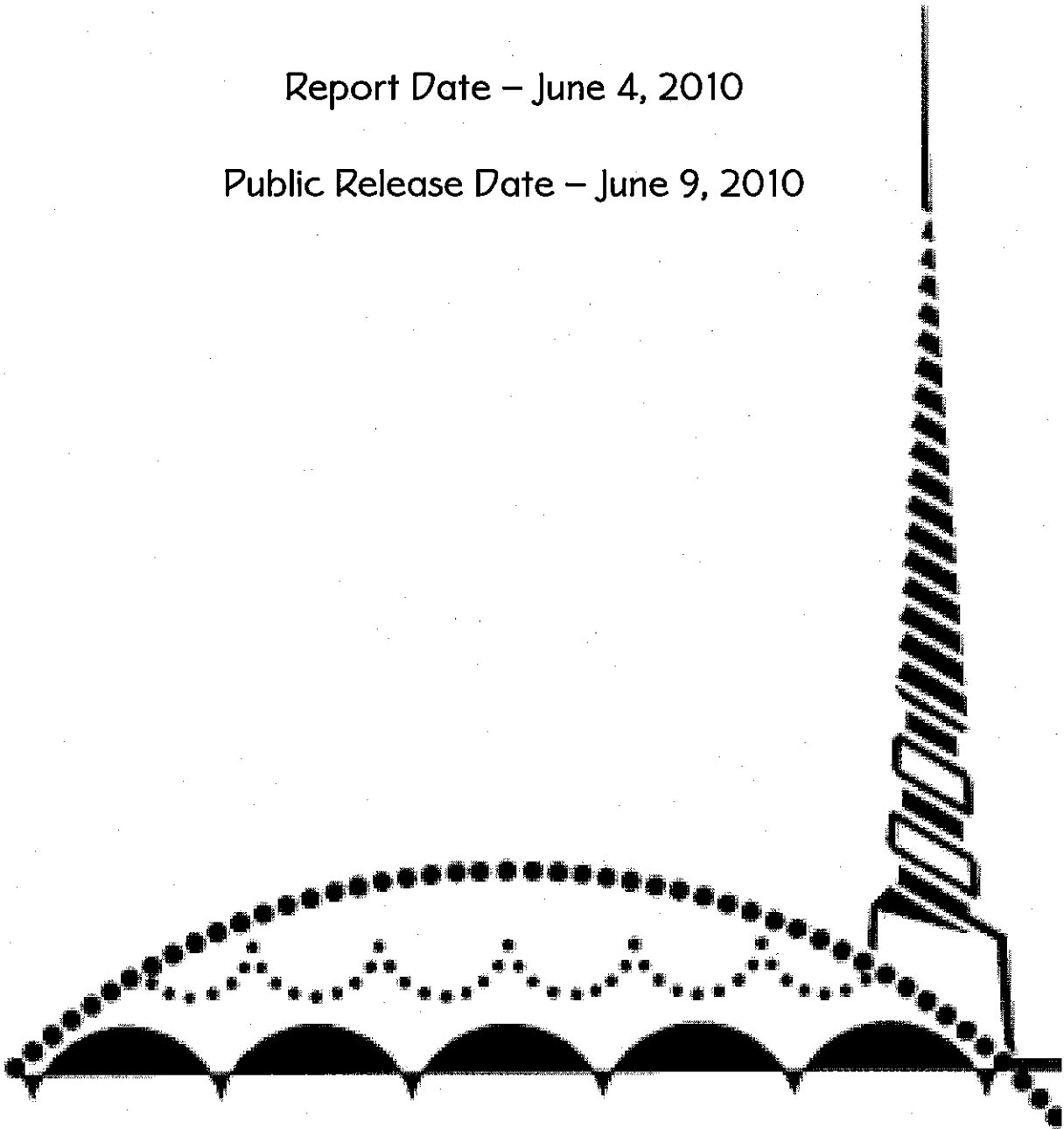


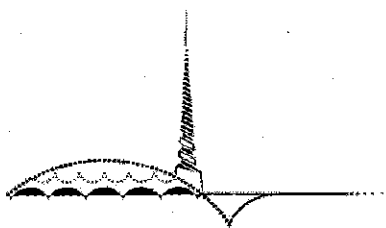
2009-2010 MARIN COUNTY CIVIL GRAND JURY

Domestic Violence: Marin's Number One Violent Crime

Report Date – June 4, 2010

Public Release Date – June 9, 2010





Domestic Violence: Marin's Number One Violent Crime

SUMMARY

Domestic violence has been Marin's number one violent crime for more than twenty years; yet it rarely makes the front pages of Marin's newspapers. It is a fact, however, that traumatic violence occurs in many Marin homes every day.

In 2009, law enforcement responded to over 800 domestic violence incidents, and Marin Abused Women's Services (MAWS), the county's leading advocacy group, received over 2,500 calls on its domestic violence hotlines. In 2009 two of the five homicides in Marin resulted from acts of intimate partner violence.

These facts are all the more troubling, since Marin victims' advocates and law enforcement officials alike believe that domestic violence is the most underreported serious crime in our county. A number of nationwide studies, moreover, indicate that less than 25% of incidents are reported to law enforcement or support services.

Victims of domestic violence are found in all Marin neighborhoods, among all cultures, and across all socio-economic levels. It often ruins families and demoralizes victims. The immediate effects of physical violence are usually obvious, but the long-term emotional impact can be more devastating. Children who witness domestic violence in their homes are severely affected and often become victims or batterers themselves.

Domestic violence is a highly complex crime that was not properly addressed in the United States until the mid 1970's. At that time, women's advocacy groups took up the fight for victims' rights. Since then, federal, state, and local legislation clearly established domestic violence as a crime. Today, domestic violence is treated on par with other violent crimes, and its legal consequences are severe.

In Marin, domestic violence is taken very seriously by advocacy groups, law enforcement, and the justice system; however, the number of reported incidents per capita has remained relatively constant over the past five years.¹

In the opinion of the Grand Jury, four areas need to be addressed before a substantial reduction in the number of domestic violence incidents can take place in Marin.

