



A WOMAN IS BEATEN
EVERY **NINE SECONDS**
IN THE U.S.



 **ONE IN THREE VICTIMS OF
FAMILY VIOLENCE IS MALE**

Domestic Violence

Legal Definitions:

Abuse perpetrated against any of the following persons:

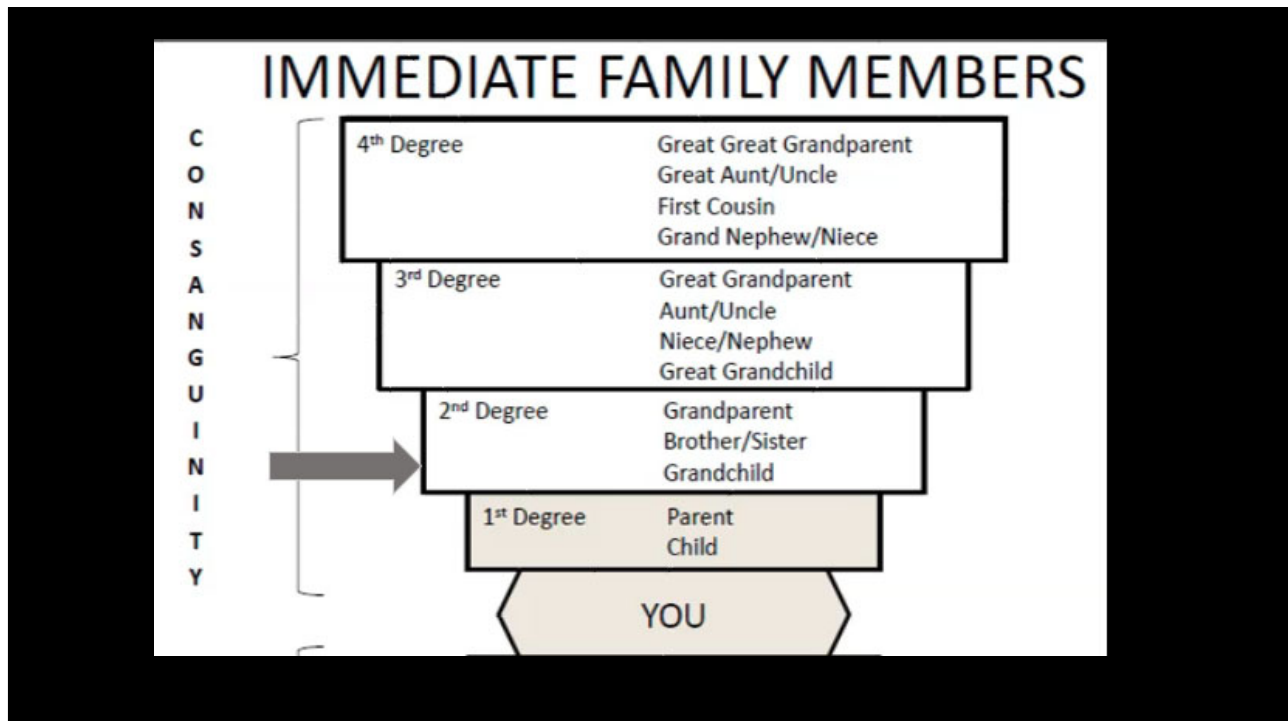
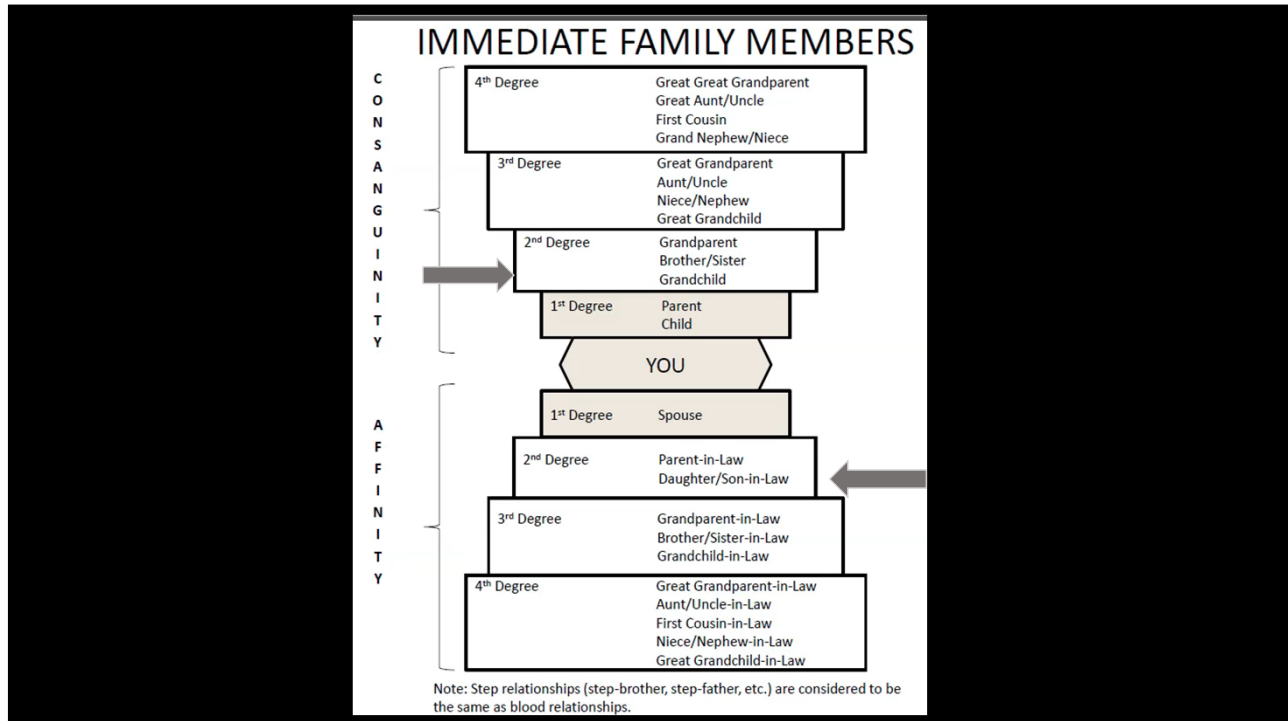
- 1) spouse or former spouse
- 2) a cohabitant or former cohabitant
- 3) a person with whom the respondent is having or has had a dating or engagement relationship

