

## APPENDIX A-1

### **ACTIVITY: TAKING A CLOSER LOOK**

*Have the group divide into pairs, and have each partner decide who will be an “a” or “b.”*

#### **QUESTIONS:**

- From your community what kind of images did you receive about Indian women when you were younger?
- How has this changed you, today?
- How will it change for your daughters or granddaughters?

*Explain that partner “a” will begin by answering the questions while “b” listens and that at the end of five minutes the partners will switch roles. Give the signal to switch and call the partners back to the large group. There are no right or wrong answers—just brainstorming thoughts and ideas for generations to share.*

There are society expectations (Western or larger) of what Indian women are supposed to be like. Even though we may get different messages (from pre-reservation concepts about Indian women) we still have to deal with the expectations of this (Western) society. These expectations may create a climate where Indian women are vulnerable to violence today.

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### Historic Timeline and Demographics

**8,000 B.C.** - According to leading archeologists, ceramic bowls, spears, and coiled baskets found in the Barona Ranch area in Southern California, were used by California Indians more than 10,000 years ago.

**2,000 B.C.** - Ancestors of the Miwok Indians of Yosemite first arrived in the region, establishing villages along the Merced River.

**1,000 B.C.** - According to archeological evidence, the Paiute Indians first arrived in the southeastern part of California at this time, before expanding eastward into Nevada, Arizona, and Utah.

**390 B.C.** - According to human fossils found on the campus of Santa Clara University, the Ohlone people were living in the area more than 2,400 years ago.

**1542** - Captain Juan Rodriguez Cabrillo landed on the California coast and claimed it for Spain.

**1579** - Sir Francis Drake landed on the California coast, spent five weeks with a local tribe, then claimed the whole area for the British Crown before he left.

**1769** - The Spanish founded the first California mission, Mission San Diego de Alcalá. At this time, there were an estimated 310,000 Indians in California.



**1775** - Eight hundred men of the Ipai-Tipai tribes destroyed the Mission of San Diego. It was the strongest attack by native peoples against Spanish rule and colonization to date.

**1824** - Two thousand Indians captured Mission La Purisima in protest of forced labor and ill treatment imposed by local authorities. Spanish soldiers reclaimed the mission, executing seven Indians and imprisoning many others.



**1834** - Governor Jose Figueroa began secularizing all California missions. The process provided that half of all mission property would go towards the support of local Indian tribes.

**1848** - Gold was discovered at Sutter's Mill. The Indian population in California was estimated at 150,000.

**1850** - The Act for the Government and Protection of Indians was enacted at the First State Constitutional Convention.

**1852** - The ratification of 18 treaties that would have set aside nearly 7.5 million acres of California land for Indian use was blocked in Senate meetings.

**1875** - President Ulysses S. Grant signed an Executive Order to establish reservations for the Santa Ysabel, Pala, Sycuan, La Jolla, Rincon, Viejas, and Capitan Grande bands.



**1881** - The Yokayo Pomo purchased 120-acres near the Russian River with a \$1,000 down payment raised by the tribal members.

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**1887** - Congress passed the General Allotment Act (Dawes Act), which provided for the distribution of land to Indians for the various reservations, but also gave the federal government power to evict Indians from their current location.

**1888** - The Cupeños of Warner Springs challenged the Dawes Act in an effort to halt their eviction. In 1903, the U.S. Supreme Court decided against them, and they were evicted from their homes.

**1893** - Land allotments were made to the Rincon, Morongo, and Pala Reservations.

**1894** - Land allotments were made at the Round Valley Reservation.

**1900** - The California Indian population is estimated at 16,500.

**1909** - The Commonwealth Club of San Francisco began investigating the matter of Indian land rights under the 18 "lost treaties."

**1917** - The California Supreme Court declared California Indians as citizens, stating:

"That the granting of such citizenship shall not in any manner impair or otherwise affect the right of any to tribal or other property."

**1924** - Congress passed the Indian Citizenship Act, granting citizenship to all American Indians born in the U.S.

**1928** - The United States Congress passed the California Indian Jurisdictional Act (Lea Act). For the first time, California Indians had the support of the federal courts to file a land claim based on the 18 "lost treaties."

**1934** - President Franklin D. Roosevelt signed the Indian Reorganization Act (25 U.S.C. 461). Sixty-one California reservations totalling 7,500 acres were set aside for Indian tribes.

**1944** - The U.S. Court of Claims awarded the California Indians a settlement of more than \$17.8 million. However, by following the mandate stated in the Lea Act, benefits already granted by the government, which included the administrative costs of the Bureau of Indian Affairs in California, were excluded from the claim, leaving a net figure of \$5 million.

In response, the Federal Indians of California submitted an \$88 million claim in addition to the \$5 million.

**1952** - The Bureau of Indian Affairs enacted the policy of Termination -- the process of removing Indians and their land from federal trust. Several termination bills were introduced in Congress, and government assistance to Indians in California was prematurely halted.

**1953** - The U.S. Congress passed Public Law 83-280, which declared that crimes occurring on Indian land were no longer under the federal government's jurisdiction.

**1958** - The Rancheria Termination Act was enacted. It provided for the transfer of title of all rancheria land and assets from the government to Indian tribes.

**1959** - The Indian Claims Commission issued an order stating that California Indians held title to 64 million acres of land west of the Sierra Nevada. A settlement was reached in the amount of \$29,100,000 for the lands from which California Indians had been evicted.

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**1970** - The Pit River Nation began to successfully re-occupy pieces of their ancestral land, proclaiming:

"We are the rightful and legal owner of the land. . . . No amount of money can buy the Mother Earth; therefore, the California Indian Land Claims Commission has no meaning. The Earth is our Mother and we cannot sell her."

The U.S. Census estimated 91,018 Indians living in California.

**1972** - 60,000 California Indians were compensated \$633 each according to the settlement of the 18 "lost treaties."

**1980** - More than 201,000 Indians were living in California.

**1996** - The California Indian Museum and Cultural Center was officially established at the Presidio of San Francisco. The surrounding area was the home of the Ohlone/Costanoan people before the Spanish established military garrisons in 1776.

**2000** - More than 330,000 American Indians were living in California, more than any other state.

**2003** - California has the largest population of American Indians alone (413,000); the second-largest American Indian population was in Arizona (294,000), followed by Oklahoma (280,000). California represented 15 percent of the total AI/AN-alone population in the United States. Although California has the largest tribal population in the United States, it has very little tribal land.

(See [http://www.waterplan.water.ca.gov/tribal2/docs/GW\\_Basins\\_and\\_Tribal\\_Trust\\_Lands\\_map.pdf](http://www.waterplan.water.ca.gov/tribal2/docs/GW_Basins_and_Tribal_Trust_Lands_map.pdf))

**2008** - According to population estimates, California has more than 700,000 American Indian citizens (alone or in combination with another race) residing in both rural and urban communities. Only 3 percent of California's American Indian population lives on a reservation or rancheria.

California's Native American communities include descendants or members of 108 California-based federally recognized tribes (about 20 percent of all tribes in the United States). As of 2008, an additional 74 tribes in California are petitioning for federal recognition.

The California tribal population consists of a significant number of members of tribes not based in California. More than half of the Native Americans living in California are members of tribes located outside of California.

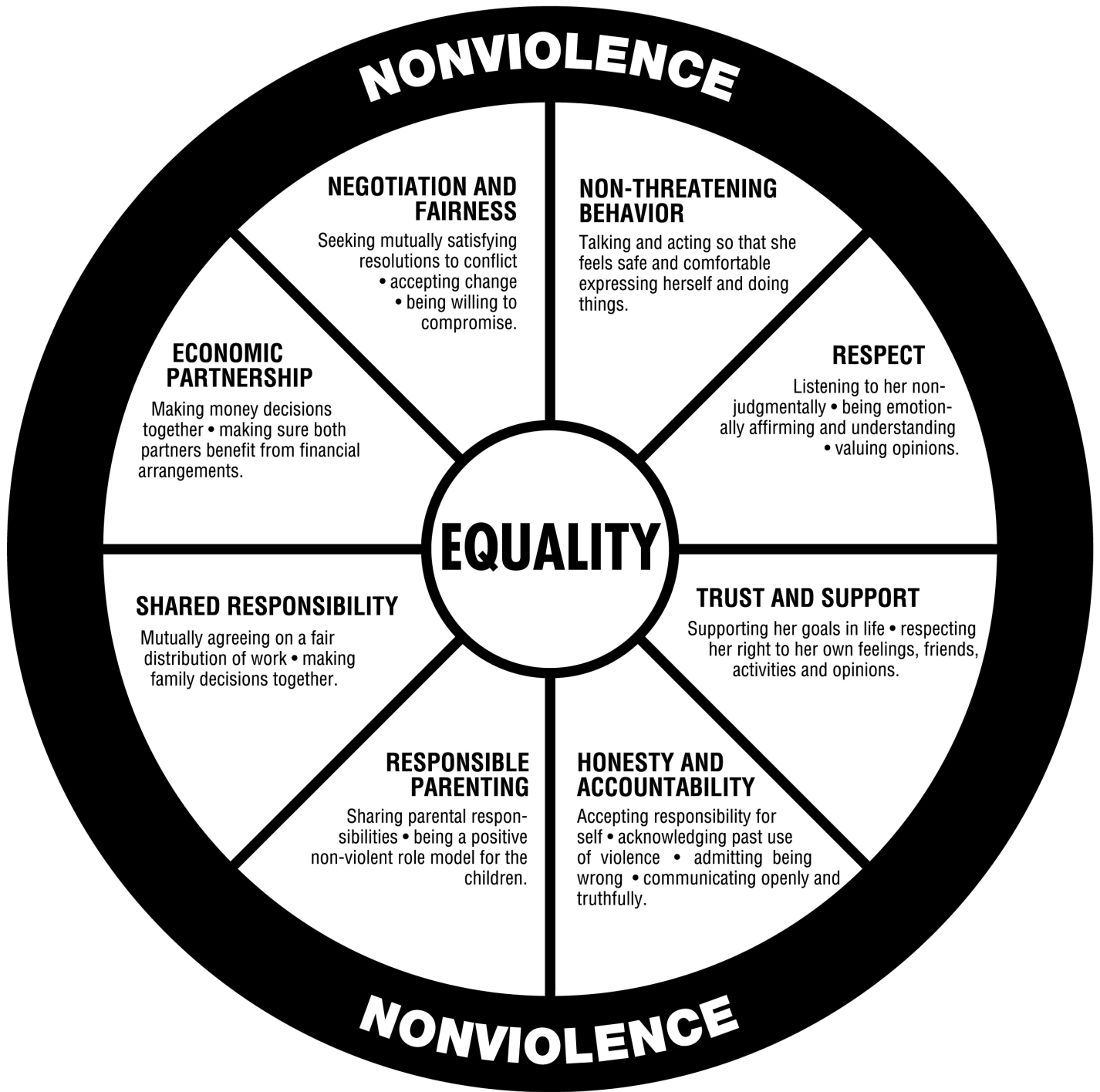
American Indians (alone or -in-combination with another race) make up 2 percent of California's total population. Of these, approximately 40 percent identify as multi-racial and 60 percent identify as American Indian or Alaskan Native alone.