¹ Rand California: California Department of Justice

Marin's Pro-Arrest Policy

Marin County has taken a very strong "pro-arrest" position. Indeed, a number of law enforcement officers we spoke with interpret the county policy to be "mandatory arrest."

The Grand Jury has come to understand that the pro-arrest policy, although it provides maximum immediate protection for victims, also has unintended negative consequences for the abused and their families, and it contributes to widespread underreporting.

The Grand Jury believes that an alternative to custodial arrest, or formal booking, may be appropriate in some cases. A misdemeanor domestic violence citation, for example, would allow for more positive intervention intended to interrupt the cycle of violence in its early stages. The use of citations in some clearly limited misdemeanor situations is recommended.

Law Enforcement Training and Leadership

Law enforcement's leadership establishes priorities for the officers who respond to domestic violence incidents. Some departments, previously lauded for their aggressive leadership, have seen a marked reduction in their commitment to training and resources devoted to domestic violence.

Given its position as the number one violent crime, the Grand Jury recommends a commitment to annual formal training for all officers, participation by command staff, and advanced training for domestic violence specialists in Marin's three largest policing agencies.

Prevention: Awareness, Education and Early Intervention

The Grand Jury has found that funding for preventive measures directed at reducing domestic violence has been sharply reduced in Marin. We strongly believe that efforts towards reducing incidents of domestic violence must be made in the areas of awareness and prevention. Unfortunately, we have found that Marin's Board of Supervisors funds domestic violence programs at a low level when compared to other social issues in the county. We also discovered that other counties allocate significantly more funds to agencies that provide domestic violence programs and services.

Coordinated Efforts and Services

In Marin, the Domestic Violence Coordinating Council (DVCC) serves as a focal point for the alignment of countywide initiatives among criminal justice, legal, medical systems, and community-based organizations. It is a forum where experts with diverse viewpoints and expertise meet to set goals and drive projects related to reducing domestic violence.

The Grand Jury has learned that the Marin County Superior Court recently resigned its membership from the DVCC. The Court believes that the Council is excluding important points of view. The Grand Jury agrees and recommends that it takes action to expand its membership, locate its meetings in a neutral space, meet more frequently, and publish an annual report of its goals and accomplishments.

BACKGROUND

In July of 2009, a Marin Independent Journal headline caught the Grand Jury's attention: *Domestic Violence: Marin's Most Prevalent Violent Crime*. It came on the heels of two domestic violence homicides in Marin and was followed by a double domestic violence related homicide at the Richmond-San Rafael Bridge.

According to the District Attorney's office, violent family felonies make up 30% of the total number of violent felony crimes committed in Marin, and 23% of *all* probation clients have a condition in their probation orders related to domestic violence. Yet, domestic violence stays far below the radar for most of us.

Since change often stems from increased awareness, the Grand Jury believes it is important to inform the community about the law and other major issues surrounding domestic violence. We also share what we have learned about how domestic violence is being addressed in our county, as well as suggest measures that can be taken to prevent it, respond to it, and significantly reduce its occurrence.

METHODOLOGY

During its investigation, the Grand Jury spoke to over forty-five professionals working in the area of domestic violence. Those interviewed included: officers from various ranks within Marin's law enforcement agencies, the District Attorney's Office, the Probation Department, and the Public Defender's office. Representatives of community organizations providing advocacy and support to victims of domestic violence were interviewed, as were domestic violence authorities, victims, and those providing treatment to batterers. We interviewed academics as well as members of the California State Bar Association and Marin Superior Court officials.

The Grand Jury visited several sites including a Bay Area police department with a model domestic violence program, the Police Officer Standards and Training (POST) headquarters in Sacramento, and the Family Justice Center in Alameda County. Members of the Grand Jury observed sessions of the Domestic Violence Coordinating Council, Marin's Family Violence Court, and the Unified Family Court in San Francisco.

DISCUSSION

Why Should We Care?

Domestic violence affects not only those who are abused, but witnesses, family members (many of them children), co-workers, friends, and the community at large. Domestic violence causes a dramatic ripple effect that places heavy demands on health care, public services, the legal and justice systems, schools, and the workplace. It is in everyone's best interest to become aware of the impact that domestic violence has on our community and the steps that can be taken to address effectively this highly complex crime.

Domestic Violence: The Most Underreported Violent Crime

Experts in the field agree that domestic violence is the most underreported violent crime in the United States. According to a National Violence against Women Survey, only 25% of all acts of domestic physical assault are reported to law enforcement.

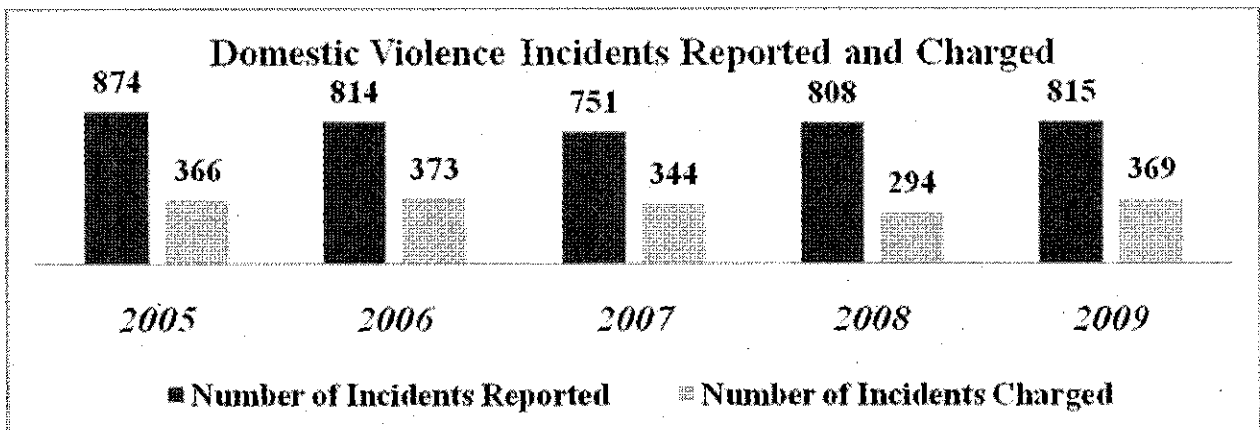
In Marin, domestic violence victims' first calls for help are often to the Marin Abused Women's Services hotline, which receives calls reporting psychological and emotional as well as physical abuse.

