

**Manual for Law Enforcement Agencies:  
Stalking and Sexual Assault  
Within the  
Context of Domestic Violence**

prepared by

**WASPC Project Staff:**

Dawn Larsen, Director of Projects  
Teri Herold-Prayer, Program Research Assistant

**This manual is a cooperative effort by the:**

**Washington Association of Sheriffs  
and Police Chiefs (WASPC)**

**3060 Willamette Drive NE  
Lacey, WA 98516  
Phone: (360) 486-2380  
Fax: (360) 486 – 2381  
Website: [www.waspc.org](http://www.waspc.org)**

**Donald G. Pierce  
Executive Director**

**Office of Crime Victims  
Advocacy (OCVA)**

**Department of Commerce  
906 Columbia St. SW  
Olympia, WA 98504  
Phone: (360) 725-2847  
Fax: (360) 586-7176  
Website: [www.ocva.wa.gov](http://www.ocva.wa.gov)**

**Beverley Emery  
Managing Director**

## TABLE OF CONTENTS

<b>FORWARD</b>	<b>3</b>
<b>GUIDE FOR LAW ENFORCEMENT AGENCIES</b>	<b>4</b>
<b>SCOPE OF PROJECT</b>	<b>4</b>
<b>Problem Statement</b>	<b>4</b>
<b>Law Enforcement Response to Violence Against Women</b>	<b>5</b>
<b>Policy and Procedure Guidelines</b>	<b>6</b>
<b>Recommendations for Police Management and Training</b>	<b>6</b>
<b>PURPOSE OF PROTOCOLS</b>	<b>6</b>
<b>Community specific protocols</b>	<b>6</b>
<b>Community Collaboration</b>	<b>7</b>
<b>TRAINING OUTLINE</b>	<b>8</b>
<b>Definitions and RCWs:</b>	<b>8</b>
<i>RCW 10.99.020 (5) Domestic Violence</i>	<b>8</b>
<i>RCW 26.50.010 – Domestic Violence</i>	<b>8</b>
<i>RCW 9A.46.110 – Stalking</i>	<b>9</b>
<i>RCW 70.125.020 (7) Sexual Assault</i>	<b>10</b>
<i>RCW 9A.44.040 – Rape in the first degree</i>	<b>10</b>
<i>RCW 9A.44.050 – Rape in the second degree</i>	<b>11</b>
<i>RCW 9A.44.060 – Rape in the third degree</i>	<b>11</b>
<b>TRAINING ELEMENTS</b>	<b>12</b>
<b>STALKING WITHIN DOMESTIC VIOLENCE</b>	<b>12</b>
<b>Elements of Stalking in a Domestic Violence Case</b>	<b>12</b>
<b>Investigation of a Stalking Case</b>	<b>13</b>
<b>SEXUAL ASSAULT WITHIN DOMESTIC VIOLENCE</b>	<b>13</b>
<b>Elements of Sexual Assault in a Domestic Violence Case</b>	<b>14</b>

<b>Sexual Assault Investigation</b>	<b>14</b>
<b><i>RCW 9A.44.040 - Rape in the First Degree:</i></b>	<b>15</b>
Potential questions and responses:	15
<b><i>RCW 9A.44.050 - Rape in the second degree:</i></b>	<b>16</b>
Potential questions and responses:	16
<b><i>RCW 9A.44.060 - Rape in the third degree:</i></b>	<b>16</b>
Potential questions and responses:	17
<b>CONCLUSION</b>	<b>17</b>
<b>OTHER RESOURCES</b>	<b>19</b>

## FORWARD

In 2005 the Office of Crime Victim Advocacy, in the then Department of Community, Trade and Economic Development, applied for and received federal grant funds to implement local and statewide response to sexual assault and stalking that occurs within the context of domestic violence. The Washington Association of Sheriffs and Police Chiefs (WASPC) was a participating member of a statewide coordinated community response team created to address policies, practice, laws, statewide training efforts and other issues involving the broader picture of sexual assault and stalking crimes in the context of domestic violence.

One of the identified goals of the response team was to adapt and/or develop screening tools to assess for sexual assault and stalking. In order for law enforcement and the prosecution to respond more effectively in these cases, WASPC, with input from the pilot locations: Mount Vernon Police Department, Clark County and Kitsap County Sheriff's Offices, and in conjunction with the Washington Coalition of Sexual Assault Programs (WCSAP) has developed a Manual for Law Enforcement: *Stalking and Sexual Assault in the Context of Domestic Violence* as a mechanism to provide information and resources to agencies for inclusion in current practice.

