or judge. No contact up to 14 days or until Injunction hearing (unless extended) Respondent must be served with notice of injunction hearing

### \*\* Domestic Violence Injunction

Hearing held before a commissioner or judge. If injunction granted, no contact can be for up to four years and respondent (abuser) may not possession a firearm for the period of the injunction.

### Criminal No Contact Time Line

- Victim decides whether there will be a **72 hour No Contact** from time of arrest
- At **initial appearance, bail conditions** are set (*note: if defendant bails out before an initial appearance, the only no contact protection a victim has until the initial appearance is the 72 hour no contact, unless your county has its own more restrictive policies.*)
- At sentencing the bail conditions no longer apply, if the judge places the defendant on **probation**, then the no contact or no acts or threats of violence to the victim probation condition would apply.

# Wisconsin Protection Orders

## Types

- Domestic Abuse
- Harassment
- Child Abuse
- Individuals At Risk
- Foreign Protection Orders

## Temporary Restraining Orders (TRO's)

- Must be served to be valid
- Violation is a *mandatory* arrest

## Injunctions

- (Except for foreign protection orders), injunctions are in effect as soon as they are granted. **NEED NOT BE SERVED TO BE VALID**
- Violation is a mandatory arrest

## Gun Prohibition §941.29 Possession of a Firearm

- (f) [a person] Enjoined under an injunction issued under s. 813.12 or 813.122 or under a tribal injunction, as defined in s. 813.12 (1) (e), issued by a court established by any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin
- Violation of the gun possession is a felony.

Amended

**INJUNCTION – Domestic Abuse**

(Order of Protection - 30709)

Case No. XX-CV-XXXX

**PETITIONER/PROTECTED PERSON**

**Name of Petitioner/Guardian (First, Middle, Last)**

Pat Doe

**Name of Protected Person** (if different than Petitioner)

**Date of Birth of Petitioner/Protected Person**

3/01/63

**-VS.-**

**RESPONDENT/DEFENDANT**

**Name of Respondent/Defendant (First, Middle, Last)**

Chris Doe

Respondent's/Defendant's Street Address, City, State, Zip

Please specify Petitioner/Protected Person's relationship(s) to Respondent/Defendant:

- spouse
- former spouse
- person in dating relationship
- current or former live-in relationship
- other: (be specific) \_\_\_\_\_
- cousin
- sibling
- parent
- step parent
- adoptive parent
- grandparent
- child (biological/adoptive/step)

SEX	RACE	DOB	HT	WT
	W	3/04.63	5'8"	190
HAIR COLOR		EYE COLOR		
Brown		Brown		
Respondent's/Defendant's Distinguishing Features (such as scars, marks or tattoos)				
<input type="checkbox"/> None known.				

**CAUTION:**  
(Check all that apply)

- Respondent/Defendant has access to weapon(s). Type of weapon(s): hunting rifle  
Location of weapon(s): under the bed
- Weapon(s) were involved in an incident (past or present) involving me.

**THE COURT FINDS:**

Findings are on the following page(s) of this injunction.

**THE COURT ORDERS:**

Orders are on the following page(s) of this injunction.

**THIS INJUNCTION SHALL BE EFFECTIVE UNTIL** 1/31/13

Not to exceed 4 years

**NOTIFICATIONS/WARNINGS TO RESPONDENT/DEFENDANT:**

This order shall be enforced, even without registration, and is entitled to full faith and credit in every civil or criminal court of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265; Wis. Stats. 813.128). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

Federal law provides penalties for, and you may be prohibited from possessing, transporting, shipping, receiving, or purchasing a firearm, including, but not limited to, a rifle, shotgun, pistol, revolver, or ammunition, pursuant to 18 U.S.C. 922(g)(8). Additional notifications/warnings are on the following page of this injunction.

Violation of this order shall result in immediate arrest and is punishable by imprisonment not to exceed 9 months or a fine not to exceed \$1,000, or both, and payment of filing and service fees.

**Only the court can change this order.**

**THE COURT FINDS:**

- 1. The petitioner/protected person has filed a petition alleging domestic abuse under §813.12, Wisconsin Statutes.
- 2. This court has personal and subject matter jurisdiction. The respondent has been properly served and had an opportunity to be heard.
- 3. There are reasonable grounds to believe that the respondent has engaged in, or based upon prior conduct of the petitioner/protected person and the respondent, may engage in domestic abuse of the petitioner/protected person as defined in §813.12, Wisconsin Statutes.

**THE COURT ORDERS:**

- 1. The respondent to refrain from committing acts or threats of domestic abuse against the petitioner/protected person.
- 2. The respondent to avoid the petitioner/protected person's residence and/or any location temporarily occupied by the petitioner/protected person.
- 3. The respondent to avoid contacting or causing any person other than a party's attorney or law enforcement officer to contact the petitioner/protected person unless the petitioner/protected person consents in writing. Contact includes: contact at petitioner/protected person's home, work, school, public places, in person, by phone, in writing, by electronic communication or device, or in any other manner.
- 4. The sheriff to assist in executing this injunction, if requested.
- 5. The sheriff to accompany the petitioner/protected person and assist in placing the petitioner/protected person in physical possession of his/her residence, if requested.
- 6. Other: *(may not be inconsistent with remedies requested in the petition)*

**THE COURT FURTHER ORDERS:**

The respondent/defendant is prohibited from possessing a firearm until the expiration of this injunction. Possession of a firearm is a Class G Felony punishable by a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both. A respondent may retain a firearm only if the respondent is a peace officer and only to the extent required by the peace officer's employer. The respondent shall immediately surrender any firearm(s) that he or she owns or has in his or her possession to:

- the sheriff of this county.
- the sheriff of the county in which the respondent resides: \_\_\_\_\_.
- another person: (Name and Address) \_\_\_\_\_.