In 2009, the Marin County District Attorney received 815 domestic violence reports from the county's police and Sheriff's Departments. If we apply the estimated 25% reporting rate, there were approximately 3,260 incidents of domestic violence in Marin County in 2009. Just as there are many factors that influence the act of domestic violence, there are also many factors that influence the overall underreporting:

- Distrust of law enforcement based on past experience
- Economic hardship if primary wage earner is arrested
- Fear of deportation
- Perceived social stigma
- Fear of retaliation by abuser
- Feelings of disempowerment in the wake of emotional abuse
- Belief that violence is an acceptable way of resolving conflict

The Severity of the Problem in Marin

Statistically, Marin's number of reported incidents of domestic violence has remained relatively constant over time, as has the percentage of reported incidents charged by the District Attorney.



Five Year Totals and Averages:

Domestic Violence Incidents Reported to the District Attorney:	4,062
Reported Incidents Charged by the District Attorney:	1,746
Percentage of Total Reported Incidents Charged:	43%
Percentage Pled Guilty or Convicted:	58%

In Marin, all domestic violence calls for police assistance, in which a report is made, are referred to the District Attorney's office even if "probable cause" has not been determined and no arrest is made. The District Attorney reviews all reports, including those where no arrest is made, and determines if charges should be filed. If no charges are filed, the reports are still retained as historical data and are used by the District Attorney when assessing subsequent incidents involving the same offender.

The perceived low rate of charges filed (43%) and convictions (58% of all cases filed) is often due to the lack of evidence in cases in which the victim recants or decides not to cooperate in the prosecution. There are also legal restrictions on the use of hearsay evidence. According to the District Attorney's office, "Today, the court can order an uncooperative witness to attend educational classes, but not much more."

The Grand Jury believes that the District Attorney treats the crime of domestic violence seriously and makes every effort to hold offenders accountable. Of the 43% of incidents in which domestic violence charges were filed, 58% entered a guilty plea or were convicted. Approximately 2% of the 1746 incidents charged went to trial.

Restraining Orders and the Probation Department

Restraining orders are critical interventions in many domestic violence cases. On average, the court issues more than 800 restraining orders related to domestic violence each year.

The Probation Department reports that of the approximately 1,800 total cases under supervision at any time, 23% involve some form of domestic violence. Of those, 87% are male, and 13% are female.

Who are the Victims?

There are many types of family violence, all of them equally dangerous and destructive, but this report addresses intimate partner violence only. Intimate partner violence, otherwise termed domestic violence, does not discriminate. It happens among heterosexual and same-sex couples. It occurs within all age ranges, ethnic and religious backgrounds, and socio-economic groups. While women are more commonly victimized,² an increasing number of men are reporting abuse by their intimate partners.

² Bureau of Justice Statistics and Crime Data Brief, *Intimate Partner Violence*, 1993-2001, February 2003.

Children are victims of domestic violence, whether they witness it in their homes or are direct victims of abuse. While this fact cannot be ignored, our report does not focus on children as direct victims of physical assault. We cannot ignore, however, the serious and long lasting effects domestic violence has on children's emotional and social development when they witness abusive adult relationships. Violence used as a way to solve problems is a learned behavior, and many children who witness abuse grow up to repeat the behavior as partners and parents.

**Marin Abused Women's Services (MAWS):
Marin's Leading Victims' Advocacy Group**

Many victims of domestic violence contact MAWS' English/Spanish hotline before, or instead of, contacting the police.

Fiscal Years	2005/06	2006/07	2007/08	2008/09
Total Hotline Callers*	1,976	1,736	1,918	2,518
*Victims, Family, Neighbors				
Total Battered Victims	1,097	927	1,099	1,262

Of the 1262 battered callers in 2008/09, 566 were first-time-callers.

	2005/06	2006/07	2007/08	2008/09
Crisis Intervention Calls**	94	116	219	284
**Immediate Assistance Required				

Crisis calls, those indicating a high level of danger and requiring immediate intervention, show a 30% increase over last year.

In fiscal years 2007/2008 and 2008/2009, calls to MAWS' hotline reflected:

- a 31% increase in total calls
- a 15% increase in total victims
- a 30% increase in crisis calls

MAWS Emergency Shelter Data

	2005/06	2006/07	2007/08	2008/09
Women	60	68	73	88
Children	66	75	66	121
Total	126	143	139	209

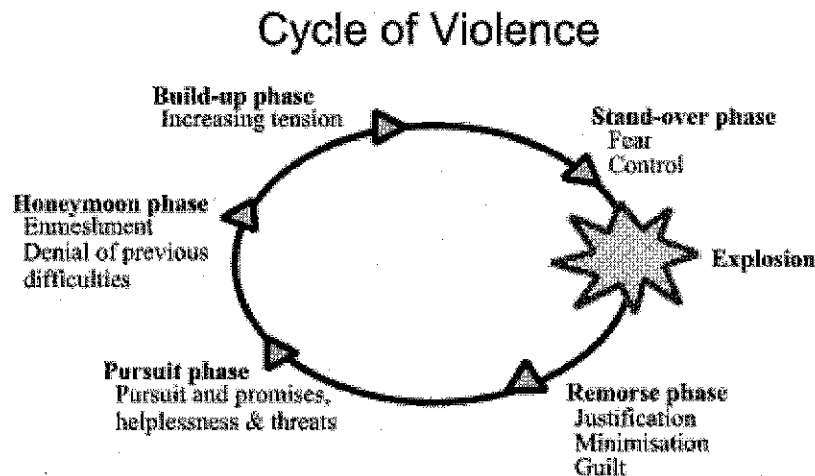
In 2008/09, MAWS provided emergency shelter to 209 women and children. This is a 51% increase in the number of shelter residents in one year.

In addition to the women and children housed in MAWS' emergency shelter, the MAWS transitional housing program, Second Step, housed a total of 85 women and children in the past year. If the victim has made a decision to leave the abusive relationship, MAWS provides both emergency shelter and transitional housing.