Program Coordinator Chris Fenno, and Program Manager Grace Call, from the Office of Crime Victim Advocacy, have been the project facilitators for this project. The focus of the project is one that needs attention by all parties who work with domestic violence, sexual assault and stalking victims. Research on the topic is limited and mostly dated. Much of what is presented has been gleaned from a small pool of resources. More of what is presented has been developed through current practice as the need has surfaced. Again, our thanks for the participating response team members and the many other individuals agencies which have been consulted.

Dawn Larsen, Director of Projects, and Teri Herold-Prayer, Research Program Assistant, for the Washington Association of Sheriffs and Police Chiefs, served as authors and developers of the materials in this manual. The hoped for outcome is that these materials will assist local law enforcement across the state in crafting a departmental response and training component to address the complex issues created when stalking and sexual assault are components in domestic violence cases.

# Stalking and Sexual Assault within the Context of Domestic Violence

## Guide for Law Enforcement Agencies

The last three reports of the Washington State Domestic Violence Fatality Review (2000, 2002, and 2004), have demonstrated the high correlation between stalking and murder and local cases of domestic violence. In an article published by National Institute of Justice (NIJ) in 1998 entitled, "*Stalking in America*", 81% of women stalked by a current or former intimate partner is also physically assaulted by that partner. 31% of women stalked by a current or former intimate partner are also sexually assaulted by that partner. Another article, "*Stalking and Intimate Partner Femicide*", published in 1999 in Homicide Studies (found in training manual), states that 76% of intimate partner female murder victims in the study had been stalked by their partners and 54% reported stalking to the police before they were murdered.

### **SCOPE OF PROJECT**

Provide information to law enforcement agencies to guide their implementation of model law enforcement protocols and procedures to identify and investigate stalking and sexual assault within domestic violence cases.

#### **Problem Statement:**

Domestic violence, sexual assault and stalking intersect in ways that can greatly increase the risk of serious harm for victims of domestic violence. As domestic violence is a crime that differs from other crimes because of the intimate relationship between the victim and offender, law enforcement officers are often required to provide victims with additional assistance to ensure the safety of that person.

In addition, research shows that a majority of women who are raped by their partners are also battered. Women who are battered are at greater risk of being raped by their partners. Women are at particularly high risk of experiencing physical and sexual violence when they attempt to leave their partners.

It has been well-documented in studies of violence against women that rape is a largely underreported crime. Survivors of marital rape have a particularly difficult time reporting their experiences of sexual violence. Primarily, this is the result of

public perception of marital rape in this culture and the woman's relationship with her assailant. Women raped by their husbands or partners may hesitate to report because of family loyalty, fear of their abuser's retribution, fear that they will not be believed, or an inability to leave the relationship. In addition, domestic violence victims may not know that marital rape is against the law. A final compelling reason for women's under-reporting is that many do not define their experiences of forced sex in marriage as rape. They experience the rape as just another part of a domestic violence situation not as a separate component.

Arrests alone will not stop stalking and sexual assault within domestic violence cases. A community-wide, coordinated response must be in place. Response from law enforcement, prosecution and victim service agencies has been fragmented as each sector works within their own policies and procedures. While they all hold a common goal – safety for victims of domestic violence – no avenue for sharing techniques and ideas has been available. Adapting and developing screening tools to assess for sexual assault and stalking will enable both law enforcement and prosecution to respond more effectively to domestic violence and will help ensure safety for the victims.

### **Law Enforcement Response to Violence Against Women:**

Law enforcement represents the entry point to the criminal justice system for a substantial number of victims and perpetrators. Agency training, policies and protocols can support consistent and effective police intervention in both misdemeanor and felony offenses, while connecting victims with community services and support.

Proactive and aggressive police response can deter further violence and ultimately save lives. Increasingly, law enforcement agencies are promoting early intervention in domestic violence and stalking cases to protect victims before more injuries occur. Officers are being trained to thoroughly investigate sexual assault cases, while being sensitive to the vulnerabilities of victims. Timely and responsive law enforcement intervention can increase victim safety, enhance investigations, and facilitate successful prosecution.

### **Law Enforcement Intervention includes the following elements:**

- Dispatcher Response
- Initial Officer Response
- Follow-up Investigator Response
- Supervisor Response
- Data Collection and Communication
- Management Response

## **Policy and Procedure Guidelines:**

Each agency should have approved policy and procedures for domestic violence investigations that include questions to ascertain whether or not stalking or sexual assault is a component. Examples are identified later in this document and included in the training manual. The guideline should include:

- Definitions,
- Problem statement,
- Policy statement,
- Procedures for investigation,
- Applicable RCW's including mandatory arrest information, and
- Resource and Referral information for crime victims.