**Note:** Court shall complete CV-432 – Notice of Firearms Possession Penalties and send to the third party unless the third party is personally served in court.

**THIS IS A FINAL ORDER FOR PURPOSES OF APPEAL.**

The respondent was present in court and personally served with a copy of this order.

Third party was present in court and served with CV-432.

**BY THE COURT:**

\_\_\_\_\_  
Circuit Court Judge / Circuit Court Commissioner

Judge Judy  
\_\_\_\_\_  
Name Printed or Typed

1/31/09  
\_\_\_\_\_  
Date

- Distribution:
- 1. Original – Court
  - 2. Petitioner/Protected Person/Guardian
  - 3. Respondent
  - 4. Law Enforcement
  - 5. Other: \_\_\_\_\_

LAC DU FLAMBEAU TRIBAL COURT

Petitioner: Jane Doe

Address: Street

Town

TEMPORARY RESTRAINING ORDER

NOTICE OF HEARING

(Harassment)

-vs-

Respondent: John Doe, Sr.

Case No. \_\_\_\_\_

Address: street

town

On the basis of the petition, the court finds reasonable grounds to believe that the respondent has violated §33.206(1)(d)

IT IS ORDERED that a hearing for an injunction be held:

NOTICE OF HEARING		
DATE	TIME	LOCATION
	10:00 A.M.	LAC TRIBAL CT.
PRESIDING JUDGE: <u>Judge Judy</u>		

and until said hearing, respondent is prohibited from harassing Jane Doe  
(Name of victim)

in any manner.

Harassment is defined in s. 33.203 (1) of the Lac du Flambeau Tribal Code/Ordinances as (a) Striking, shoving kicking or otherwise subjecting another person to physical contact or attempting or threatening to do the same. (b) Engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose.

THIS ORDER IS IN EFFECT UNTIL THE INJUNCTION HEARING IS HELD

Violation of this temporary restraining order shall be punished by the imposition of a civil remedial money penalty of not more than \$1000.00 per violation, together with court costs. In addition the court may impose sanctions for contempt of court .

BY THE COURT:

Judge Judy  
Tribal Court Judge

\_\_\_\_\_ Date

ORI: COURT  
CC: PETITIONER  
RESPONDENT  
TRIBAL POLICE  
VILAS COUNTY

<input type="checkbox"/> Municipal Court <input type="checkbox"/> County Court <input type="checkbox"/> District Court <input type="checkbox"/> Denver Juvenile <input type="checkbox"/> Denver Probate _____ County, Colorado Court Address: _____ Plaintiff/Petitioner: <u>Jane Doe</u> v. Defendant/Respondent: <u>John Doe</u> Address: <u>2 State Street</u> <u>Denver, CO</u>	<div style="text-align: center;">▲ ▲</div> <hr/> <p style="text-align: center;"><b><u>COURT USE ONLY</u></b></p> <hr/> Case Number: ##### 16 Character #: _____ Division                      Courtroom
<b>PERMANENT CIVIL PROTECTION ORDER ISSUED PURSUANT TO §13-14-102, C.R.S.</b>	

<b><u>Full Name of Restrained Party</u></b>	Date of Birth	Sex	Race	Weight	Height	Hair Color	Eye Color
<input type="checkbox"/> Protected Party alleges Weapon Involved							
John Doe, Sr.	1/1/80	<input type="checkbox"/> M <input type="checkbox"/> F	W	6'	230	BR	BL

<b><u>Full Name of Protected Party</u></b>	Date of Birth	Sex	Race	<b><u>Full Name of Protected Party</u></b>	Date of Birth	Sex	Race
JANE DOE	2/2/80	F	W				
JOHN DOE, JR.	1/2/03	M	W				

**The Court finds** that it has jurisdiction over the parties and the subject matter; that the Restrained Party was personally served and given reasonable notice and opportunity to be heard; that the Restrained Party constitutes a credible threat to the life and health of Protected Parties named in this action; and sufficient cause exists for the issuance of a Civil Protection Order.

**The Court finds** that the Restrained Party is is not governed by the Brady Handgun Violence Prevention Act, 18 U.S.C. §922 (d)(8) and (g)(8).

**This Protection Order DOES NOT EXPIRE and only the Court can change this Order.**

**The Court Orders that you, the Restrained Party,** shall not contact, harass, stalk, injure, intimidate, threaten, or molest the Protected Parties or otherwise violate this Order. You shall not use, attempt to use, or threaten to use physical force against the Protected Parties that would reasonably be expected to cause bodily injury. You shall not engage in any conduct that would place the Protected Parties in reasonable fear of bodily injury.

**You must keep a distance of at least \_\_\_\_\_ yards from the Protected Parties, including the children.**

**1. Contact.**

It is ordered that you, the Restrained Party, **shall have no contact of any kind** with the Protected Parties, including the children and you shall not attempt to contact said parties through any third person, except your attorney, **except as follows:**

NO EXCEPTIONS