Cherokee is the largest tribal population in California (approximately 18 percent), followed by Apache (6 percent), Navajo (5 percent), and Choctaw (5 percent).



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### ONE NATIVE WOMAN'S STORY

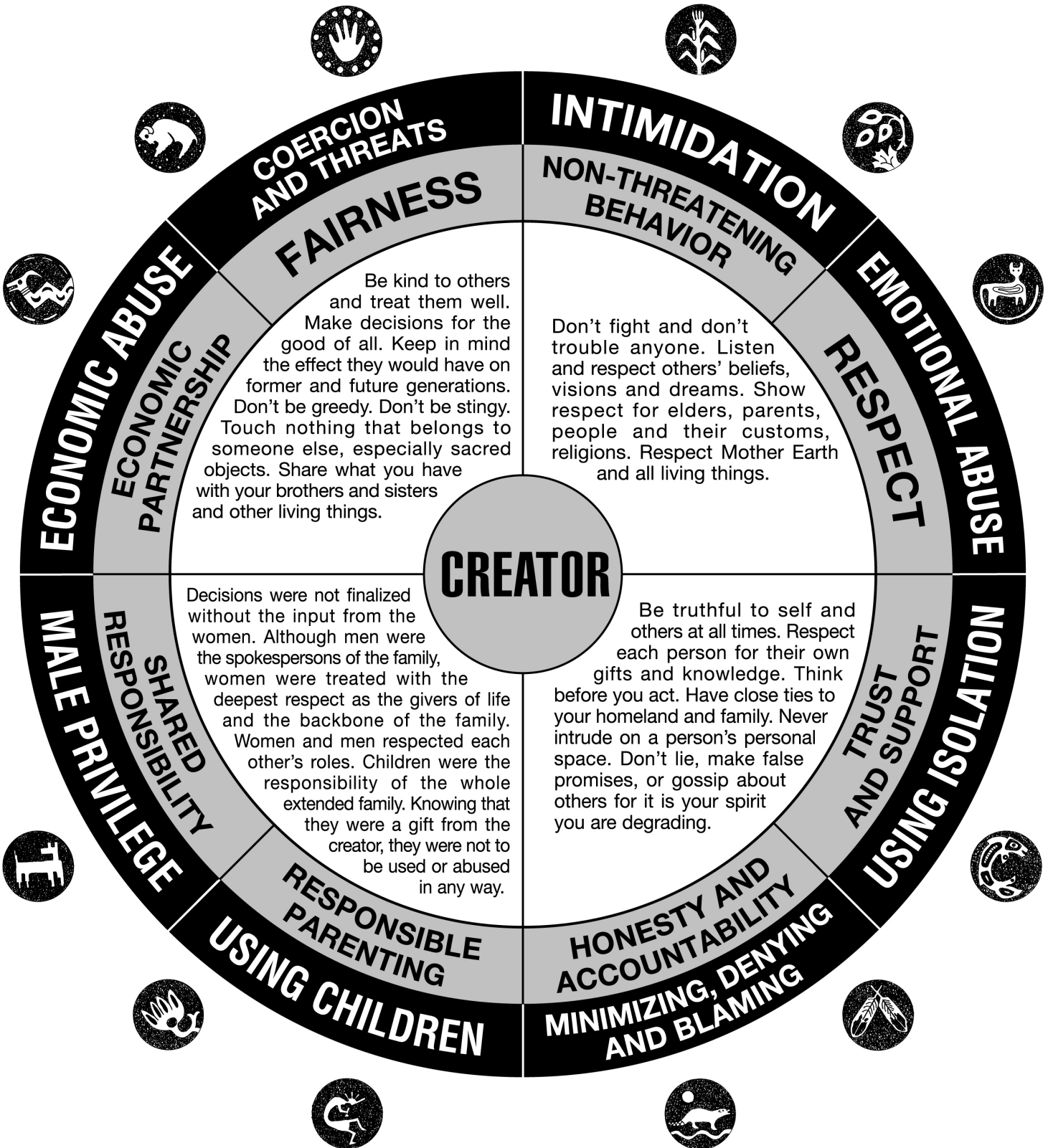
I once owned a lot of beautiful jewelry that I wore all the time. Rings on all fingers, gold necklaces, silver bracelets—always on show. When told how beautiful my jewelry was, I'd quietly say, "My husband buys these for me." But I didn't wear the jewelry because I was proud of it.

An envious person once said, "Oh, how I wish my husband would surprise me and buy such beautiful gifts." So I began to strip off pieces of the jewelry I was wearing. I held each item out to her. I offered her a ring, a bracelet—whatever she wanted. She couldn't imagine why I would so freely give away the precious jewelry that my husband had given me. She asked, "Won't your husband be upset that you're giving his gifts away?"

I replied, "No, I have so much, you see, that he'll never miss it."

I didn't tell her the personal price I'd paid for the finery which decorated my hands, arms, and neck. I didn't say that I'd bought every meaningless bauble myself with pain, terror, and sadness. But then, how could I explain that I had so much jewelry because each time my husband hit, slapped, or beat me, he would apologize—trying to appease me and win me back—with jewelry?

*---Anonymous*





## APPENDIX C

### WHAT IS A TRIBAL ADVOCATE?

One of the most important roles of a tribal advocate is to assist the person seeking a protection order. As tribal advocates, we have a responsibility to form a trusting relationship, to welcome those who seek our services, and to stand ready to help. Advocacy services range from 24-hour crisis lines, emergency shelter placement, basic essentials (for example, food, clothing, transportation), restraining order assistance, accompaniment to court, social services, medical assistance, peer counseling, group counseling (talking or healing circles), information, and referrals. As tribal advocates, we do all that we can to provide information so that Indian people can make informed decisions and act on their right to make choices without interference.

- As a tribal advocate, you will become that trusted person—friendly, listening with an open mind and heart, giving support, validating, and hearing with understanding and patience.
- As a tribal advocate, you will be open and honest, never promising anything you cannot do. If you are not sure about something, you can say, “I don’t know, but I will find out.”
- As a tribal advocate, you will believe the person’s story without being critical or judgmental. Once trust is established, you may be the first person ever to hear parts of the story.
- As a tribal advocate, you will look for the person’s strengths and acknowledge them.
- As a tribal advocate you will focus on needs related to the person’s safety and that of any children the person or couple may have.
- As a tribal advocate, you help the person identify choices, explain the ramifications of choosing each option, and then leave it up to the person to decide what he or she thinks is the best course of action. It is your job to support those decisions, even if you do not agree with them (for example, even in situations where the victim chooses to return to her abusive partner).
- As a tribal advocate, you know that many whom you will be helping are impacted by substance abuse.
- As a tribal advocate, you give the person accurate information about the court process and the range of services (listed above), and you help connect the person to all available and appropriate services and resources, as needed.
- As a tribal advocate, you are an educator with all whom you encounter, both tribal and non-tribal, working at a grass-roots level to promote effective responses to domestic violence and sexual assault.

## DANGER ASSESSMENT

*Jacquelyn C. Campbell, Ph.D., R.N.*

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Several risk factors have been associated with increased risk of homicides (murders) of women and men in violent relationships. We cannot predict what will happen in your case, but we would like you to be aware of the danger of homicide in situations of abuse and for you to see how many of the risk factors apply to your situation.

Using the calendar, please mark the approximate dates during the past year when you were abused by your partner or ex partner. Write on that date how bad the incident was according to the following scale:

1. Slapping, pushing; no injuries and/or lasting pain
2. Punching, kicking; bruises, cuts, and/or continuing pain
3. "Beating up"; severe contusions, burns, broken bones
4. Threat to use weapon; head injury, internal injury, permanent injury
5. Use of weapon; wounds from weapon

(If **any** of the descriptions for the higher number apply, use the higher number.)

Mark **Yes** or **No** for each of the following. ("He" refers to your husband, partner, ex-husband, ex-partner, or whoever is currently physically hurting you.)

- \_\_\_ 1. Has the physical violence increased in severity or frequency over the past year?
- \_\_\_ 2. Does he own a gun?
- \_\_\_ 3. Have you left him after living together during the past year?  
3a. (If have *never* lived with him, check here \_\_\_)
- \_\_\_ 4. Is he unemployed?
- \_\_\_ 5. Has he ever used a weapon against you or threatened you with a lethal weapon?  
(If yes, was the weapon a gun? \_\_\_)
- \_\_\_ 6. Does he threaten to kill you?
- \_\_\_ 7. Has he avoided being arrested for domestic violence?
- \_\_\_ 8. Do you have a child that is not his?
- \_\_\_ 9. Has he ever forced you to have sex when you did not wish to do so?
- \_\_\_ 10. Does he ever try to choke you?
- \_\_\_ 11. Does he use illegal drugs? By drugs, I mean "uppers" or amphetamines, "meth", speed, angel dust, cocaine, "crack", street drugs or mixtures.
- \_\_\_ 12. Is he an alcoholic or problem drinker?
- \_\_\_ 13. Does he control most or all of your daily activities? For instance: does he tell you who you can be friends with, when you can see your family, how much money you can use, or when you can take the car? (If he tries, but you do not let him, check here: \_\_\_)
- \_\_\_ 14. Is he violently and constantly jealous of you? (For instance, does he say "If I can't have you, no one can.")
- \_\_\_ 15. Have you ever been beaten by him while you were pregnant? (If you have never been pregnant by him, check here: \_\_\_)
- \_\_\_ 16. Has he ever threatened or tried to commit suicide?
- \_\_\_ 17. Does he threaten to harm your children?
- \_\_\_ 18. Do you believe he is capable of killing you?
- \_\_\_ 19. Does he follow or spy on you, leave threatening notes or messages, destroy your property, or call you when you don't want him to?
- \_\_\_ 20. Have you ever threatened or tried to commit suicide?
- \_\_\_ Total "Yes" Answers

**Thank you. Please talk to your nurse, advocate or counselor about what the Danger Assessment means in terms of your situation.**

## Permission To Use Danger Assessment

Thank you for your interest in the Danger Assessment instrument. The challenge for those who encounter abused women is to identify those with the highest level of danger. The “Danger Assessment” instrument has been used by law enforcement, health care professionals, domestic violence advocates and researchers for 25 years.

To use the Danger Assessment to its fullest extent, a scoring system, which has been updated and validated, is available to interpret the Danger Assessment results. The Danger Assessment is best used by a person certified to administer the assessment and interpret the scoring system. Certification programs in various formats can be found at [www.dangerassessment.com](http://www.dangerassessment.com).

There is no charge and no further permission needed for the use of this instrument as long as the reference is properly cited (see below). However, it has a copyright to indicate that it may *not* be *changed* in any way without specific permission from me.

