

*Investigating
Domestic
Violence Crimes
in Nevada*

HEART & SHIELD

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



University of Nevada
Cooperative Extension

SP-13-04

Investigating Domestic Violence Crimes in Nevada

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

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About This Field Guide



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

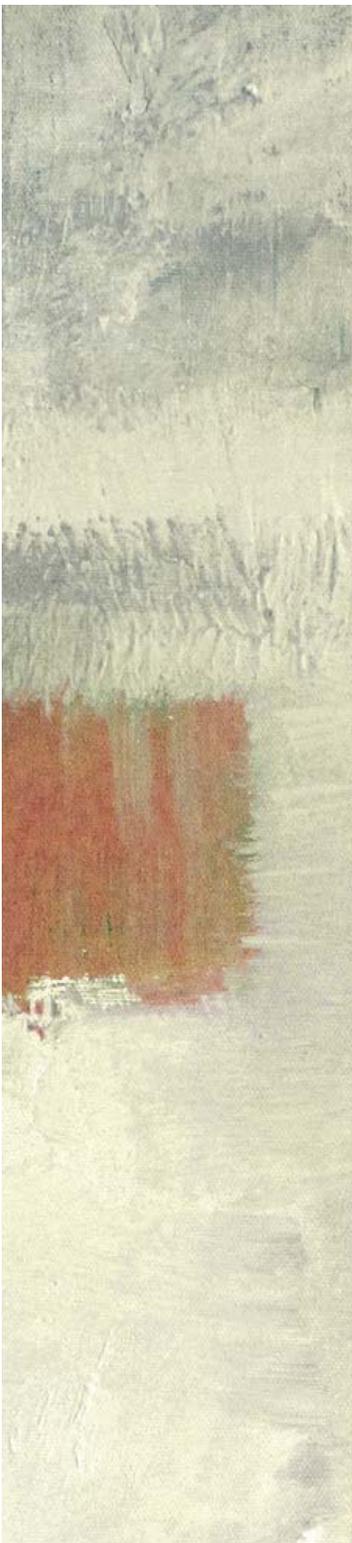


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On Scene

Checklist

Investigation

Domestic Violence

Strangulation

Exigent Circumstances

Tips

Stalking

Electronic Evidence

Firearms Prohibitions

Liability

Investigating Police

Orders of Protection

References

Approaching the Scene

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

(ALWAYS assume weapons are involved)



Officer Safety

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



On Scene Arrival

Dark House, No Answer

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

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

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

On Scene Arrival

Victim or Suspect Answers

On Scene

Investigate further - Do NOT assume there is "no problem" for exigent circumstances, consider:

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

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

****Officer Safety First****

Search Warrants:

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

On Scene

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

Nevada law requires you to make an arrest if:

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

Source: NRS 171.137

Once the Scene is Safe...

Primary Checklist

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

(Continued on page 7)

(Continued from page 6)

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



Crime Scene

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

Checklist



Follow-up Investigation

Evidence

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

Complete Your Investigation

Restore Order

Determine if a Crime Has Been Committed

Refer for Help

Victim

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

Suspect

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

Witness(es)

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

***Understand HIPPA/FERPA*

Domestic Violence

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

***This includes same-sex relationships*

Investigation

Domestic Violence



Domestic Violence

NRS 33.018 Acts, which constitute domestic violence.

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

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

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

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

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

Domestic Violence





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

Forms of Domestic Violence

- Physical
- Sexual
- Verbal
- Psychological
- Emotional

Domestic Violence

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

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

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

Strangulation

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

■ Questions to ask

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

Strangulation

■ Other things to remember

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

Document the assault



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

Other Factors

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



■ Document the signs and symptoms

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

Even if no signs of injury:

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

Special Strangulation Issues

Choking v. Strangulation

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

Types of Strangulation

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

Strangulation is...

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

Exigent Circumstances

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

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

The Fourth Amendment states:

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

Strangulation

Exigent Circumstances

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





Tips to Determine the PRIMARY AGGRESSOR

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

Use ALL information available to make the determination

If the Abuser Has Left the Scene

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

Tips





Tips for Interviewing Victims

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

Interviewing Victims and Assessing Risk for Lethality

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

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

(Continued on page 25)

Interviewing Victims and Assessing Risk for Lethality

(continued from page 24)

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

Tips for Interviewing the Suspect

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

Tips



Investigations Involving Children

- You never know what children may have seen or heard

TALK TO THEM

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



Dual Arrest

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

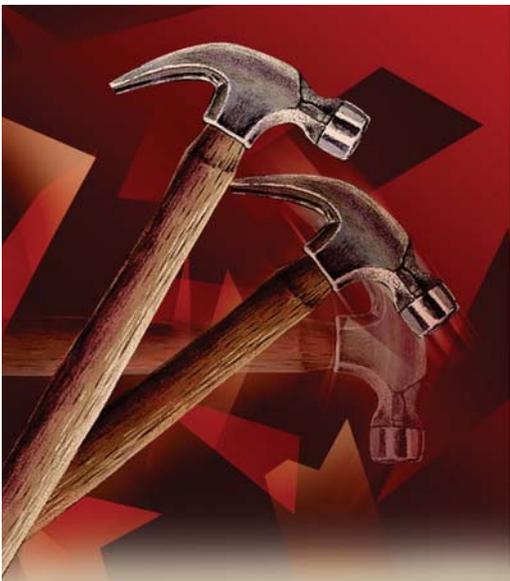
If you **MUST** make a dual arrest...