The Theoretical Causes of Domestic Violence

The dominant theory, promoted by women's advocacy groups, as to what causes domestic violence is that it is a crime of power and control. It is believed that abusers deal with their own inadequacies and insecurities by exerting control over their current or former intimate partners. Furthermore, domestic abuse is seen as a methodical psychological breakdown of a person's self-worth, control over the victim's day-to-day routine, and coerced isolation from others. Control is enforced verbally, emotionally, and ultimately physically.

This viewpoint is the basis for most federal and state laws as well as Marin's protocol for law enforcement.



The Cycle of Violence, illustrated in the diagram above, is the widely accepted terminology used to describe a pattern of abuse whereby tension escalates until there is an abusive incident followed by a period of calm. The cycle applies to both psychological and physical abuse. Proponents of this model maintain that, without intervention, violence tends to escalate in both frequency and severity, sometimes leading to murder.

Incidents of extreme verbal, emotional, or psychological abuse may prompt victims to seek assistance from law enforcement, only to be told that nothing can be done until physical violence occurs. An exception to this rule is when credible verbal threats are made indicating the intent to do physical harm.

Victims, therapists, and advocates agree that psychological abuse can inflict deep and long lasting scars. As one former victim told us, "The bruises go away, but the damage to one's self-esteem doesn't."

Advocates inform us that most victims will report violence seven to nine times before taking steps to leave their abusers. Understanding why victims return to their abusers, and the cycle, is one of the most perplexing aspects of this problem. An important component of the women's advocates' theory is the separation of victims from their aggressors.

Some therapists present an alternative theory which rejects the widely accepted belief that domestic violence is primarily about power and control. They believe it to be a more complex phenomenon that involves multiple motives, varying degrees of severity, and as often as not, mutual abuse. They focus their therapies on dealing with family stress, which they believe can lead to intense conflicts and, ultimately, physical violence. The violence, in their view, is just as likely to be mutual as it is to be unilateral, and their emphasis is on joint counseling to repair the damage, rather than separating the victim from the aggressor.

The Grand Jury's focus is on reducing the number of domestic violence incidents in Marin, whatever their causes. However, people holding opposing viewpoints on this issue must be encouraged to engage in active dialogue about best practices and ways to achieve a common goal: significantly reducing the occurrence of domestic violence.

Alcohol and Drug Abuse: A Significant Contributing Factor

One pervasive contributing factor, regardless of the underlying cause, cannot be ignored: nationally, about two-thirds of victims of intimate partner violence reported that alcohol was involved in the incident.³ Law enforcement and court officials told us that in Marin more than 90% of domestic violence situations involve alcohol and/or drug abuse. Statistics seem to indicate a connection between alcohol and drug abuse and domestic violence, but some researchers question the causal relationship.

Alcohol and drug abuse reduce inhibitions and may influence the occurrence of domestic violence. Law enforcement officers report that the presence of alcohol and/or drug abuse contributes to an already volatile situation, making a domestic violence call even more dangerous. Indeed, when members of the Grand Jury observed Marin's Family Violence Court, most, if not all, offenders were required to attend alcohol and/or drug treatment programs in addition to the legally mandated 52-week Batterer Intervention Program.

Whatever the reasons for domestic violence, strong measures, such as arrest and mandatory batterer intervention programs, are considered necessary to break the cycle, stop the progression, and protect the victims.

A Brief History of Domestic Violence Legislation

Before the 1970's, police officers responding to reports of "domestic disturbance" were not trained to address it as a serious crime. In general, it was considered a time-consuming nuisance call. The objective of responding officers was to calm people down.

³ <http://www.ojp.usdoj.gov/bjs/pub/pdf/ac.pdf>.

Law enforcement officers were not consistent in their responses to calls of domestic abuse; complaints were not taken seriously, and follow-up with victims was not a routine practice. Much of society did not perceive domestic violence as a criminal offense. It was considered a private family matter, and people were not inclined to make it their business.

In the 1970's, largely driven by the women's movement, the public's awareness of domestic violence as a pervasive crime grew. Since then, legislation has evolved that changed how law enforcement must respond and how batterers, as well as victims, are treated.

In 1986, domestic violence became a felony crime in California. This brought about a heightened awareness and understanding of the offense, as well as a mandate for law enforcement to recognize incidents of domestic violence as serious crimes.

In 1994, the Violence Against Women Act became federal law. It criminalized domestic violence at the national level and provided federal monies to enhance investigation and prosecution of violent crimes perpetrated against women. It also imposed automatic and mandatory restitution on those convicted.

Since the first Violence Against Women laws were enacted, they have been updated and expanded in many ways, for example: grants toward immigration relief for undocumented victims, programs for children exposed to domestic violence, and support and education for victims of teen dating violence.

Women's advocacy groups, including Marin Abused Women's Services, continue to be instrumental in getting national, state, and local legislation written, strengthened, and passed. They are the watchdogs, ensuring that laws are enforced without exception, offenders are punished, and victims are protected.

California's Domestic Violence Laws

The laws surrounding domestic violence reflect the overall complexity of the crime and are intended to protect the victims, deter acts of violence, and make batterers accountable. Advocacy groups, including MAWS, fought for strict and consistent penalties, arguing that domestic violence offenders deserve the same predictable consequences that other violent criminals receive.

Domestic violence was classified as a felony in 1986, and at that time California Penal Code Section 13701 required every law enforcement agency "to develop, adopt, and implement written policies and standards for officers' responses to domestic violence calls."

Section 13701 also states: "The written policies shall encourage the arrest of domestic violence offenders if there is probable cause that an offense has been committed. These policies also shall require the arrest of an offender, absent exigent circumstances, if there is probable cause that a protective order has been violated."

California law enforcement agencies have the authority and power to arrest suspects for domestic violence, even if alleged victims disagree or deny that they were battered, on the theory that a battered partner may be too fearful to press charges.

One may not be arrested for committing acts of verbal and emotional abuse, although the effects are often considered by victims to be more harmful and longer lasting. An exception to non-arrest for verbal abuse is made if there are credible threats of harm or death. Raising a fist and making a threat that implies physical harm will most likely result in arrest.