There is a charge to become certified to use the scoring system; see the rest of the website for details.

The Danger Assessment is a project in process. It is continually being checked for accuracy and usefulness. In light of that, we ask that you share the results of any research (raw or coded data) which is conducted using the instrument. The following information would be extremely valuable:

- an approximate number of women with whom the instrument was used,
- a description of their demographics,
- their mean score, and
- the setting in which the data was collected.

Comments (positive and negative) and suggestions for improvement from battered women themselves, advocates, and professionals who are involved in its use are also being collected. Please send this information to the address below.

I look forward to your feedback regarding the Danger Assessment.

Sincerely,  
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## About Safe at Home

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**Safe at Home** is California's address confidentiality program administered by the California Secretary of State's office. The program, which provides a free post office box and mail forwarding service, is designed to help victims and survivors of domestic violence, stalking or sexual assault to start new lives in peace and to provide added protections to their overall safety plans.

**Safe at Home** is **not** a Witness Protection Program, nor does it provide relocation, counseling or legal services. Safe at Home laws apply to state and local government agencies, but not to private entities or to the federal government. Participants are not automatically qualified for other victim services programs; they must meet specific qualifications in order to be eligible for services administered by the Secretary of State's office, county Registrar of Voters offices, the California Superior Court System, and the California Department of Motor Vehicles.

### Available Services

#### Agent for Service of Process

The Secretary of State acts as your agent for service of process to protect your address information from being disclosed to the other party in your court case. When you enroll, Safe at Home instructs the other party and his or her attorney to serve court-related correspondence on the Secretary of State's office in Sacramento. The service is then forwarded by certified mail to your confidential address. ([per Government Code §6206](#))

#### Confidentiality for Children

If your children are enrolled, Safe at Home can provide an additional layer of protection for them, too. You can notify your enrolled child's school of your family's participation in Safe at Home and prevent sharing of information about your child. School records can also be confidentially transferred to your child's new school.

#### Confidential Mail-Forwarding

First-class mail is securely handled and forwarded to your confidential home or mailing address in California. Residence address information is required to be current at all times and you must reside in California in order to participate in the program. ([per Government Code §6207](#))

#### Confidential Name Change

You may be eligible to petition a California court for a confidential name change. It is important to talk with a legal advisor before proceeding with a confidential name change. Safe at Home is responsible for filing the name change documents with the Secretary of State's office, but does not provide legal advice or assistance with completing the confidential name change process. ([per Government Code §6206.4](#), [Code of Civil Procedure §1277](#))

#### Confidential Voter Registration

You may be eligible to complete a confidential voter registration card and become a confidential voter. As a confidential voter, you can vote by mail and protect your voter registration information from campaigns, the media, and the general public. ([per Government Code §6207.5](#), [Elections Code §2166](#))

#### Department of Motor Vehicles (DMV) Records Suppression

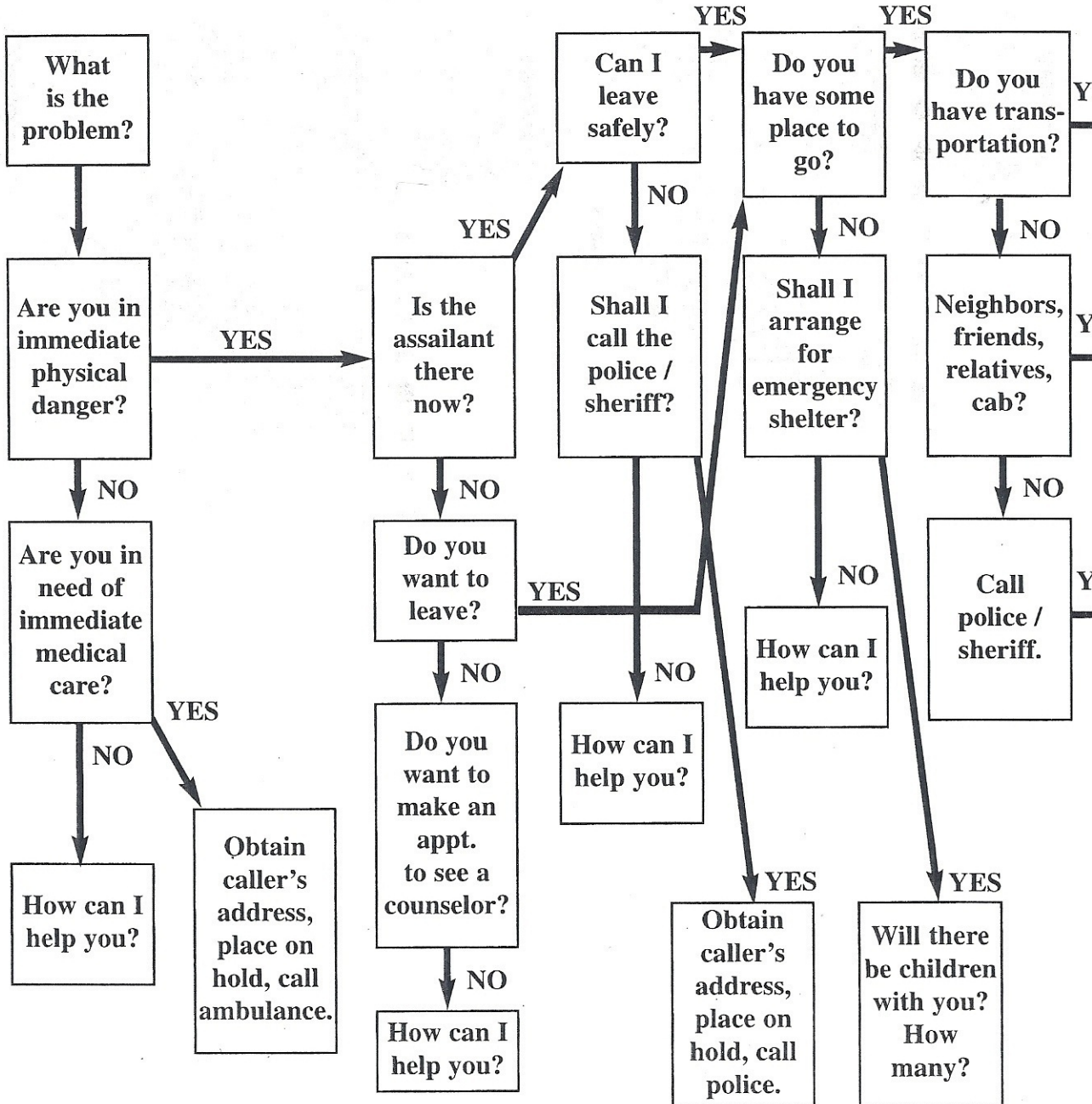
The California Department of Motor Vehicles can suppress your driver license and vehicle registration records if you have a clean driving record and no criminal history. Suppression of these records protects your address information from being available on various state databases. A specific request to the DMV Confidential Records Unit is required in order to access the records. ([per Government Code §6207](#), [Vehicle Code §1808.21\(d\)](#))

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# FLOW CHART FOR HANDLING DOMESTIC VIOLENCE CALLS



## APPENDIX E-1

### Court and Sheriff's Office Field Trip

#### Locate information at the court and sheriff's office.

Obtain the following general information regarding the court.

Question or Task	Answer	Source of Information
What is the address of the court?		
What is the telephone number for general court information?		
What are the court's hours of operation?		
What are the hours of operation for the domestic violence clinic?		

Obtain the following case-specific information at the courthouse.

**Your Case number is:** \_\_\_\_\_

Question or Task	Answer	Source of Information
Find out if there is a hearing coming up in your case.		
Locate the courtroom where your hearing will be held.		
Get an explanation of what needs to happen next in your case.		
Obtain a form to complete to file a restraining order.		
Obtain a form to complete to respond to a restraining.		
Find the office where you would file the completed form.		
Find out how much it would cost to file the restraining order.		

Find out how to serve a restraining order.		
Find an office where there is staff to help self-represented litigants.		
Find a restroom.		
Find a place to make a phone call.		
Find an ATM machine.		
Find a place to make copies of your documents.		

### Information about the sheriff's office

Question or Task	Answer	Source of Information
How much does it cost to serve a domestic violence restraining order?		
How long does it usually take to serve a domestic violence restraining order?		
Obtain the form to request service by the sheriff.		
Obtain an information sheet from the sheriffs' office on service of a restraining order.		

**Table Exercise—Match Facts to Court**

**Facts**

- \_\_\_\_\_ State or City files a case against a defendant, alleging a crime (e.g., spousal abuse, stalking).
- \_\_\_\_\_ A person (petitioner) sues another (respondent).
- \_\_\_\_\_ Is governed by Family Code.
- \_\_\_\_\_ Each parent and child get appointed counsel.
- \_\_\_\_\_ Burden of Proof: preponderance of the evidence.
- \_\_\_\_\_ Is governed by Penal Code.
- \_\_\_\_\_ Victim is a witness.
- \_\_\_\_\_ No attorneys are paid for by the court except to represent a child.
- \_\_\_\_\_ County files case for child abuse/neglect against parent(s).
- \_\_\_\_\_ Makes orders for dissolution and paternity.
- \_\_\_\_\_ Can make restraining orders.
- \_\_\_\_\_ Court has power to terminate parental rights.
- \_\_\_\_\_ Court-appointed or private attorney for defendant.
- \_\_\_\_\_ Burden of Proof: beyond a reasonable doubt.
- \_\_\_\_\_ Is governed by Welfare & Institutions Code sections 213.5, 304, 362.4.
- \_\_\_\_\_ Criminal protective orders, including protection of witness pending trial and post-trial orders as a condition of defendant's probation.
- \_\_\_\_\_ If there is an open juvenile court case, the family court cannot decide child custody.
- \_\_\_\_\_ Court may sentence a defendant to jail or prison
- \_\_\_\_\_ Victim (parent) is a party.
- \_\_\_\_\_ Petitioner makes the decisions about their case.
- \_\_\_\_\_ Makes domestic violence restraining orders under Family Code section 6200 et seq.

**Courts**

- A. Civil or Family Court
- B. Criminal Court
- C. Juvenile Court

**Overview of the Legal System- Job Aid  
(Answers to Table Exercise)**

Each Court is governed by different laws that define domestic violence differently.

Civil or Family Court

- A person (petitioner) sues another (respondent).
- Is governed by Family Code.
- Petitioner makes the decisions about the case.
- No attorneys are paid for by the court except to represent a child.
- Burden of proof: preponderance of the evidence.
- Makes domestic violence restraining orders under Family Code section 6200 et seq.
- Makes orders for dissolution and paternity.

Criminal Court

- State or City files a case against a defendant, alleging a crime (e.g., spousal abuse, stalking).
- Is governed by Penal Code.
- Victim is a witness.
- Court-appointed or private attorney for defendant.
- Burden of Proof: beyond a reasonable doubt.
- Criminal protective orders, including protection of witness pending trial and post-trial orders as a condition of defendant's probation.
- Court may sentence a defendant to jail or prison.