## **Recommendations for Police Management and Training:**

1. Expand existing domestic violence protocols to include identifying and responding, as necessary, to intimate partner sexual violence and/or stalking.
2. Build a collaborative network with victim serving agencies for domestic violence, sexual assault and stalking.
3. Ensure all officers receive domestic violence response training to include intimate partner sexual assault and stalking.
4. Educate the community, when possible, regarding the reality of intimate partner sexual assault and stalking.
5. Design information technologies to allow for tracking and cross-referencing for victims of stalking.

## **Purpose of Protocols**

**Community specific protocols should be designed to achieve the following:**

- Promote a strategic approach that encourages early intervention.
- Broadly define the roles of officers in functional areas including patrol, 911 operators, detectives and community relations.
- Present guidelines for developing and participating in a coordinated community response in stalking and sexual assault within domestic violence cases.
- Encourage the use of collaborative problem-solving techniques among various responding agencies.
- Define appropriate threat assessment techniques.
- Reflect an understanding of victims hardships and fears, and

- Focus on holding abusers accountable for their acts of intimidation and violence.

### **Community Collaboration:**

As stated above, connecting domestic violence victims to community resources is vital to their continued safety and safety planning. It can also lead to their healing process and being able to move forward. Law enforcement should work collaboratively with the local domestic violence center and sexual assault program. Law enforcement needs to know how to make referrals to each of these programs, have resource materials to give to victims, and what services are provided.

In addition, protocols need to be in place with the community based programs and Children's Protective Services if children are involved in any way. Law enforcement should include the following information and documents in a victim packet to be given to crime victims during or after an investigation. Examples of these documents are included in the training manual under resources.

#### 1. Referral protocol and information including:

- On-scene assistance to victim and dependents,
- Victim's Rights Statement,
- Safety plan,
- Community services resource information, and
- Statewide Automated Victim Information and Notification program (SAVIN)

#### 2. Protective order information including:

- Mandatory arrest provisions for each type of order,
- How and where to get a protection order, and
- Dispatch priorities.

In collaboration with other victim serving agencies in the community, law enforcement personnel should be actively engaged in a case review process particularly for cases involving homicides and/or impacted children. Establishing a case review team will assist in the development of necessary protocols, prioritizing, community education, and ensuring a full spectrum of victim services.

## TRAINING OUTLINE

Definitions and RCWs:

### ***RCW 10.99.020 (5) Domestic Violence***

“Domestic violence is a pattern of behaviors including, but not limited to the following crimes when committed by one family or household member against another: reckless endangerment, coercion, harassment, malicious mischief, stalking, kidnapping, criminal trespass, rape, burglary, or unlawful imprisonment.”

### ***RCW 26.50.010 – Domestic Violence***

- a. Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;
- b. Sexual assault of one family or household member by another; or
- c. Stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

The United States Code defines Domestic Violence under Title 18, Sections 921(a) (33):

A person who has been convicted in any court of a misdemeanor crime of domestic violence which has an element for the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian or by a person similarly situated to a spouse, parent or guardian of the victim.

### **Stalking**

“A crime involving repeat victimization of a targeted individual by the perpetrator – it is by its very nature, a series of acts rather than a single incident. Second, it is partly defined by its impact on the victim” (*Creating an Effective Stalking Protocol*. National Center for Victims of Crime April 2002).<sup>1</sup>

---

<sup>1</sup> *Creating an Effective Stalking Protocol*. National Center for Victims of Crime April 2002.  
[www.cops.usdoj.gov/ric/ResourceDetail.aspx?RID=45](http://www.cops.usdoj.gov/ric/ResourceDetail.aspx?RID=45)

## ***RCW 9A.46.110 – Stalking***

A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

- a. He or she intentionally and repeatedly harasses or repeatedly follows another person; and
- b. The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and
- c. The stalker either:
  - Intends to frighten, intimidate, or harass the person; or
  - Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

The NIJ (National Criminal Justice Association, *Project to Develop a Model Anti-Stalking Code for States*, Washington, D.C., U.S. Department of Justice, National Institute of Justice, October 1993,)<sup>2</sup> has defined stalking to mean:

1. The model code defines stalking as a “course of conduct” directed at a specific person that involves repeated visual or physical proximity, verbal or written threats, threats implied by conduct, or a combination thereof, that would cause a reasonable person to fear for herself or himself or a member of her or his immediate family. It usually is not necessary to prove that the suspect had the intent to actually carry out the threat.
2. “Repeated” means on two or more occasions.
3. “Immediate family” means a spouse, parent, child, sibling, or any other person who regularly resides in the household or who within the prior six months regularly resided in the household.
4. The model code does not require stalkers to make a credible threat of violence against victims, but it does require victims to feel a high level of fear (“fear of bodily harm”).
5. The criminal intent to commit stalking is measure by the model code by examining:
  - (a) Intent to engage is a course of conduct involving repeated following or threatening an individual.
  - (b) Knowledge that this behavior reasonably causes fear of bodily injury or death.

---

<sup>2</sup> National Criminal Justice Association, *Project to Develop a Model Anti-Stalking Code for States*, Washington, D.C., U.S. Department of Justice, National Institute of Justice, October 1993

- (c) Knowledge (or expectation) that the specific victim would have a reasonable fear of bodily injury or death.
- (d) Actual fear of death or bodily injury experienced by a victim. Fear of death or bodily injury felt by members of the victim's immediate family.

**RCW 70.125.020 (7) Sexual Assault**

(7) "Sexual assault" means one or more of the following:

- (a) Rape or rape of a child;
- (b) Assault with intent to commit rape or rape of a child;
- (c) Incest or indecent liberties;
- (d) Child molestation;
- (e) Sexual misconduct with a minor;
- (f) Custodial sexual misconduct;
- (g) Crimes with a sexual motivation; or
- (h) An attempt to commit any of the aforementioned offenses “

The Washington Office of Crime Victims Advocacy (OCVA) defines sexual assault to include:

...child sexual abuse, rape, attempted rape, incest, exhibitionism, voyeurism, obscene phone calls, fondling, and sexual harassment. There is a range of nonconsensual sexual acts that create a continuum in which each form of sexual assault is linked to the others by their root causes, as well as by the effects they have on individuals and communities. While sexual assault can take many forms, it is important to remember that the loss of power and control that a victim of sexual assault experiences is a common thread.

**RCW 9A.44.040 – Rape in the first degree**

A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory:

- a. Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or
- b. Kidnaps the victim; or
- c. Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or
- d. Feloniously enters into the building or vehicle where the victim is situated.

### ***RCW 9A.44.050 – Rape in the second degree***

A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:

- a. By forcible compulsion;
- b. when the victim is incapable of consent by reason of being physically helpless or mentally incapacitated.

### ***RCW 9A.44.060 – Rape in the third degree***

A person is guilty of rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person, not married to the perpetrator.

- a. Where the victim did not consent as defined in RCW 9A.44.010(7), to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's word or conduct, or
- b. Where there is threat of substantial unlawful harm to property rights of the victim.

The United States Code, Title 18, Chapter 109A, Sections 2241 – 2233, includes two types of sexual assault:

- Sexual abuse includes acts in which an individual is forced to engage in sexual activity by use of threats or other fear tactics, or instances in which an individual is physically unable to decline.
- Aggravated sexual abuse occurs when an individual is forced to submit to sexual acts by use of physical force; threats of death, injury, or kidnapping; or substances that render that individual unconscious or impaired.

The national crime data are generally limited by both the definition of sexual assault and survey methodology. The FBI's Uniform Crime Report (UCR) provides information only about "rapes" reported to police, based on a narrow definition of rape; it defines rape as "the carnal knowledge of a female, forcibly and against her will." It included only forcible rapes of females involving penile/vaginal penetration and excluded male and spousal victims as well as forms of sexual penetrations and incapacitation by means other than force. The National Crime Victimization Survey (NCVS) takes a broader approach and looks

at sexual assault, but only included individuals over the age of 12 (Susan H. Lewis, Ph.D. 2003).<sup>3</sup>

## **Training Elements: Stalking and Sexual Assault within the Context of Domestic Violence**

### **Stalking within Domestic Violence**

To aid in the investigation and prosecution of stalking cases early recognition of potential stalking on behalf of first responder is critical. First responders should take whatever steps reasonably necessary to protect the victim. Moreover, they must recognize that not all stalkers are the same, nor are they predictable. However, it is generally agreed that the *domestic violence* stalker may pose the highest risk of all. The stalker is usually a male. In intimate relationships the stalking frequently begins before a breakup.