This law also states, "These policies shall discourage, when appropriate, but not prohibit, dual arrests. Police officers shall make reasonable efforts to identify the dominant aggressor in any incident."

Marin's Domestic Violence Protocol

In accordance with California's Penal Code, the law enforcement agencies of Marin County developed a *Uniform County Law Enforcement Protocol for the Handling of Domestic Violence Cases*, which was last updated in 2001. Three areas in the protocol, in particular, stand out: 1) its strong pro-arrest policy; 2) the identification and arrest of the dominant aggressor; and 3) the discouragement of dual arrests.

The highly detailed and specific 44-page document begins with a policy statement that includes the following: "The Marin County policy is PRO-ARREST (sic), in order to break the cycle of violence and to deter future abuse. Law enforcement officers should arrest all batterers in all situations where an arrest is legally permissible for acts of domestic violence."

Pro-Arrest Policy

California law "encourages" arrest. Marin's protocol defines a "pro-arrest" policy, which is a more rigid interpretation of the California guidelines. The officer *must* make an arrest whenever there is probable cause that *any* abuse has occurred.

Some line officers we spoke with interpret Marin's pro-arrest policy as "mandatory arrest," although, according to the Police Officers Standards and Training agency (POST), it was not the intent of the legislature to remove a peace officer's discretion by adding section 13701.

Unlike the county protocol, some believe that California law was intended to allow more discretion and possibly more options in determining whether there are extenuating circumstances that might make an arrest unwarranted.

Identifying and Arresting the Dominant Aggressor

Pursuant to California Penal Code Section 13701, the Marin County protocol goes on to state: "Officers shall make reasonable efforts to identify the primary/dominant aggressor in the incident."

Early domestic violence legislation called for the arrest of the "primary aggressor." The term primary aggressor was often interpreted by law enforcement to mean the person who struck the first blow. In 2000 the California Penal Code was amended to use the term "dominant aggressor" to reflect more clearly the difference between the first aggressor and the more significant aggressor.

Marin County's protocol gives officers a lengthy list of specific factors to consider in identifying the dominant aggressor. In short, it identifies him/her as "the person most likely to inflict injury and the person least likely to be afraid." The officer is enjoined to "consider the intent of the law to protect victims from continuing abuse." Both documented and undocumented criminal history and history of abuse are to be taken into consideration. Interviewing all potential witnesses, including neighbors and children, is a critical piece of the investigation.

Some officers interviewed claimed that identifying the dominant aggressor is not difficult when "common sense" is applied. They said that they can detect lies when accusations are made by both parties, and they feel confident in their ability to conduct interviews in a way that "teases out" the truth. These officers claim that performing crime scene evaluations, conducting warrants checks, accessing pre-arrest data, and gathering comments from witnesses, and sometimes neighbors, make identifying the dominant aggressor "pretty easy."

Discouragement of Dual Arrests

California Penal Code Section 13701 states: "These policies shall discourage, when appropriate, but not prohibit, dual arrests. In contrast, Marin's law enforcement protocol takes a stronger stance on dual arrest: "Every effort will be made to prevent dual arrests."

Marin police officers report that there are domestic violence situations in which both parties are violent towards one another; however, the protocol "discourages dual arrest." Although the officer may establish that both parties are being violent and abusive, it falls upon him/her to sort out which one is the dominant aggressor.

In cases of mutual abuse, it can be extremely challenging to identify a dominant aggressor when both parties are wounded, agitated, angry, and accusatory. One officer observed that, in some families, violence is a "way of life." For these people, "physical conflict becomes a way of solving problems, and both are being abusive." This can, of course, complicate the identification of the dominant aggressor.

An attorney with the District Attorney's office noted that dual arrests in cases of mutual combat are rare and difficult to prosecute, since each party can refuse to testify on the grounds of self-incrimination.

The Grand Jury has learned that the protocol is currently being revised; however, it is unclear whether the updated protocol will allow for options other than custodial arrest.

The Changing Face of the Aggressor

The percentage of arrested female aggressors has increased in recent years. Some victims' advocates believe that officers in some departments erroneously arrest the woman. Nevertheless, a number of women are legitimately arrested for committing acts of domestic violence against their partners.

The statistics we acquired cover a broad range from estimates to hard data. A representative from the District Attorney's office estimates 20-25% of battery in Marin is committed by women. The Probation Department reports that 13% of their domestic violence caseload is female. MAWS' experience reflects the national average reported by the Department of Justice: about 7% of domestic abuse in Marin is perpetrated by women.

A leading authority on domestic violence identified the wrongful arrest of women as "the most important current domestic violence concern." It has been suggested that it is possibly a backlash against the feminist movement and the more assertive role that women are playing in society.

Many experts we spoke with indicated an increased number of male victims reporting domestic violence. A few services are available to male victims; our inquiries revealed that male victims of domestic abuse are under-served in Marin.

The Critical and Complicated Role of Law Enforcement

Law enforcement officers and other agency officials agree that domestic violence investigations are among the most challenging and dangerous calls to which they must respond. More often than not, parties involved are under the influence of alcohol and/or drugs. When help arrives at the scene, the couple involved may suddenly align with each other and shift their anger towards the officers. Family violence situations are emotionally charged and highly unpredictable.

When responding to domestic violence calls, officers must quickly determine if there are weapons in the home and if there are children who need attention and, perhaps, alternative placement. At the end of each call, the responding officer is required to write a detailed report, and in many, if not most, cases there is at least one follow-up visit to take photographs of injuries and make sure that the victim is safe and aware of available services. From beginning to end, domestic violence calls are the most dangerous and time-consuming calls that officers routinely make.

Is Arrest Always the Appropriate Response?

The Marin Domestic Violence Protocol defines the pro-arrest policy as “a position which prioritizes arrest over misdemeanor citation, letter notification or warrant in every situation where an arrest on probable cause is legally permissible.”

In other words, law enforcement has only one real option: arrest. The protocol applies to all domestic violence events in which there is physical contact. As one training officer noted, “...if he threw his car keys at her, he’s going to jail.” A court official related an incident in which an arrest was made after one frustrated party with no prior arrests threw a wet sponge at his partner.