Juvenile Court

- County files case for child abuse/neglect against parent(s).
- Is governed by Welfare & Institutions Code sections 213.5, 304, 362.4.
- Victim (parent) is a party.
- Each parent and child get appointed counsel.
- Can make restraining orders.
- If there is an open juvenile court case, the family court cannot decide child custody.
- Court has power to terminate parental rights.

**Who Am I?**

Question:

1. "I listen to the victim with an ear toward what aspects of the alleged perpetrator's behavior is criminal. Who am I?"
2. Answer: Tribal Advocate

Question:

1. "I (1) to investigate crimes of domestic violence, (2) to preserve evidence for trial, and (3) to enforce valid civil and criminal protective orders. Who am I?"
2. Answer: Law Enforcement

Question:

1. "I can press charges, prosecute the case, and must give the victim an opportunity for input during all phases of the criminal justice process, including bail, pleas, sentencing, and parole. Who Am I?"
2. Answer: District Attorney, Prosecutor or, in Los Angeles and San Francisco, the City Attorney

Question:

1. "I defend those who cannot afford an attorney, am government-paid, and do not represent the person to be restrained in the civil case unless the defendant independently hires the attorney to do so. Who am I?"
2. Answer: Public Defender

Question:

1. "I make recommendations to the judge about how to sentence the defendant. My recommendations may include prison or jail time, programs to help the defendant take responsibility for the violence, or restricted contact between the defendant and the victim. Who am I?"
2. Answer: Probation Department

Question:

1. "I will decide if the parolee can live with or have contact with the victim, will consider the victim's safety, and can also serve a restraining order on a defendant. Who am I?"
2. Answer: Parole Agent

## APPENDIX E-3

Question:

1. "I can help the victim with a lot of services, like emergency services, such as food, shelter, clothes, and relocation; counseling; restitution; and case status/disposition information. Who am I?"
2. Answer: Victim Witness Services

Question:

1. "I can help with establishing parentage and getting, changing, or enforcing child, spousal, or partner support orders. I am an independent lawyer who can help parents or children who do not have their own lawyer. Both parties can get help from me. Who am I?"
2. Answer: Family Law Facilitator

Question:

1. "Our agencies are at the courthouse or located nearby and help people who need legal information but do not have lawyers, provide assistance to self-represented litigants in family law; in probate matters such as guardianship, conservatorship, and small estates; and in other areas of civil litigation, including landlord/tenant, civil harassment, consumer issues, and small claims. Some provide assistance with traffic matters and expungement of criminal records. Who are we?"
2. Answer: Self-Help Centers

APPENDIX E-4

[All tables are from the California Judges Benchguides]

**CALIFORNIA PROTECTIVE ORDER GUIDE**

<i><b>TYPE OF ORDER</b></i>	<i><b>STATUTE</b></i>	<i><b>PROOF</b></i>	<i><b>ORDERS</b></i>		<i><b>DURATION</b></i>
Emergency Protective Order	Fam C §§6240–6274 Pen C §646.91	Reasonable Grounds	Personal conduct restraints, Stay away	Temp. care/control of minor child, Firearms restrictions, Address location restrictions, Ammunition restrictions	5 judicial business days or 7 days maximum
Temporary Restraining Order	Fam C §§6200 et seq, 6300 et seq	Reasonable Proof	Personal conduct restraints, Stay away, Residence exclusion Protection of animals	Temp. custody/visitation of minor child, Firearms restrictions, Address location restrictions, Ammunition restrictions	20 days from the date of order or 25 days if good cause
Order After Hearing	Fam C §§6200 et seq	Reasonable Proof	Ex parte orders + Child support and spousal support	Restitution, Batterer’s treatment, Firearms restrictions, Address location restrictions, Ammunition restrictions	5 years
Juvenile	Welf & IC §§213.5, 304, 362.4, 726.5	Court considers all documents	Personal conduct restraints, Residence exclusion	Firearms restrictions, Address location restrictions, Ammunition restrictions	Ex parte—15 days or 20 days if good cause; OAH—3 years
Criminal Protective Order	Pen C §136.2	Good Cause Belief	Personal conduct restraints, Stay away	Firearms restrictions, Address location restrictions, Ammunition restrictions	Until defendant is no longer subject to court’s jurisdiction
Stalking	Pen C §646.9(k)	Conviction of defendant	No contact		Up to 10 years
Workplace	CCP §527.8	TRO—Reasonable Proof OAH—Clear and Convincing	Personal conduct restraints, Stay away	Firearms restrictions, Address location restrictions, Ammunition restrictions	TRO—15 days OAH—3 years



APPENDIX E-4

<b><i>TYPE OF ORDER</i></b>	<b><i>STATUTE</i></b>	<b><i>PROOF</i></b>	<b><i>ORDERS</i></b>		<b><i>DURATION</i></b>
Civil Harassment	<a href="#">CCP §527.6</a>	TRO— Reasonable OAH—Clear and Convincing	Personal conduct restraints, Stay away	Firearms restrictions, Address location restrictions, Ammunition restrictions	TRO—15 days or 22 if good cause; OAH—3 years
Elder and Dependent Adult	<a href="#">Welf &amp; I C §15657.03</a>	Reasonable Proof	Personal conduct restraints, Stay away	Residence exclusion, Firearms restrictions, Address location restrictions, Ammunition restrictions	TRO—20 days or 25 if good cause OAH—3 years
Private Postsecondary Educational Institution Protective Order	<a href="#">CCP §527.85</a>	TRO— Reasonable Proof OAH—Clear and Convincing	Prohibiting further threats of violence	Firearms restrictions, Ammunition restrictions	TRO—15 days  OAH—3 years

**Reference Chart: Emergency Protective Order (Fam C §§6240–6274)**

<b>WHEN</b>	<b>PROOF</b>	<b>ORDERS</b>	<b>DURATION</b>	<b>ENFORCEMENT</b>
Abuse	Reasonable grounds	Personal conduct restraints	5 judicial business days or 7 days maximum	<a href="#">Pen C §273.6</a>
Child abuse	Immediate and present danger of abuse, abduction, or stalking  Necessary to prevent the occurrence or recurrence	Stay away orders		<a href="#">Pen C §166(a)(4)</a>
Child abduction threat		Temporary care and control of a minor child		<a href="#">CCP §1209(a)(5)</a>
Elder abuse		Prohibited from taking action to locate protected party		Elder abuse protections
		Stalking (Pen C §646.91)		Stalking—civil harassment and workplace violence protections

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		<p><b>FIREARMS:</b> Cannot own, possess, purchase, or receive</p> <p><b>AMMUNITION:</b> Cannot own, possess, have in custody or control</p>		<p>Pen C §12021(g)</p> <p>Pen C §12316(b)</p>
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**Reference Chart: Temporary Restraining Order (Fam C §§6200 et seq.)**

WHEN	PROOF	ORDERS	DURATION	ENFORCEMENT
<p><b>Recent incident of:</b> Abuse</p> <p>Threat of abuse</p> <p>Stalking</p> <p>Sexual assault</p> <p><b>If the following relationship exists:</b> Spouse or former spouse</p> <p>Cohabitant or former cohabitant</p> <p>Dating or engagement relationship (past or present)</p> <p>Parties have child together</p> <p>Child of the party or subject to a paternity action</p> <p>Consanguinity or affinity to the 2nd degree</p>	<p>Reasonable proof of past act or acts of abuse</p>	<p>Personal conduct restraints</p> <p>Protection of animals</p> <p>Stay away orders</p> <p>Residence exclusion</p> <p>Other restraints deemed necessary to effectuate the court's order</p> <p>Prohibit address disclosure</p> <p>Temporary custody and visitation of minor child</p> <p>Prohibited from taking action to locate protected party</p>	<p>20 days from the date of the order or 25 days if good cause</p>	<p>Pen C §273.6</p> <p>Pen C §166(a)(4)</p> <p>CCP §1209(a)(5)</p>

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WHEN	PROOF	ORDERS	DURATION	ENFORCEMENT
		<p><b><i>FIREARMS:</i></b>            Cannot own,            possess,            purchase, or            acquire</p> <p><b><i>AMMUNITION:</i></b>            Cannot own,            possess, have in            custody or control</p>		<p>Pen C §12021(g)</p> <p>Pen C §12316(b)</p>

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**Order After Hearing (Fam C §§6300 et seq)**

WHEN	PROOF	ORDERS	DURATION	ENFORCEMENT
<p><b>Recent incident of:</b> Abuse</p> <p>Threat of abuse</p> <p>Stalking</p> <p>Sexual assault</p> <p><b>If the following relationship exists:</b> Spouse or former spouse</p> <p>Cohabitant or former cohabitant</p> <p>Dating or engagement relationship (past or present)</p> <p>Parties have child together</p> <p>Child of the party or subject to a paternity action</p> <p>Consanguinity or affinity to the 2nd degree</p>	<p>Reasonable proof of past act or acts of abuse</p>	<p>Ex parte orders plus:</p> <p>Child Support</p> <p>Spousal Support</p> <p>Restitution</p> <p>Respondent's participation in a batterer's treatment program</p> <p>Attorney's fees and costs</p> <p>Prohibited from taking action to locate protected party</p> <p><b>FIREARMS:</b> Cannot own, possess, purchase, or acquire</p> <p><b>AMMUNITION:</b> Cannot own, possess, have in custody or control</p>	<p>Residence exclusion, personal conduct, and stay away 5 years from the date of the order; other orders in effect until further order of the court</p>	<p><a href="#">Pen C §273.6</a></p> <p><a href="#">Pen C §166(a)(4)</a></p> <p><a href="#">CCP §1209(a)(5)</a></p> <p><a href="#">Pen C §12021(g)</a> <a href="#">18 USC §922(g)(8)</a></p> <p><a href="#">Pen C §12316(b)</a></p>

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**Reference Chart: Juvenile Court Protective Orders (Welf & I C §§213.5, 304, 362.4, 726.5)**

WHEN	PROOF	ORDERS	DURATION	ENFORCEMENT
Dependency or Wardship	<p><b>TRO:</b></p> <p>The request may be oral or written; court considers all documents and juvenile court file</p> <p><b>OAH:</b></p> <p>Court considers written documents, juvenile court file and testimony</p>	<p>Dependency: (any person)</p> <p>Personal conduct restraints</p> <p>Residence exclusion</p> <p>Wardship: (any person)</p> <p>Personal conduct restraints</p> <p>Residence exclusion</p> <p>Prohibited from taking action to locate protected party</p> <p><b>FIREARMS:</b></p> <p>Cannot own, possess, purchase, or acquire</p> <p><b>AMMUNITION:</b></p> <p>Cannot own, possess, have in custody or control</p>	<p>Ex parte:</p> <p>15 days or 20 days if good cause</p> <p><b>OAH:</b></p> <p>3 years from the date of the hearing</p>	<p><a href="#">Pen C §273.65</a></p> <p><a href="#">Pen C §166(a)(4)</a></p> <p><a href="#">CCP §1209(a)(5)</a></p> <p><a href="#">Pen C §12021(g)</a></p> <p><a href="#">18 USC §922(g)(8)</a></p> <p><a href="#">Pen C §12316(b)</a></p>