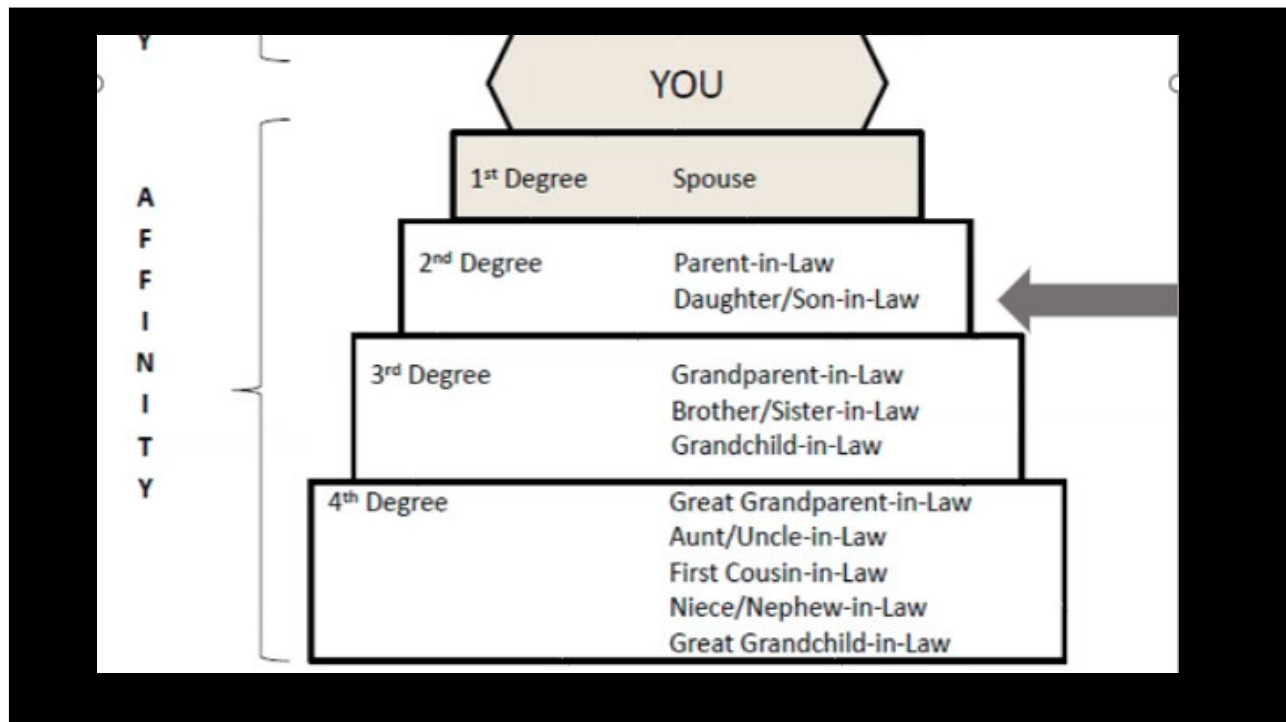
4) a person with whom the respondent has had a child

5) a child of a party or a child

6) Any other person related by consanguinity or affinity within the second degree