Another officer spoke about “incidental contact” that sometimes occurs during arguments. If physical contact is made, arrest is usually the result.

Teenagers, uneducated about domestic violence and its laws, are also being arrested. An incident was described in which a teen was called a derogatory name by her ex-boyfriend. She slapped him in retaliation and was arrested.

These are a few examples of incidents in which custodial arrest may not be the most appropriate legal response. Currently, however, the protocol makes no distinction between minor, first-time infractions and incidents of egregious battery.

The pro-arrest policy provides immediate protection for victims, mandates intervention with batterers, and sends a clear message that violence, in any form, is unacceptable. Many in law enforcement, the justice system, and victim advocacy view arrest as a positive consequence for the crime and endorse the policy. Indeed, some national studies indicate that pro-arrest policies may reduce future incidents of domestic violence.

On the other hand, mandatory arrest encourages underreporting and may drive the crime further underground, thereby actually reducing the opportunity for intervention early in the cycle. Additionally, when a victim’s source of economic support is taken away, whether through arrest and/or deportation, it can have the effect of, as one officer put it, “punishing the victim again.”

In a very limited number of cases, an alternative to custodial arrest may be preferable. For first-time offenders, at the officer’s discretion, abusers could receive a misdemeanor citation rather than be taken into custody. A citation is a form of arrest. It is an “agreement to appear in court,” and it in no way limits the District Attorney’s ability to file charges or require whatever probationary programs are deemed appropriate.

The Grand Jury recommends that Marin’s law and justice agencies consider non-custodial arrest as an option under the pro-arrest policy. Issuance of citations, in some exceptional cases, would minimize the impact of arrest on victims and families, while at the same time promoting early intervention and education in an effort to stop the cycle of abusive behavior before it escalates.

What are the Consequences for Batterers?

Marin's Family Violence Court

In May of 2008, without any new state or county funding, Marin's criminal justice leaders established a court specifically designated to manage domestic violence offenders: the Family Violence Court. The purpose of the court is to focus attention on Marin's high-risk domestic violence offenders currently on probation. The Family Violence Court team members include the Presiding Judge, deputy probation officer, deputy public defender, and deputy District Attorney.

Those identified as high-risk domestic violence offenders are those thought most likely to reoffend. The Family Violence Court team works with offenders after they have been found guilty of domestic violence charges. "Restorative justice" is the term often used to describe the Family Violence Court approach. The team approach is collaborative and involves close monitoring of court-ordered treatment programs, such as batterers' intervention programs. Penalties, such as jail, are imposed upon defendants who violate the conditions of their mandated treatment programs.

The Mandated 52-Week Batterers Intervention Program

State law mandates that all who plead guilty to crimes of domestic violence or are convicted at trial must attend a standard 52-week batterers' intervention program. The goals of batterers' intervention programs include developing personal accountability and ensuring victim safety through behavioral change. In addition to attending a batterers' intervention program, offenders may be required to attend other treatment programs, such as drug and alcohol abuse, anger management, and parenting education.

Experts in the field of domestic violence disagree about the effectiveness of the standardized batterers' intervention programs. Some argue that a standardized treatment program is too generic in content and length, and it does not necessarily address an individual's reasons for committing acts of domestic violence. One program provider noted that the success of these programs is complicated by the co-occurrence of other problems, most notably unemployment, substance abuse, and mental disorders. These risk factors are not usually viewed as the cause of violence, but their coexistence makes intervention more difficult and outcomes more negative.

Some court officials expressed the need for optional strategies to develop more individualized case plans that address the needs of, not only the batterer, but the whole family. Nevertheless, the state requirement precludes alternatives to the 52-week batterers' treatment program.

The Need for More Frequent and Better Officer Training

Because domestic violence is a complex, frustrating, and dangerous crime, first responders must possess a unique set of skills. The Grand Jury found that the frequency

and quality of domestic violence training varies among Marin's law enforcement agencies and concludes that, overall, Marin's domestic violence training is inadequate.

All officers emerge from the police academy with ten hours of Police Officer Standards Training (POST) devoted to domestic violence. Following the academy, 48 hours of annual training is required of each rank-and-file officer. Of the required 48 hours, POST mandates only two hours of domestic violence training every two years; however, there is no monitoring to ensure that training has taken place or is effective.

Domestic violence calls are among the most dangerous, complicated, and frequent calls to which law enforcement officers must respond. Specialized domestic violence training for first responders is essential. Officers must be familiar with the dynamics of domestic violence and with the resources that are available to victims and offenders alike. Several officers we spoke with emphasized the need for intense training in domestic violence for new officers, especially. One young officer told us that the high number of domestic violence calls was a big surprise, and that he had not realized the severity of the problem.

Police agencies conduct some informal training on a range of subjects, including domestic violence, during roll call briefings at the beginning of shifts. Mandated training is provided by POST via DVDs, the Internet, and certified agencies. Some officers receive training from a collaborative of advocacy groups, the Probation Department, and the District Attorney's office. On-site training is given to a few, but not all, officers. In fact, we heard some officers say that they have not received formal domestic violence training for five years.

POST emphasizes that a critical part of domestic violence calls is accurate report writing. It is essential for officers to learn how to properly document all evidence, including verbal and nonverbal cues and witness statements, which support a domestic violence case history of events. The written report gives vital information to the District Attorney's office in helping to understand the event and carry out proper actions to ensure the victim's safety.

While computer-based training can be effective, it is usually viewed individually, either at home or on the job; there is limited opportunity for discussion, clarification, or interaction. DVD training and Internet seminars are cost effective; however, training that includes role playing and/or videos followed by active discussions about hypothetical or real domestic violence scenarios is a more active and effective mode of learning.

The Grand Jury strongly urges that all of Marin's law enforcement officers be required to participate in a POST-certified annual training program that is conducted in an interactive group environment. Presenters should include officers who have a significant degree of expertise, representatives from the justice system, and other recognized authorities on domestic violence, including treatment providers, survivors, and former batterers.