**Reference Chart: Criminal Protective Order (Pen C §136.2)**

WHEN	PROOF	ORDERS	DURATION	ENFORCEMENT
To protect a victim or witness in a criminal case	A good cause belief that harm, intimidation, or dissuasion of a victim or witness has occurred or is	<p>Personal conduct restraints</p> <p>Stay away orders</p> <p>Defendant must</p>	<p>Until defendant is no longer subject to the court's jurisdiction</p> <p><a href="#">Pen C §273.5(i)</a>,</p>	<p><a href="#">Pen C §136.1(a)</a></p> <p><a href="#">Pen C §166(c)</a></p> <p><a href="#">Pen C §273.6(a), (c)(1)</a></p>

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	likely to occur	<p>not violate <a href="#">Pen C §136.1</a> (dissuading a witness)</p> <p>Any other person, other than the defendant, must not violate <a href="#">Pen C §136.1</a></p> <p>Witness protection</p> <p>Prohibited from taking action to locate protected party</p> <p><b>FIREARMS:</b> Cannot own, possess, purchase, or receive</p> <p><b>AMMUNITION:</b> Cannot own, possess, have in custody or control</p>	Post-conviction Order—see #3 below.	<p><a href="#">CCP §1209(a)(5)</a></p> <p><a href="#">Pen C §12021(g)</a> <a href="#">18 USC §922(g)(8)</a></p> <p><a href="#">Pen C §12316(b)</a></p>
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*Reference Chart: Postconviction Stalking Protective Order (Pen C §646.9(K))*

WHEN	PROOF	ORDERS	DURATION	ENFORCEMENT
After defendant found guilty of stalking; order made at sentencing	A conviction of the defendant of the charge of stalking	<p>Personal conduct restraints</p> <p>Stay away orders</p>	May be valid up to 10 years	<p><a href="#">Pen C §166(a)(4)</a></p> <p><a href="#">Pen C §166(c)</a></p> <p><a href="#">Pen C §646.9(b)</a></p> <p><a href="#">CCP §1209(a)(5)</a></p>

For stalking resources:

The National Center for Victims of Crime, Stalking Resource Center

[www.ncvc.org/src/main.aspx](http://www.ncvc.org/src/main.aspx)

*Danger Assessment*, Jacquelyn C. Campbell, Ph.D., R.N.

[www.son.jhmi.edu/research/CNR/HOMICIDE](http://www.son.jhmi.edu/research/CNR/HOMICIDE)

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Violence Against Women Online Resources

[www.vaw.umn.edu](http://www.vaw.umn.edu)

Stalking Behavior Profile

[www.antistalking.com](http://www.antistalking.com)

For cyberstalking resources:

- Working to Halt Online Abuse, [www.haltabuse.org](http://www.haltabuse.org)
- Wired Safety, [www.wiredsafety.org/index.php?option=com\\_content&view=category&layout=blog&id=96&Itemid=371](http://www.wiredsafety.org/index.php?option=com_content&view=category&layout=blog&id=96&Itemid=371)
- Cyberangels, [www.cyberangels.org](http://www.cyberangels.org)
- Women's Issues, 12 Tips to Protect Yourself from Cyberstalking, <http://womensissues.about.com/od/violenceagainstwomen/a/CyberPrevention.htm>

**Workplace Violence Protective Order (CCP §527.8)**

WHEN	PROOF	ORDERS	DURATION	ENFORCEMENT
Employer applies when employee has suffered an unlawful act of violence or credible threat of violence in the workplace	<p><b>TRO:</b> Reasonable proof</p> <p><b>OAH:</b> Clear and convincing evidence</p>	<p>Personal conduct restraints</p> <p>Stay away orders</p> <p>Prohibited from taking action to locate protected party</p> <p><b>FIREARMS:</b> Cannot own, possess, purchase, or receive</p> <p><b>AMMUNITION:</b> Cannot own, possess, have in custody or control</p>	<p><b>TRO:</b> 15 days, unless otherwise modified or terminated by the court</p> <p><b>OAH:</b> 3 years</p>	<p><a href="#">Pen C §273.6</a></p> <p><a href="#">CCP §1209(a)(5)</a></p> <p><a href="#">Pen C §12021(g)</a> <a href="#">18 USC §922(g)(8)</a></p> <p><a href="#">Pen C §12316(b)</a></p>

**Reference Chart: Civil Harassment Protective Order (CCP §527.6)**

WHEN	PROOF	ORDERS	DURATION	ENFORCEMENT
Person has suffered harassment	<p><b>TRO:</b> Reasonable proof</p>	<p>Personal conduct restraints</p> <p>Stay away orders</p>	<p><b>TRO:</b> 15 days or 22 days if good cause</p>	<p><a href="#">Pen C §273.6</a></p> <p><a href="#">CCP §1209(a)(5)</a></p>

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	<p><b>OAH:</b> Clear and convincing evidence</p>	<p>Prohibited from taking action to locate protected party</p> <p><b>FIREARMS:</b> Cannot own, possess, purchase, or receive</p> <p><b>AMMUNITION:</b> Cannot own, possess, have in custody or control</p>	<p><b>OAH:</b> 3 years</p>	<p>Pen C §12021(g)</p> <p>Pen C §12316(b)</p>
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Unlike a Domestic Violence Prevention Act order, the court may not make a support or residence exclusion order.

*Elder OR Dependent Adult ABUSE Protective Order (Welf & I C §15657.03)*

WHEN	PROOF	ORDERS	DURATION	ENFORCEMENT
Any elder or dependent adult who has suffered abuse	Reasonable proof of a past act or acts of abuse	<p><b>TRO:</b></p> <p>Personal conduct restraints</p> <p>Stay away orders</p> <p>Residence exclusion</p> <p>Prohibited from taking action to locate protected party</p> <p><b>OAH:</b></p> <p>Same as above</p> <p><b>FIREARMS:</b></p> <p>Cannot own,</p>	<p><b>TRO:</b></p> <p>20 days or 25 days if good cause</p> <p><b>OAH:</b></p> <p>3 years</p>	<p>Pen C §273.6</p> <p>Pen C §12021(g)</p> <p>CCP §1209(a)(5)</p>



APPENDIX E-4

WHEN	PROOF	ORDERS	DURATION	ENFORCEMENT
		possess, purchase, or receive  <i>AMMUNITION:</i> Cannot own, possess, have in custody or control		<a href="#">Pen C §12316(b)</a>

**Exercise: What Kind of California Protective Order am I?**

- 1) This order is issued by a judge in response to a specific request by a California law enforcement officer. It can include personal conduct restraints, stay away, temporary care/control of a minor child, firearms restrictions, address location restrictions, and ammunition restrictions. The duration of this order includes five judicial business days or seven days maximum. The level of proof is reasonable grounds.

What kind of protective order am I?

Answer: Emergency Protective Order

- 2) This temporary order requires a specified relationship between the person seeking the order and the person to be restrained. It can include personal conduct restraints, stay away, residence exclusion, protection of animals, temporary custody/visitation of minor child, firearms restrictions, address location restrictions, and ammunition restrictions. The duration of this order is 20 days from the date of the order or 25 days if good cause. The level of proof is reasonable proof.

What kind of protective order am I?

Answer: DVPA Temporary Restraining Order

- 3) This order after hearing requires a specified relationship between the person seeking the order and the person to be restrained. It can include child support and spousal support, restitution, batterer's treatment, firearms restrictions, address location restrictions, and ammunition restrictions. The duration of this order is five years. The level of proof is reasonable proof.

What kind of protective order am I?

Answer: DVPA Order After Hearing

- 4) This order can be temporary or issued after a hearing for a child who is the subject of the petition, other children in the household, or a parent, legal guardian, or current caregiver of the child, whether or not the child resides with that person. Temporary orders last 15 days or 20 days if good cause. Orders after hearing can be up to three years. The level of proof is court considers all documents.

What kind of protective order am I?

Answer: Juvenile

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- 5) This order involves personal conduct restraints, stay away, firearms restrictions, address location restrictions, and ammunition restrictions. The duration of this order is until the defendant is no longer subject to the court's jurisdiction. The level of proof is good cause belief.

What kind of protective order am I?

Answer: Criminal Protective Order

- 6) This order involves no contact. The duration of this order lasts up to 10 years. The level of proof is conviction of defendant.

What kind of protective order am I?

Answer: Criminal Protection Order- post conviction stalking protection order

- 7) This type of order is requested by an employer on behalf of an employee who needs protection. The court order can last up to three years. It can include personal conduct restraints, stay away, firearms restrictions, address location restrictions, and ammunition restrictions. The duration of this order lasts 15 days for a TRO and 3 years for an Order After Hearing (OAH). The level of proof is reasonable proof (TRO) and clear and convincing (OAH).

What kind of protective order am I?

Answer: Workplace

**HOW TO WRITE THE DV-100 STATEMENT**

**NOTE:** When you are writing about the abuse, write about four things:

- a. Any physical contact (for example, "He hit me with his fist and then pushed me down on the floor" or "She threw a glass picture frame at me and it shattered against the wall.")
- b. Any injuries and how long they lasted (for example, "My jaw was sore and bruised for three days).
- c. Any threats that were made, in quotation marks if possible (for example, "She said, 'I will kick your head in.'")
- d. How often the Restrained Person has been harassing you (for example, "Respondent has been calling me 20 times a day every day for the last week" or "Respondent came to my work at least 3 times last week."

**WRITE YOUR STATEMENT IN THREE OR FOUR PARTS**

1. **Part 1: Write a short description of your relationship with the Restrained Person (Respondent).** Include (1) when you dated; (2) whether you are married; (3) when you broke up; (4) whether you have children and (5) whether you live together. Here are some examples:

- a. The Respondent and I were married in 1996. We were divorced in 2004. We have two children together.
- b. The Respondent is my sister. She moved in with me about two years ago.
- c. The Respondent and I dated for about two months, from November 2005 to January 2006.

2. **Part 2: Describe the most recent abuse.** Describe what the Restrained Person did to hurt you or make you afraid. If you can give the Judge a short description of two or three times the Respondent has hurt you or made you feel afraid, the Judge may be able to understand your story better. Describe each time separately. Here is an example:

"On September 10, 2006 Respondent came home drunk. I knew he was drunk because I smelled alcohol on his breath and he was slurring his words. Respondent picked up a chair and lifted it above his head, shouting that he was going to crush me. I ran from the room and Respondent followed. He grabbed me by the shoulders and pushed me on the bed. Then he punched me in the face with his fist, leaving a bruise below my eye. I pushed him away and ran to a neighbor's house and called the police. The police came but Respondent had already left the apartment. On September 1, 2006 Respondent pushed me against the wall and pulled me by the hair down to the ground. When I was down on the ground, he told me that if he ever saw me with another man, he would kill me."