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

Tips

However.....

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



Evidence-based Prosecution

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



Stalking is Domestic Violence

Tips

Could include any behavior designed to harass or intimidate the victim

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

Stalking

Stalking

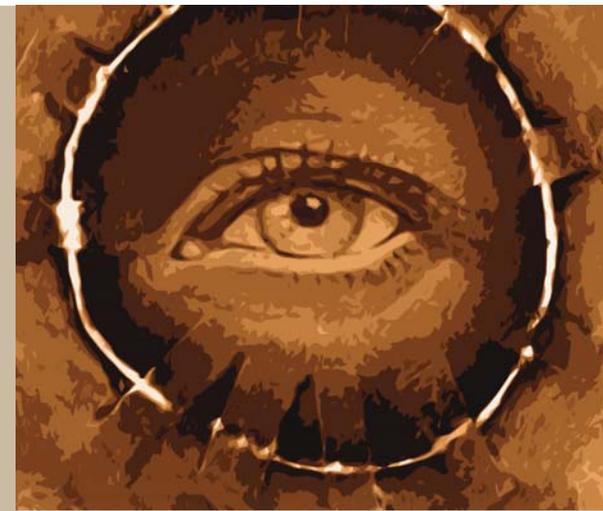
- Without lawful entry (watch the First Amendment)
 - Officers doing their job
 - Court order authorizes conduct
 - Protectors picketing
- Course of conduct that would make a person feel
 - Terrorized
 - Frightened
 - Intimidated
 - Harassed
- Requires
 - Reasonable person would feel this way when confronted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

Aggravated Stalking

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

Jurisdiction for Stalking

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



Stalking Punishments

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

Handling Electronic Evidence

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

Federal Firearms Prohibitions

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

Nevada Firearm Prohibition

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



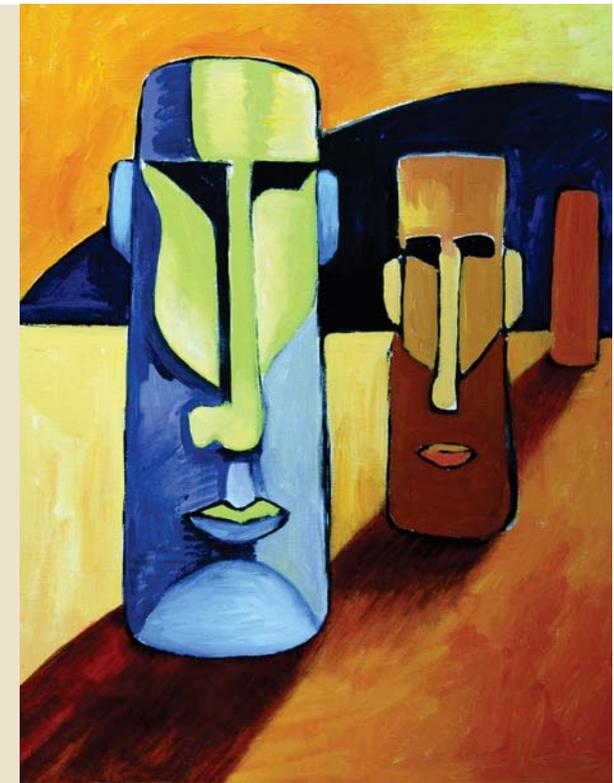
Electronic Evidence

Firearms Prohibitions



To Reduce the Risk of Police Liability

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



Investigating Police Personnel

Criminal Investigations

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

Liability

Investigating Police

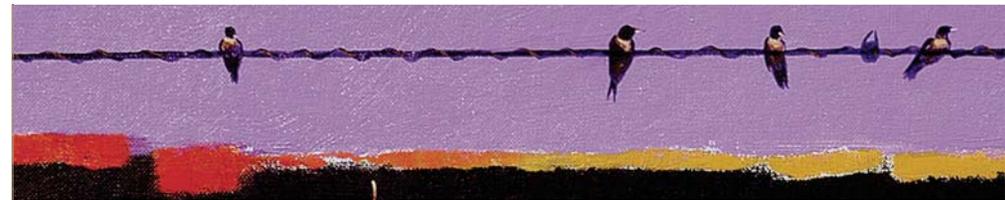
Orders of Protection

- Full Faith and Credit 18 U.S.C 2365
 - Requires that valid orders of protection must be enforced regardless of where the order was issued
 - Officers are not required to know the laws of the issuing jurisdiction in order to enforce the order of protection
 - NRS 33.075 – You MUST enforce a foreign order if it is valid on its face

Three-prong Test for Enforcement of a Protective Order

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

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



For Additional Reference

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

■ Unwed mothers

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

■ Unwed fathers

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

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

Domestic Violence Guide References/Resources List

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National Resource Center on Domestic Violence (2002). Children Exposed to Intimate Partner Violence: An Information Packet. Retrieved Dec. 6, 2011 from website http://www.vawnet.org/Assoc_Files_VAWnet/NRC_Children.pdf

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Nevada Revised Statutes

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

- NRS 178.484 12-hour hold,
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- NRS 200.581 Stalking jurisdiction,
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ATF - Bureau of Alcohol, Tobacco, Firearms and Explosives

JPO – Juvenile Probation Officer

DCSF – Division of Child and Family Services