• **Family Code 6211**





Family Code Domestic Violence/Abuse Defined

- Definition:
 - For purposes of this act, "abuse" means any of the following: (a) Intentionally or recklessly to cause or attempt to cause bodily injury. (b) Sexual assault. (c) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another. (d) To engage in any behavior that has been or could be enjoined pursuant to Section 6320
 - Family Code 6203

Family Code Domestic Violence/Abuse Defined

- As used in this title: (a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.
 - Penal Code section 13700

Domestic Violence

- **More Legal Definitions:**
 - Abuse committed against an adult or minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

Penal Code Section 13700

Domestic Violence Crimes

- Penal Code Section 273.5
 - Willfully inflicts corporal injury upon a
 - Spouse
 - Cohabitant
 - Dating relationship
 - Parties with a child in common
 - Results in a Traumatic Condition
 - A wound OR other bodily injury – whether minor or serious – caused by the direct application of physical force
- Defendant did not act in self-defense

Domestic Violence

"Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement independent of financial considerations.

(Family Code section 6210)



Domestic Violence - Cohabitant

- Two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. (FC 6209)
- Cohabitant means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. (PC 13700)
- You can have multiple cohabitations ... aka multiple partners, multiple domiciles

Cohabitation Factors

- Criteria:
 - Sex while sharing quarters
 - Share income / expenses
 - Joint use of Property
 - Continuity of relationship
 - Length of relationship

Cars, tents, lean-to in alleyway counts as a residence. LGBT counts too.

Domestic Violence Crimes

- Penal Code Section 243(e)(1)
 1. Willfully touched victim in harmful or offensive manner
 - Slightest touching is enough
 - Can do it through clothes or with object

DV Crimes cont.

2. Victim is the defendant's
 - Spouse (former or current)
 - Cohabitant (former or current)
 - Fiancé (current or former)
 - Coparent
 - Dating Relationship (former or current)
3. Defendant did not act in self-defense

- Peace Officers making an arrest for 273.5(a) or 243(e)(1) are not required to inform the victim of the right to make a citizen's arrest per 836(b)

P.C. 13701(b)

* Encourages the arrest of DV Offenders if PC – Especially if there is a violation of a DV order

* Discourages but doesn't prohibit Dual Arrests = Find dominant aggressor.

Multiple Suspects & Self-Defense

Same rules apply – I know, that sucks.

Interview BOTH in the field to get both sides and lock them into statements.

Don't put Suspect 1 and Suspect 2, if you want to file on one of them.

Look for corroboration

If you can't make a call on who is the victim, how is the jury supposed to make a call.

Domestic Violence Crimes

Penal Code Section 422(a)

1. Defendant threatened to kill or GBI victim
2. Defendant made threat orally, in writing, electronic communication device
3. Defendant intended that the statement to be understood as a threat
4. Threat was clear, immediate, unconditional, and specific to convey immediate prospect of carried out
5. Threat caused victim caused sustained fear for her safety OR safety of her family
Sustained Fear = period of time more than momentary, fleeting, or transitory
6. Victim's fear was reasonable under the circumstances

Ask: Where was the D when threat was made? How did D look? How did D sound? Did victim believe? WHY?

Domestic Violence Crimes

Penal Code Section 646.9

1. Defendant willfully and maliciously harassed or willfully, maliciously, and repeatedly followed another person

Harass = engaged in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person and serves no legitimate purpose; Course of conduct = 2 or more acts over a period of time.

- Defendant made a credible threat with the intent to place the other person in reasonable fear for their safety
 - Credible Threat: one that causes the target of the threat to reasonably fear for their safety or family safety and one that the maker of the threat appears to be to carry out. Can be oral, in writing, or implied by pattern of conduct.
 - Threat can be made in jail.

Where else have you made reports?

Domestic Violence Crimes

Penal Code Section 646.9 Felony

- (B) A court order prohibiting defendant from engaging in conduct against threatened person was in effect at the time of the conduct.
- (C) Prior 273.5 / 422 / 273.6 / 646.9(a) = Enhancement on time

Domestic Violence Crimes

- Penal Code section 591 – Malicious Destruction of Phone Lines
- Penal Code section 136.1 – Dissuading a Victim / Witness
- Penal Code section 273.6 – Violating a DV Court Order
- Penal Code section 594 – Vandalism
- Penal Code section 597 – Animal Cruelty
- Penal Code section 245a – All the different assaults (weapon, force, firearm)
 - Contemplate 664/187 vs 245(a)(4) – NOT 243(e)

Think also about











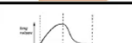

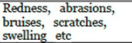
Penal Code section 18250 (Formerly PC 12028.5) – Family Violence / Firearms Seizure

Allows initiation of forfeiture proceedings if by PPOE victim is endangered by suspect getting firearms back.