If the most recent incident was more than 2 weeks ago, tell the judge why you waited to come to court for a restraining order. Here are some examples:

- a. "The police referred me to some places for help, but I couldn't find anyone to help me until now."
- b. "I couldn't come to court because I have been out of town in order to avoid him."

3. **Part 3: Describe any history of abuse going back to the beginning.** If there is a long history, you might want to describe it without a lot of detail. Here are some examples:

- a. "Respondent has been verbally abusive to me since we got married. He became violent when I became pregnant. He has punched me, tried to strangle me and pulled my hair many times in the last two years."
- b. "Ten years ago, Respondent used drugs everyday for two years and was very violent. He would hit me or threaten to kill me. Once he pointed a gun at my head and said he would kill me unless I did what he said. He slept with the gun next to the bed. Last week, Respondent starting sleeping with the gun again, so I moved out. I am afraid he is using drugs again and will come after me."


4. **Part 4: If you are asking the court to change a custody order or to give you custody of the children** or you do not want the Restrained Person to have visitation, you need to tell the judge why you want these orders. For example, you might want to tell the judge if (1) you have been the parent who has been more responsible for the everyday care of the children; (2) the Restrained Person drinks or uses drugs when he or she is caring for the children, (3) the Restrained Person has hurt the children or made them afraid; or (4) the Restrained Person has hurt you or made you afraid while the children were there with you.

From the Los Angeles Neighborhood Legal Services Association

## APPENDIX F

California  
Tribal  
Advocate

Domestic  
Violence and  
Sexual  
Assault  
Curriculum



1

### Part One: Opening and Introductions

- Invocation
- Introductions
- Competencies
- Learning objectives

2

### Competencies

- Understanding your role as an advocate to enhance safety for Indian families.
- Increased knowledge about the emotional, social, cultural, and legal dynamics of domestic violence.
- Heightened awareness of Indian cultural norms and values.
- Understanding your role within the framework of tribal, community, county, and state services and institutions to better access and connect Native American women to available and appropriate resources.

3

### Learning Objectives

- Knowledge:
  - The principles of lay legal advocacy
  - The nature and extent of domestic violence, including next generation impacts
  - The California statutory/legal framework for responding to domestic violence
  - The roles and responsibilities of judges, court-connected services, law enforcement, the district attorney and defense attorney, and victim witness services as they relate to domestic violence, particularly victim safety and enforcement
  - How to access and connect battered individuals to available and appropriate services
- Skills:
  - Make appropriate inquiries to help someone identify and assess their own risk in an abusive relationship
  - Demonstrate an ability to effectively assist (without giving legal advice) a battered woman or man seeking a California court protective order to prepare an adequate declaration and understand how to effectuate service of process
  - Develop strategies for accessing and connecting battered women and men to available and appropriate resources

4

### Historical Context

- Domestic violence, sexual assault, teen dating violence, and stalking are not traditional practice or values within tribes
- Traditionally, women were respected
- Traditional values promote harmony and a sense of belonging. These values are contained in stories, ceremonies, annual events, etc.
- Pre-reservation life for California Indian people required cooperation, trust, and mutual respect.
- European contact changed how women were treated
- As one

5

**“Our lives are bound together the way the baskets were bound together”- Pomo woman**

Tribal and non-tribal communities working together can enhance safety for Native peoples, creating healthy relationships for future generations.

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## Part Two: Domestic Violence and Sexual Assault

- General Concepts
- Cultural Considerations

7

## Experiences of the American Indian Victim of Domestic Violence and Sexual Assault

- Creating a shared context
- Drawing on our experiences
- Strengthening our advocacy skills through small group discussions and reporting back

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## Domestic Violence



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## Domestic Violence

- Comes in many forms
- Is a learned behavior
- Is defined in many ways
- Is a crime
- Is a major social problem and touches the whole community

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## Defining Domestic Violence

- A pattern of coercive control that one person exercises over another
- Abusers use physical and sexual violence, threats, emotional insults and economic deprivation as a way to dominate their partners and get their way
- Victims are married, unmarried, heterosexual, lesbian, gay, bisexual, transgendered
- Behavior physically harms, arouses fear, prevents an individual from doing what she/he wishes or forces her/him to behave in ways she/he does not want to

(Source: definition from Susan Schechter, early leader in domestic violence prevention)

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### Behavioral definition:

Domestic violence is a pattern of behaviors used to maintain control over an intimate partner. Domestic violence encompasses many behaviors not limited to physical battering which may occur infrequently. Also other behaviors that may be utilized against the victim on a daily basis. The batterer consistently limits the victim's ability to act or think freely. Power and control for the batterer is achieved from domestic violent behaviors from past/present acts to continuing threats of future violence.



### Legal definition:

Domestic violence includes both felony and misdemeanor crimes of violence committed by current or former spouses of the victim, a person who shares a child in common with the victim; a person cohabitating; a person similarly situated to the spouse of the victim, or by any other adult person who is protected from that person's acts under domestic or family violence laws. The legal definition of domestic violence can be found in both civil and criminal laws.


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# Power & Control

## Wheels of Power and Control



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## Cycles of Domestic Violence

1. TENSION-BUILDING PHASE
2. VIOLENCE-CRISIS PHASE
3. SEDUCTION-CALM PHASE

**Love, Hope, Fear keeps the cycle in motion**

Love for your partner—the relationship has its good points—it’s not all bad. Hope the relationship will change—it didn’t begin like this. Fear—the threats to kill you or your family will become reality.

*The tendency to ask the question “why does she stay” should be redirected to the question “why does he batter?” And how do we make him stop?*

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## Domestic Violence- Key Concepts

1. A Pattern of Ongoing Abuse
2. In an Intimate Relationship
3. Behaviors are Used to Control Another Person

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## 1. A PATTERN OF ONGOING ABUSE

Domestic violence is not isolated acts of violence but a pattern of repeated behaviors used by one partner against another designed to control the victim’s thoughts, feelings, and actions. These behaviors are utilized by the same perpetrator against the same victim.

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## 2. OCCURS WITHIN A RELATIONSHIP

Domestic violence is violence occurring between intimate partners in a marriage or marriage-like relationship. These are relationships where the perpetrator and the victim have been in or continue to be in marriage, dating, living together, separated or divorced. These relationships may have been long-lasting or short-term. The relationships may be heterosexual, gay, lesbian transgender or transsexual.

Additionally, because the domestic violence occurs within an intimate relationship, the abuser has ongoing access to the victim. Unlike violence committed against strangers, the perpetrator may know intimate details of the victim’s life and use these details to keep the victim in the relationship.

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3. **DOMESTIC VIOLENCE IS A BEHAVIOR USED TO CONTROL ANOTHER INTIMATE PARTNER**

Domestic violence is purposeful behavior. The perpetrator's patterns of abusive acts are directed at achieving power and control over the victim. Abusive relationships are supported by the belief one person has the right to control and dominate the other. The behaviors used by the perpetrator can restrict the life of the victim to a level independent thought and actions are curtailed. The victim is devoted to fulfilling the needs of the perpetrator.

When behaviors such as intimidation and mind games do not work to get compliance from the victim, the perpetrator uses physical and sexual violence. Even if there is no physical assault, those who may be battered will modify behaviors because they fear violence from their perpetrator. Abusers often escalate their use of violence when victims try to leave. Violence is then utilized as a method for controlling as well as punishing.

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## ONE NATIVE WOMAN'S STORY

I once owned a lot of beautiful jewelry that I wore all the time. Rings on all fingers, gold necklaces, silver bracelets—always on show. When told how beautiful my jewelry was, I'd quietly say, "My husband buys these for me". But I didn't wear the jewelry because I was proud of it.

An envious person once said, "Oh, how I wish my husband would surprise me and buy such beautiful gifts". So I began to strip off pieces of the jewelry I was wearing. I held each item out to her. I offered her a ring, a bracelet—whatever she wanted. She couldn't imagine why I would so freely give away the precious jewelry that my husband had given me. She asked, "Won't your husband be upset that you're giving his gifts away?"

I replied, "No, I have so much, you see that he'll never miss it".

I didn't tell her the personal price I'd paid for the finery which decorated my hands, arms, and neck. I didn't say that I'd bought every meaningless bauble myself with pain, terror and sadness. But then, how could I explain that I had so much jewelry because each time my husband hit, slapped, or beat me, he would apologize—trying to appease me and win me back—with jewelry?

---Anonymous

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### Reasons Why Native American Women Stay and/or Decline to Report Violence

- *May be physically and emotionally isolated by residing in a rural area;*
- *Lack of transportation;*
- *Lack of marketable job skills;*
- *Fear of being coerced into leaving the home or of being removed from the community;*
- *Lack of affordable housing in a safe area near people of her own tribe, or at least near people whose cultural values and experiences are similar;*
- *Because of financial dependence on their abuser, fear they will be unable to support themselves or their children;*
- *Batterer has received more support and protection than the victim;*
- *Tribal programs furnish temporary intervention by providing a hotel room for a short stay.*
- *It takes too long for a response by county sheriff's department, (because many of California's rancherias/reservations communities are isolated and rurally located)*
- *Fear of, and resistance to, alienation from relatives and tribal community;*
- *Fear of relocating to an area where victim and children will become more emotionally isolated than they may already be;*
- *Duty of providing care for an elder that may prevent the victim from relocating;*
- *Advice and counsel of elders, spiritual counselor, relatives or friends*

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## SEXUAL ASSAULT

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## Statistics

- Native American women are 2.5 times more likely to be raped or sexually assaulted than women in the U.S. in general
- More than one in three Native American women will be raped during their lifetimes.
- Native American women are more likely to be assaulted by intimate partners or family members, and less likely by strangers, than women of other races.
- Among Native American women who are victimized, 75 percent of the intimate victimizations and 25 percent of the family victimizations involved an offender of a different race.

(Source: Steven W. Perry, Bureau of Justice Statistics, *American Indians and Crime: A BJS Statistical Profile, 1993-2002* (NCJ 203097, Dec. 2004))

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## More Statistics

- In a 2005 national study, 39% of Native American women surveyed reported some form of intimate partner violence in their lifetimes. This rate is higher than the rate reported by any other race/ethnic group.

U.S. Center for Disease Control, Adverse Health Conditions and Health Risk Behaviors Associated with Intimate Partner Violence — United States (2005) *MMWR Weekly* February 6, 2008 / 37(05):113-117.

- In a 2002 California study, researchers interviewed 110 Native American women and found that 80 percent of respondents had experienced a sexual assault in their lifetimes—26 percent had experienced forced sex in their lifetimes and 32 percent had experienced either a physical and/or sexual victimization in the past year.

E. Zahrad, S. Holtby, D. Klein, and C. McCain, *American Indian Women: Preventing Violence and Drinking Project Final Report* (National Institute on Alcohol Abuse and Alcoholism and the Office for Research on Women's Health, 2002), cited in Bachman et al., *supra*, at p. 55.