It is important to note that since the Grand Jury began its investigation into domestic violence, several police agencies have undergone and/or have scheduled special domestic

violence training. With the current budget crisis, however, one large agency predicted that its training budget will be cut by one-third. Given the ongoing need for intense training in domestic violence, we strongly urge law enforcement agencies to look for other, less critical, areas in which to make their budget cuts.

The Need for Dynamic Leadership at the Command-Levels of Law Enforcement

In the last several years, some of Marin's law enforcement agencies have experienced changes in leadership, which have resulted in shifting priorities and focus. Some of the county's law enforcement leaders demonstrate a strong commitment to addressing domestic violence in their communities. Others show less interest and have delegated most of the responsibility to staff members.

Staff members in any hierarchical organization quickly sense what issues are really important to the agency's leadership. With this understanding, they establish their own priorities for carrying out their assignments.

Officers we spoke with said that the role of leadership can never be overestimated. It is the responsibility of Marin County's police chiefs and the Sheriff, therefore, to send an unequivocal message that the careful and thoughtful handling of domestic violence calls, investigations, and reports is among the highest in priority.

The communication of a department's priorities is important, but actions are far more powerful. The Grand Jury recommends that all command staff, including police chiefs and the Sheriff, be involved in domestic violence training sessions. Dispatchers should receive appropriate domestic violence training. All chiefs and the Sheriff should commit to their agency's participation in various countywide coordinating groups, such as the Domestic Violence Coordinating Council.

The Need for Specialists in Marin's Three Largest Law Enforcement Agencies

Due to the extremely complex nature of the crime and its implications, Marin's domestic violence protocol recommends a follow-up investigation by "a detective, investigative specialist, or other designated personnel" in domestic violence cases. The Grand Jury identified only one senior officer who had received specialized training.

The Grand Jury recommends that at least one senior investigator receives advanced domestic violence training in each of the three largest police agencies in Marin: Sheriff's Department, Novato and San Rafael Police Departments. A domestic violence specialist would be responsible for monitoring the effectiveness of responses to domestic violence calls for assistance. Duties would include: 1) reviewing all domestic violence reports in their jurisdictions to ensure that each case is documented properly and handled correctly; 2) personally following up with victims to guarantee that they understand the resources and services available to them; 3) communicating with the District Attorney's office

about domestic violence crime reports; and 4) coordinating and providing domestic violence training to all of Marin's law enforcement officers.

Ideally, these specialists would provide consultation and advice to officers in Marin's smaller agencies. In exceptional cases, domestic violence specialists could work on loan to provide investigative expertise to other county law enforcement agencies.

The Need for County Funding to Advance the Prevention of Domestic Violence

The state and federal funding that Marin Abused Women's Services previously received was substantially reduced for the current fiscal year (2009/2010). Compounding the problem, the non-profit agency no longer receives financial support from the Marin Community Foundation. These losses have forced the organization to reduce its operating budget by 18%, or over \$500,000. With these severe budget cuts, MAWS had no option but to concentrate its substantially reduced resources on its immediately needed services: victims' 24/7 hotline, battered women's shelter, counseling, transitional housing assistance, and children's services.

MAWS has developed some highly effective early prevention programs, including ManKind, which is offered to inmates, and education programs that deal with bullying and teen dating violence. The funding that had been allotted to these programs has decreased by 88%. The impact may not be immediately apparent, but prevention programs are an essential part of any plan to reduce incidents of domestic violence.

In Marin and other Bay Area counties, the Boards of Supervisors provide general fund dollars to support local non-profits' shelters and programs dedicated to ending domestic violence. In 2009, funding provided to MAWS from Marin was \$20,000 from the general fund and \$61,000, which is a state-mandated portion of the county's marriage license fees. In contrast, Santa Cruz County dedicated \$200,000 to Women's Crisis Support Services, and Sonoma County granted \$180,000 to the YWCA/Sonoma County Domestic Violence Shelter. While populations vary, Marin disproportionately underfunds domestic violence programs.

Domestic violence awareness, education, and intervention programs can improve the quality of life for many Marin residents and may even save the lives of some. The Grand Jury urges the Board of Supervisors to provide the financial support required to continue these invaluable prevention programs.

The Need for a Better Coordinated Response

The Grand Jury believes that the most successful approach to reduction and prevention of domestic violence requires a coordinated and sustained community response. This approach requires active involvement on the part of many community agencies and individuals.

Marin's Domestic Violence Coordinating Council: More Can Be Done

The Domestic Violence Coordinating Council, with MAWS acting as the primary coordinator, holds the most immediate potential for an existing group that could increase interaction and collaboration among agencies, departments, and the courts. Co-chaired by representatives from the District Attorney's Office, Community Violence Solutions, and Marin Abused Women's Services, the twenty-one member council drives a diverse array of initiatives through the formation of sub-committees. It also serves as a forum for information sharing and problem solving.

Marin's Domestic Violence Coordinating Council was initially formed in 1998 and is funded annually by the Federal Office of Violence Against Women. The Board of Supervisors passes the grant monies to MAWS, the agency chosen to lead the DVCC's coordination and project efforts.

The Grand Jury has learned that Marin County's Superior Court recently resigned from the DVCC pending the revision of its bylaws. The Court believes that diverse membership is one important directive of the grant, and that the DVCC excludes for-profit batterer treatment providers with diverse viewpoints.

When comparing Marin's DVCC to other models around the country, we have concluded that Marin's DVCC could be more effective. There is inconsistent attendance by members, and the whole committee meets only three to four times annually.

All DVCC meetings take place in MAWS' offices and are managed by its personnel. This contributes to the perception, on the part of some, that important voices are being excluded and that there is a biased approach.

The Grand Jury asked the question: Is a victims' advocacy group, such as MAWS, the logical choice to coordinate Marin's DVCC? One council member answered, "If not MAWS, who?"

Others, not included on the DVCC, said that the county should take the reins in order to ensure inclusive participation by a broad spectrum of members and allow for broader problem solving discussions that consider multiple perspectives.