Penal Code section 18175 (Formerly 6389): Anyone served with PO must relinquish firearms (24 hours)

Penal Code section 29805 (Formerly PC 12021(g))- Restrictions on Firearm Possession

Bail is NOT stacked – so contemplate most serious charge available to maximize bail level.

Symptoms of Strangulation	
	Mechanics
	Pain Scale
	Visual Changes
	Loss of Consciousness
	What were you thinking about?
	Voice Changes?
	Swallowing Changes?
	Coughing / Vomiting
	Loss of Control of Bodily Functions
	Describe pain and location
	Breathing Changes
Signs of Strangulation	
	Petechiae
	Visible Injuries

Strangulation Injuries:

Accounts for 10% of all the violent death in the United States
(Wisconsin Medical Journal "Strangulation Injuries": Funk and Shuppel 2003)

Strangulation vs. Choking – You choke on food, you strangle someone else.

Petechaie (bursting of small blood vessels: eyes, chest, cheeks)





Ear



Other Injuries

- Ligature marks (rope, string)
- Red abrasions or bruising to the neck
- Shortness of breath
- Hoarse or cracking voice
- Loss of consciousness
- Sore throat
- Headaches or light-headedness

Who is the most important person on a DV case?

You are!



First Responder is Critical

Only person that will likely get to talk to the victim while the victim is cooperative.

- When you arrive on scene, separate!
- Document the scene
- Photos (Work your way from the outside, in)
- Determine who the dominant aggressor is; the DA is not going to do that for you!

First Responder is Critical

- Positively identify who was involved; i.e. the suspect who may have fled the scene prior to your arrival
- Facebook, Instagram, a photo on the wall, etc.
- Document how you identified that person

Why the first responder is critical?

What you hear...



Start at 1:10

What we hear...



Start at 0:30

Talk to everyone on scene – get all you can from her/him.

- Neighbors
- Children
- Family
- Homies in the street
- Who called 911?



Contact Information

- Collect contact information (home, cell, emergency contact)
 - Tell them if someone needs to reach you and can't get a hold of you who should we call that can get a hold of you
- Including work information

Consider saying something like this to a witness or victim: "If I have to release him and can't get a hold of you, who should I call to warn you."

First Responder is Critical

- **RECORD, RECORD, RECORD**
 - Consider having her/him write a statement
 - Audiotape threatening messages

Document and take pictures of everything!!

- Victim & defendant (Hands, demeanor, clothing, injuries or lack thereof)
- Location (room, door no longer closing properly, broken window, chairs overturned etc.) Include the outside of the location – anything to help us set the scene
- Threatening text messages or Facebook posts
- PERSPECTIVE! (Out, middle, in); Clear and understandable

Photography

- Don't be scared of taking too many – be scared of not taking enough
- Print out the pictures and submit them with the filing (Pictures get lost at least we have one hardcopy)

First Responder is Critical

- Reports
 - Should contain all elements of the crime
 - Watch for Macros / Typos / Fill in the blanks
 - NO OPINIONS
 - No “we”



Documentation

- Objective not subjective (not “story” – “version”)
- Note the demeanor of the victim / witnesses
- Use Quotation marks for spontaneous statements of victim, witness, defendant.
- Substance Abuse at issue? – Head off defense theory later on
- Write out what each witness said NOT “W1, W2, W3 all said...”
- PRIORS (For both victim and suspect)

EC 1101 and 1109

Evidence Code allows us to use prior acts of domestic violence to show that it is not an accident, mistake, and to show that he is an abuser of his wife or his kids.

1109: 10 year limit unless the court determines it is in the interest of justice

That minor incident could be critical in a serious injury or death later on down the road

Ask Who reported – What agency – Other witnesses – Medical care (5WH)

Look for full criminal background on both!

Other Issues regarding Evidence

MEDICAL information – Hospital and MRN

- Who transported? Admitted under Alias? Should be if out of custody
- Brownie points for treating physician / treating RN
- Double Brownie points for additional photos
- HIPPA / Consent Release of Medical Records – gives us potential witnesses

CONFISCATE EVERYTHING and book into EVIDENCE NOT property

- Cell Phones / Cases / Computers / Wallets / Purses
- Weapons
- Instrumentalities

Follow up

- Follow up interview: Is she still cooperative 2-3 days later
- Take pictures on different days: Some injuries don't appear until later – ask her to send updated pictures
- Monitor jail calls if in custody prior to filing
- Suspect Interview – If they are talking...

Shut...
shut...
SHUT
YOUR
MOUTH.

Filing

DA's ARE NOT SUPPOSED TO FILE IF:

- If there is video, case will not be filed until the video is viewed by the filing DDA
 - This is changing for 911 calls too...
- Case will not be filed unless pictures are present for the victim and the defendant if there are visible injuries
- Victim needs to ID the defendant: 6 packs or photos around the house

Questions?