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## Sexual Assault

Many Native American women remain silent because of:

- cultural barriers;
- a high level of mistrust for non-native dominant agencies;
- fear of family alienation; and
- lack of response by state and tribal agencies to prosecute crimes committed against them.

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## Sexual Assault Can



### HAPPEN TO ANYONE...

- Students, working women, girlfriends, wives, mothers, children, aunts, grandmothers, and even males are victims.

### OCCUR ANYWHERE AT ANY TIME...

- In public, in your community, in your home, day or night.

### BE COMMITTED BY...

- Not necessarily strangers but acquaintances, neighbors, friends, or a relative.

Sexual abuse is one of the most underreported crimes in Indian Country. Many times it is recommitting by the same person because it is not reported.

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## Why Indian Women Keep Silent About Sexual Assault

- Fears she will not be believed because she is Indian
- Blames herself, feels shame and guilt
- Believes it was due to personal alcohol or drug use
- Distrusts law enforcement, hospitals, courts
- Fears retaliation either from the abuser, family, friends, gang members
- Fears retaliation in the form of bad medicine if raped by a spiritual leader
- Doesn't consider it rape if committed by husband or boyfriend
- Added stigma of homophobia if raped by another woman
- Sees assault as "normal" –something that happens to all women
- Feels it was her fault, and that "it" will go away in time
- Fears that others will judge her sexual activities and label her
- Fears of AIDS or STDS she may have or could get
- Limited capacity due to mental illness or other disability

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### Why Indian Women Seek Traditional Healing:

- Comfort
- Spirituality
- Healing all areas of self, physical, spiritual, emotional and mental
- Prayers, rituals, ceremonies, stories and songs that heal and makes the women feel comfortable, cleansed, valued, supported, as though the burden is removed
- Practices traditional ways
- Have built a relationship with a Native spiritual leader
- Heard other Native women's stories of healing

### Why Indian Women Use Mainstream Services:

- Only services in their area
- Anonymity
- Does not practice traditional ways
- Bad experience with a past traditional healer
- No confidence in tribal law enforcement or tribal courts
- Her health plan covers it

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## Part Three: Tribal Advocacy

- What is a tribal advocate?
- Spider web activity

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## TRIBAL ADVOCATE



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## What is a Tribal Advocate ?

- Definition
- Description of types of advocacy
- Different from what a lawyer does
- Poem by Anita Bullock, Ohlone Tribe of California

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## The Feeling of Being Trapped

Native Americans who are and have been victims of domestic violence also suffer feelings of being trapped. They are trapped in a situation that is most unbearable, but as survivors of generations of societal abuse, they are easily adaptable.

To change an attitude or behavior of this nature can seem like an impossible task. It is much easier to accept and adapt. After all, that is what has been handed from generation to generation. How does one recover?

Acknowledging this feeling of being trapped and reaching out for help whether they are the abused or the abuser takes great courage, and sometimes one may feel alone, but seeking the support to make a move toward the positive is an act one must take.

Once this action has taken place, insurmountable strength is given to those who choose this path. This is the path where one can find great peace within themselves. Empowerment to pursue a different attitude to walk this path, a sense of self-worth and respect is bestowed upon them. The feeling of being trapped is gradually lifted. Each day brings new rewards. Physical and mental health will come into focus.

The uphill battles and barriers will always be evident for the Native American society, but we have taken the first steps to deal with these trials.

One is blessed if they have never had to experience abuse and violence as part of their lifestyle, but, one is TRULY BLESSED if they have had the strength to recognize and remove themselves from such a situation.

*A Native Advocate*

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## As a Tribal Advocate:



- You will become the person who is trusted—friendly, listening with an open mind and heart, giving support, validating, and hearing with understanding and patience.
- You will be open and honest— never promising anything you cannot do.
- You will listen— without being critical or judgmental.
- You will look for and acknowledge the woman's strengths.
- You will focus on the safety needs— the woman and her children
- You will help identify choices— explaining the ramifications of choosing each option, and then leaving it up to the woman to decide the best course of action.
- You give information— about the court process, services, and how to access them
- You are an educator— working at a grass roots level to promote effective responses to domestic violence and sexual assault.

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## Activity: The Spider Web



- Stand in a circle, stretch and...
- Think about someone who has helped you when you were going through a hard time in life...
- Now think about a quality that this person had; a good listener, positive person, non-judgmental, etc...

*This spider web is an example of what we can all create if everyone becomes involved in an effort. In this process we are going to begin learning about what way we can create a web of safety for battered women and children in our community. Also, if every other person lets go of the web, what happened to it?*

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## Part Four: Providing Basic Services

- Forms of abuse
- Effects of domestic violence on children
- Safety planning
- If the victim wants to leave and has children
- Victim witness services
- Safe at Home resources

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## Forms of Abuse

- Isolation
- Financial Control
- Intimidation and Threats
- Emotional Abuse
- Physical Abuse
- Sexual Abuse
- Use of the Children to Control the Parent

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### Potential Characteristics of the American Indian Victim of Domestic Abuse or Sexual Assault

- Culturally/traditionally keeper of the home, hearth, and family
- Has low self-esteem
- Holds unrealistic hopes the batterer's behaviors and actions can change
- May have a high risk for drugs and alcohol abuse which compounds the abuse she is already experiencing
- Usually receives some type of public assistance; Tribal TANF or welfare
- May reconcile with the batterer because of community and family pressures
- Generational boarding school experience: will attempt to keep the family together at all costs, regardless of the danger to herself or the children
- Major distrust of mainstream agencies, law enforcement, CPS, and probation
- Peers, friends, and family are not equipped to offer monetary assistance, model positive relationships, behaviors, etc.

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## Effects of Domestic Violence on Children



Children growing up with domestic violence may experience...

- Depression, low self esteem
- Temper tantrums
- Poor school performance
- Aggressive behavior
- Runaway episodes
- Suicidal/homicidal thoughts
- Withdrawal from community
- Stress-related illness
- Hyper vigilance
- Precocious sexuality
- Attention-seeking behaviors
- Identification with batterer

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## Safety Planning

- Danger Assessment instrument
- Practice Skills- Exercises
  - Intake call
  - Interview
  - Assessing forms of abuse
  - What if children are involved?
  - Exploring options to maximize safety

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## Victim Witness Services

- Victim Witness Assistance Centers
- Be familiar with the services in your county
- They work directly with the victims of crime and the Victim Compensation Board to assist victims of crime
- They help with the following services:
  - *Emergency services*
  - *Counseling*
  - *Restitution*
  - *Claims and compensation,*
  - *Victim impact statements,*
  - *Case status/disposition information,*
  - *Explanation of court process .....and more*

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## California Safe at Home Program

The Secretary of State "Safe at Home" program is a confidential mail forwarding service **ONLY and NOT a witness protection program**. It is designed to protect the victims' new home, work or school address location from public records and abusers through the use of a "substitute address". If you have a Native woman who needs to relocate in the state of California this will help to keep her and her children safe. There are currently 32 states with confidential mail-forwarding programs, several of which have included sexual assault victims as participants. California's SAH is the most extensive confidential address program of all states and is a role model for states wanting to start new confidential address programs.

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## How does Safe at Home Work?



- Gives the victim an official substitute address to use in place of actual home address.
- All first class mail, legal documents and certified mail will go to the program's offices in Sacramento. That office will forward mail to the victim and keep victim's actual home address confidential. Mail is forwarded within 48 hours.
- For most participants, this is a no-cost mail forwarding service.
- To apply, find an enrolling agency near you. <http://www.sos.ca.gov/safeathome/enrolling-agencies.htm> They are typically domestic violence shelters and reproductive health care facilities. An enrolling agency will explain how the program works and provide assistance with completing the application.
- Also protects the victim and his/her family by suppressing DMV records, registering as a confidential voter or applying for a confidential name change.

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## Closing Activities

### Ball Review

For this activity ask participants to stand in a circle. Ask participants to state something they learned in the session. Toss the ball to a participant; the participant responds to the question and then tosses the ball to another person. Feedback will be summarized, then make closing statements.

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## Legal Framework

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## Topics

- Overview of the Legal System in CA
- Roles in State Court
- Confidentiality
- Types of Restraining Orders
- How to Request a Restraining Order
- How to Respond to a Restraining Order

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## Overview of the Legal System in CA

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## Overview of the Legal System

- Objectives/Teaching Points
  - Identify types of cases where domestic violence issues are raised
  - Be familiar with the differences in these types of cases.
  - Understand that what happens in one court can affect the case in another court.

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## Civil Versus Criminal

- Civil
  - Private Parties
  - Money or Injunctive Relief
  - Protective Order is a Type of Injunction
  - Person seeking a RO is a party to the lawsuit and therefore has more control over what happens in the case
- Criminal
  - Attorneys
  - Role of Victim is Witness

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## Multiple Proceedings

- Family Court (dissolution, custody, visitation, support)
- Juvenile Court (abuse and neglect)
- Criminal Court

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## Table Exercise: Match Facts to Court

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## What happens in one court affects the other

- If there is a Criminal case against an abuser, the Family Court may (but is not required to) delay making a "permanent" restraining order until the criminal case is finished to avoid any 5th Amendment concerns.

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## What happens in one court affects the other

- A party in a family law restraining order case may wish to hold off on making a declaration in that case if there is a criminal case against them.

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## What happens in one court affects the other

- A victim with a CPO may need a DVRO to address issues like custody or property control.
- An abuser who is arrested for violating a DVRO may face deportation or removal in immigration proceedings.

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## What happens in one court affects the other

- If there is an open Juvenile Court case, the Family Court cannot make custody orders.
- If the parties have an existing dissolution or paternity case, the restraining order request may be filed in that case or later consolidated.

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## Roles in State Court

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## Roles

- Law Enforcement
- District Attorney
- Public Defender
- Probation
- Parole
- Victim Witness
- Family Law Facilitator
- Self Help Center Staff

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## Law Enforcement

- Investigation and the police report
- Preserving evidence for trial
- Enforcement of protective orders

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## District Attorney

- Presses charges
- Drops charges
- Prosecutes the case
- Must give the victim an opportunity for input

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## Public Defender

- Court-appointed
- Represents defendant
- Does not represent the victim in the civil case

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## Probation

- Makes sentencing recommendations
  - Programs to help the defendant take responsibility for the violence
  - Restricted contact between the defendant and the victim
- Monitors defendant's compliance with court orders

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## Parole

- Decides whether the parolee can live with or have contact with the victim
- Can serve restraining order on defendant
- Investigates parole violations (for example violation of RO)

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## Victim Witness

- Be familiar with local victim witness services and staff
- Connect victim to these services
- Victim Witness Assistance Center
  - Helps emergency services, counseling, restitution, claims and compensation, victim impact statements, case status/disposition information, etc.
- Has access to criminal computer databases

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## Family Law Facilitator

- Be familiar with local family law facilitator
- Connect litigant to these services when appropriate
- Help with
  - Establishing parentage and
  - Getting, changing, or enforcing child, spousal, or partner support orders

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## Self Help Centers

- Be familiar with local self help center services and staff
- Connect litigant to these services when appropriate
- Help with
  - Family law, probate matters, and other civil cases– landlord/tenant, civil harassment, consumer issues, and small claims

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## Self Help Centers

- Website
  - <http://www.courts.ca.gov/selfhelp-abuse.htm>
- Locating center in your county
  - <http://www.courts.ca.gov/9521.htm>

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## Confidentiality

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## What is confidentiality?