The grand jury believes that Marin's Domestic Violence Coordinating Council can become a more inclusive and functional model by adopting the following practices:

- Expanding its membership base to include more divergent views
- Holding meetings in a "neutral" space
- Increasing the frequency of meetings
- Producing an annual report
- Establishing sustainable programs of awareness and prevention

FINDINGS

The Grand Jury finds that:

- F 1** Domestic violence is the number one violent crime in Marin County.
- F 2** The number of reported domestic violence incidents in Marin has remained steady over the last 5 years.
- F 3** Domestic violence is the most underreported violent crime in Marin County.
- F 4** The California Penal Code “encourages” arrest of all domestic violence offenders, but the Marin County Domestic Violence Protocol directs pro-arrest, which is often interpreted as mandatory arrest.
- F 5** The Marin pro-arrest policy leads to the immediate separation of victims and abusers, but it contributes to underreporting and negatively impacts some victims.
- F 6** Law enforcement officials may only intervene in cases of verbal abuse when credible threats to impose physical harm have been made.
- F 7** Domestic violence crimes are among the most complex, dangerous, unpredictable, and time consuming calls to which law enforcement officers must respond.
- F 8** The frequency and quality of domestic violence training provided to officers varies among Marin’s law enforcement agencies.
- F 9** Strong leadership and commitment at the command level of law enforcement is essential when addressing domestic violence.
- F 10** Most law enforcement agencies in Marin do not identify a domestic violence specialist to oversee and evaluate the manner in which all domestic violence calls are handled.
- F11** The mandatory 52-week Batterers Intervention Program is a one-size-fits-all treatment model with uncertain results.
- F 12** Marin Abused Women’s Services (MAWS), a non-profit agency, is the primary provider of support services to victims of domestic violence.
- F 13** A reduction in MAWS’ funding has resulted in a substantial loss of programs for education and prevention of domestic violence.
- F 14** The Marin County Board of Supervisors does not provide adequate financial support to sustain an effective domestic violence education and prevention program.

- F 15** Marin's Domestic Violence Coordinating Council (DVCC) is the primary point of collaboration among the public and private agencies working to reduce domestic violence.
- F 16** Marin County Superior Court withdrew its membership from the Domestic Violence Coordinating Council because the bylaws exclude for-profit organizations, including for-profit batterer intervention treatment providers.

RECOMMENDATIONS

The Grand Jury recommends that:

- R 1** All law enforcement officers receive annually at least 4 hours of interactive group training on domestic violence.
- R 2** Law enforcement command staff be involved in domestic violence training.
- R 3** An officer from each of Marin's three largest law enforcement agencies receives advanced training in domestic violence and serves as the expert within the department and as a resource to smaller law enforcement agencies.
- R 4** Marin law and justice agencies modify the pro-arrest protocol to include a non-custodial arrest option.
- R 5** The Board of Supervisors recognizes domestic violence as the county's number one violent crime by funding a sustainable, countywide prevention campaign to promote awareness, education, and intervention programs.
- R 6** The Domestic Violence Coordinating Council expands its membership to include diverse viewpoints.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses from the following governing bodies:

- Marin County Board of Supervisors: **All Findings and Recommendation R5.**
- The Marin County District Attorney: **All Findings and Recommendations R4 and R6.**
- The Marin County Sheriff: **Findings F1 through F10, F15, F16 and Recommendations R1 through R4, and R6.**
- The San Rafael City Council and the Novato City Council: **Findings F1 through F10, F15, F16 and Recommendations R1 through R4.**

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code Section 933 (c) and subject to the notice, agenda and open meeting requirements of the Ralph M. Brown Act.

California Penal Code Section 933 (c) states that "...the governing body of the public agency shall comment to the presiding judge on the findings and recommendations pertaining to matters under the control of the governing body." Further, the Ralph M. Brown Act requires that any action of a public entity governing board occur only at a noticed and agendized public meeting.

The Grand Jury invites responses from:

- The Marin Domestic Violence Coordinating Council
- All Chiefs of Police
- The Chief Probation Officer
- The Public Defender
- Marin Abused Women's Services

BIBLIOGRAPHY

American Journal of Preventive Medicine. "Intimate Partner Violence." Jan. 2006.

Bureau of Justice Statistic Crime Data Brief. "Intimate Partner Violence." Feb. 2003.

California State Legislature. "California Penal Code 13701." Last modified Mar. 8, 2010.
<http://law.onecle.com/california/penal/13701.html>

Catalano, Shannon, PhD. Bureau of Justice Statistics. "Intimate Partner Violence in the United States." May 24, 2010. <http://bjs.ojp.usdoj.gov/content/intimate/ipv.cfm>

Domestic Violence Coordinating Council, Coordination of Services Subcommittee.
"Uniform Marin County Law Enforcement Protocol for the Handling of Domestic Violence Cases." Jan. 2001.
http://www.transformcommunities.org/resources/documents/marin_protocol.pdf

Hamel, John (LCSW) and Nicholls, T.(PhD), eds. Family Intervention in Domestic Violence: A Handbook of Gender Inclusive Theory and Treatment. New York: Springer, 2006.

Klein, Andre R. "Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors and Judges." U.S. Department of Justice, Office of Justice Programs. Washington, DC. June 2009.
<http://www.ojp.usdoj.gov/nij>

Marin Abused Women's Services. "Marin County: Program Data & Highlights." Fiscal Year 2009: July 2008 through July 2009.

Montgomery County Domestic Violence Coordinating Council. "2009 Annual Report." Sep. 2009.

Nation, Nancy Isles. "Marin Court Targets County's Most Prevalent Violent Crime." *Marin Independent Journal* Nov. 22, 2008.

Office of Violence Against Women. "15 Years Working Together to End Violence." 2009. <http://www.ovw.usdoj.gov/domviolence.htm>

Davis, Richard L. and Brown, Jan E. "Domestic Violence Intervention Accountability" Jan. 2005

Superior Court of California: County of Marin. "Family Violence Court." http://www.marincourt.org/therapeutic_fam_violence.htm

Upshaw, Jennifer. "Domestic Violence: Marin's Most Prevalent Crime." *Marin Independent Journal* July 18, 2009.

U.S. Department of Justice, Bureau of Justice Statistics. "Criminal Victimization." Sept. 2006. <http://www.ovw.usdoj.gov/domviolence.htm>

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.