- Assurance that access to one's information will be strictly controlled
- Most common privileged relationships that require that communications be kept confidential:
  - Priest-Penitent
  - Lawyer-Client
  - Psychologist-Patient
  - Licensed Social Worker-Client
  - Doctor-Patient

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## The Basic Rule

- Most domestic violence programs adhere to this basic rule:

*A client's information is not shared outside the agency unless the client gives the agency permission to do so.*

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## Why is Confidentiality Important?

- May be the key to someone reaching out for help.
- Fosters trust.
- Can avert potential threat to safety or life.

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## What does it protect?

- **Communications** between "holder" of the privilege and the person to whom the information was given
- Who is the "holder" of the privilege?
- Only "holder" of privilege can waive disclosure unless the law otherwise states

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## Privilege

- Statements and conversations made under circumstances of assured confidentiality which must not be disclosed.
- Public policy reason for privilege: one should be able to speak freely to certain persons
- Legal effects
  - Cannot be forced to testify or reveal confidential information to law enforcement or courts
  - Breaking confidentiality can lead to being sued
  - May be "waived" by holder of privilege (the person who communicated the confidential information, not the person who heard it)

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## Ways to Waive

- Expressly: Victim tells the advocate "Please tell the prosecutor x,y,z that we discussed."
- Because of actions of the holder:
  - Someone else hears the communication
  - Putting it "into issue" such as calling a witness or introducing evidence

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## Informed Consent

- Discuss how the information might be used
- Give information about the consequences of signing a release of information
- Only the holder of the privilege decides—
  - first whether to share with the advocate and
  - Second whether to give permission to the advocate to further share the information

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## Permission to Disclose

- You are not breaking confidentiality if you have permission to disclose
- When advocating with law enforcement or other agencies be sure you clearly understand what permission you have to disclose
- Use a written form that:
  - Lists what specific information you can disclose;
  - Says to whom it can be disclosed;
  - Is signed by the client/service participant;
  - Includes an expiration date; and
  - Gives notice that s/he can rescind permission at any time.

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## Are Communications with Tribal Advocates Privileged? (Evidence Code 1037.1)

- Domestic Violence Counselor
  - Employed by domestic violence service organization
  - Completed 40 hour mandated domestic violence training
- Working for a Domestic Violence Service Organization
  - Non-governmental organization
  - Providing shelter, programs, or services to victims of domestic violence and their children

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## Not All Victim-Witness Programs

- **Many victim-witness programs are covered by the statutory definition**
- **But Not** victim witness advocates working for prosecutor or law enforcement agency
  - Under the Indian Civil Rights Act, the Constitution and case law: victim witnesses are part of the prosecution-law enforcement team and have duty to disclose to defendant in a criminal case.

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## Your Agency's Policies

- Should be in writing.
- Cover confidentiality.
- Cover disclosure.
- Cover what information to record.
- Cover safeguarding information and files.
- Include information on whether the victim-witness program in your county is part of the prosecution team.

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## Types of Restraining Orders

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## Introduction

- Types of protective or restraining orders (ROs)
- What the court can order the person to be restrained NOT to do
- Limits of protective orders
- Accessing self-help website and centers for more information

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## General Types of ROs

- Emergency Protective Order
- Domestic Violence Restraining Order (DVRO)
  - Temporary Restraining Order (TRO)
  - OAH ("permanent" RO)
- Juvenile Restraining Order
- Criminal Protective Order

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## Other Civil Restraining Orders

- Workplace Violence
- Civil Harassment
- Elder an Dependent Adult Abuse
- Private Postsecondary Educational Institution

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## Protection Orders- ordering the restrained person NOT to:

- Enter your property
- Assault, attack, beat, or wound you
- Threaten to kill or physically harm you
- Remove your children from you if you have legal custody

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## Protection Orders- ordering the restrained person NOT to:

- Interfere with your place of employment
- Interfere with your efforts to remove your children or personal property
- Contact you by phone, mail
- Purchase or possess a gun

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## Limits of Protective Orders

- A restraining order is only one piece of a safety plan.
- Sometimes not enforced or prosecuted.
- Provide or give referrals for safety planning and counseling.
- Give out the local county hotline number.

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## **Emergency Protective Order**

- Issued by law enforcement
- Upon verbal order by judge on call 24/7
- Good for up to 7 calendar days

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## **What is a DVRO**

- Purpose: to allow victims to quickly get orders which can keep them safe and stable while they decide their next steps
- Not intended to be an order resolving all disputes between the parties

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## **DVRO- Temporary RO**

- Preliminary restraining order.
- Good for 21 days - until service and Court hearing.

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## **DVRO- Order After Hearing (ROAH)**

- Good for up to 5 years.
- Renewable before expiration.

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## **Judge in DVPA case cannot make orders of:**

- Dissolution of marriage
- Property division

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## **Juvenile Restraining Order**

- Court can issue TRO and ROAH
- Court can issue orders to protect
  - Child who is subject of petition
  - Other children in the household
  - Parent/legal guardian
  - Current caregiver of child even if this person isn't living with the child

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## **Criminal Protective Order**

- Court can issue any time during the criminal case
- Orders remain in effect for case (including probation)
- Types of protections

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## **Exercise: What Kind of California Protective Order am I?**

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## **How to Help Get a Domestic Violence Restraining Order**

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## **How to Help Get a Domestic Violence Restraining Order**

- Step-by-step Process
- Effective Assistance With Preparation of the Declaration

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## **Step-By-Step Process**

- Get the request
- Fill out the forms
- File completed forms and get a hearing date
- Service of Process: Serving the forms
- Rights of the Person to be Restrained
- Court hearing
- Finishing and filing the ROAH
- Enforcing the order

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## **The Declaration**

- Most important evidence in the case
- Sworn statement under penalty of perjury

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## Declaration must show facts of:

- Two requirements for DVPA order:
  - Abuse
  - Domestic Relationship
- Extra requirement for same day TRO
  - Emergency
- Extra facts required for other orders:
  - Custody orders
  - Property or restitutions orders

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## Definition of Abuse (section 6203)

- Intentionally or recklessly to cause or attempt to cause bodily injury or sexual assault.
- To place a person in reasonable apprehension of serious bodily injury.
- To engage in behavior prohibited by Family Code section 6320: molest, attack, strike threaten, assault, batter, harass, destroy personal property, disturb the peace

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## Domestic Relationship

- Spouse or ex-spouse
- Cohabitant or former cohabitant (must live together in 'family-like' relationship)
- Dating or engagement relationship
- Child in common
- Related by blood, marriage, or adoption to second degree (parents, grandparents, siblings, children)

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## Advocate's Role-Declaration

- Explain the purpose of the declaration;
- Explain the legal definition of abuse;
- Ask specific questions;
- Identify the relevant facts to this definition;
- Help the litigant tell their story in their own words;
  - Using only relevant facts;
  - Organizing those facts; and
  - Presenting them in the declaration

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## Elements of a Good Declaration

- Breaks down recent abuse incidents
- Detailed and specific description of the abuse giving dates
- History of violence
- Information about other related cases or involving the children

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## Outline of a Good Declaration

- Introduction- facts about the case
- Timeline with descriptions- reverse chronological order of incidents of abuse- start with most recent and go back in time
- Summary paragraph- describes context/history of abuse
- Requests for other orders- describes reason for requested orders, like custody etc
- Conclusion

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## Organization of a Good Declaration

- 1<sup>st</sup> Paragraph: Introductory Facts
  - Names of parties
  - Relationship
  - When broken up or moved out
  - Names, ages of children
  - Other important facts (for example, person to be restrained is a minor, is alcoholic and drinks every day...)

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## Organization Continued

- 2<sup>nd</sup> Paragraph: Most Recent Incident of Abuse
  - Not necessarily the worst, shows why RO is necessary NOW
  - Specific and detailed facts
  - Give dates or approximate dates
  - Test: will the judge be able to picture what happened from the description?

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## Organization Continued

- 3<sup>rd</sup> Paragraph: Next most recent incident of abuse....till get to very first incident (Be very specific and detailed)
- 4<sup>th</sup> Paragraph: Describe in general terms the history of abuse

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## Organization Continued

- 5<sup>th</sup> Paragraph (if applicable): Describe reasons for other orders being requested. Describe specifically, with details the circumstances.
- Conclusion

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## Tips in Helping Someone Write the Declaration

- Give information about the legal process to the litigant
  - Sworn statement can waive 5<sup>th</sup> amendment
  - Sworn statement can be used in Juvenile Court
  - Repeat legal definition of abuse
  - Describe the difference between conclusions and facts
  - Reminders about accuracy
- Make sure the litigant reviews the declaration at every step in the writing of it
  - To make sure all the facts contained in the declaration are accurate and in the litigant's voice.

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## Writing Tips

- Don't use conclusory words like:
  - He calls me constantly
  - He attacked or harassed me
- Don't use legal language
- Don't take down verbatim everything the litigant says/only relevant facts

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## **Declarations do not stand alone- the advocate's role**

- Explain the legal process (step-by-step)
- Provide safety planning and refer to appropriate services

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## **How to Respond to A Restraining Order**

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## **Giving Information to the Responding Party**

- Domestic violence is a crime
- Possible criminal case
- Not following the restraining order can result in arrest, an order to pay a fine or jail

111

## **Giving Information to the Responding Party**

- Anything RP says in court (including the written answer), can be used against RP in a criminal case.
- Right under the 5th Amendment not to give any information which could be his or her in a criminal case.

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## **Giving Information to the Responding Party**

- Explaining his or her options.
- Explaining how to completed the Answer if RP chooses this option.
- Explaining how to mail the Answer if the protected person's address is not confidential.

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## **Giving Information to the Responding Party**

- Refer to the Self-Help Center or the Family Law Facilitator for information on how to fill out the Income and Expense Declaration [FL-150] if the protected person has asked for child or spousal support.

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## **RP's Options**

- Do nothing. The judge may make orders against the RP
- Go to the hearing and exercise 5th amendment right.
- Go to the hearing and talk to the Judge.
- Answer in writing and go to the hearing.

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## **The Answer: Form DV-120**

- One or two parts:
  - Answer Form
  - Written Statement

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## **Assisting the RP with completing and serving the Answer**

- Step by Step Process in Completing the Answer
- How to Serve the Answer by Mail

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