#### **Elements of Stalking in a Domestic Violence Case:**

Any time a victim reports any type of harassing, threatening, or menacing behavior or domestic violence, the responding officer should be thinking about the possibility of stalking. Stalking is an ingredient in domestic violence of all kinds. Numerous criminal justice experts advise that every domestic violence case should be treated as a potential stalking case.

The first responder should ask if there have been any prior police reports made and in what jurisdictions. Then follow-up with pertinent questions regarding sexual assault and/or stalking.

Stalking behaviors are usually an escalating series of actions and incidents:

- a. Threats made to the victim (direct, veiled, or conditional).
- b. Violation of any protective order by visits to the victim's home or any other location frequented by the victim.
- c. Vandalism or theft of the victim's property, home, vehicle, workplace, or vandalism to the property, etc., of any friend or family member who help her, especially by allowing her to stay at their home.
- d. Vandalism affecting the security of the victim's home.
- e. Disabling the victim's vehicles.
- f. Transferring the victim's phone line to another line in order to monitor messages, disabling the phone or planting listening devices in the victim's home.

---

<sup>3</sup> Lewis, Susan H. *Unspoken Crimes: Sexual Assault in Rural America*, National Sexual Violence Resource Center – A Project of the Pennsylvania Coalition Against Rape. 2003. [http://www.nsvrc.org/\\_cms/fileUpload/rural.pdf](http://www.nsvrc.org/_cms/fileUpload/rural.pdf)

- g. Filing “change of address” forms at the post office under the victim’s name in order to “intercept” the victim’s mail.
- h. Harassing or threatening the victim by use of computers and the Internet.

### **Investigation of a Stalking Case:**

Evidence collection is an essential part of the investigation in order to establish corroboration of the stalking conduct. Three basic questions an investigator must answer while conducting any stalking investigation or threat assessment are:

1. Who is the suspect?
2. What risks of violence does the suspect pose to the victim?
3. How does the investigator manage the suspect and dangers posed to the victim?

Each law enforcement agency should develop an investigation protocol for stalking cases that include the risk to victims in domestic violence situations. Refer to the National Center for Victims of Crime, *Creating an Effective Stalking Protocol*, April 2002, for stalking protocol procedures for law enforcement, and emergency responders. The report includes: graduated response, evidence collection, stalker assessment, threat assessment, suspect information, victim information, questions to consider in assessing threats, questions regarding any history of violence/use of force by the stalker, questions regarding weapons, escalation, and necessary points to address in advising the victim. A copy of the *Summary of Creating an Effective Stalking Protocol* is included in the training manual.

Law enforcement and other first responders should provide victims with resource information to the local domestic violence program which will assist in addressing the issues related to stalking.

### **Sexual Assault within Domestic Violence**

Positive police response can legitimize a woman’s experiences of sexual violence and is extremely important in helping women find resources to begin healing. In 1980 the “*marital rape*” law was passed in Washington State. The law removed the marital exemption for rape in the first and second degrees. The marital exemption, which means the offender is someone married to the victim and therefore cannot be charged, is still in place for rape in the third degree in this state. Law enforcement agencies should include questions in domestic violence investigations that would ascertain the inclusion of sexual assault in such situations. In some cases, this might lead to the filing of additional felony charges.

## **Elements of Sexual Assault in a Domestic Violence Case:**

Domestic violence is a life-threatening crime for most victims. Obviously, when investigating a domestic violence call, the initial focus is on the health and safety of the victim. If the situation allows for more in-depth questions, either at the scene or later, questions regarding sexual assault should be incorporated into the investigation.

All domestic violence investigation protocols should include sensitive questions to assess whether or not sexual violence is also occurring. Many times sexual violence may be present, even if not during the most recent event. However, if there is reason to believe that rape, or attempted rape is part of a domestic violence scenario, further investigation may result in multiple charges and extended sentences. If nothing else, asking the questions not only defines and names the violence, it can normalize the experience for the victim and provide her other resources for healing and support, now or in the future.

Rape in the first and second degrees are crimes that can happen in marital and intimate partner relationships. Although rape in the third degree is not defined as a crime between married persons, the trauma and effects of the crime are the same for the victim, married or not. Rape in the third degree can be charged in domestic partner and other intimate partner relationships. Sexual assault victim advocates can assist victims to understand the law without nullifying the experience. Married women who experience rape in their relationship may initially need to address the on-going physical violence without further focus on the sexual assault. However, once victims are out of a violent environment, the effects of a sexual assault by someone they loved can be traumatizing and they may need additional resources to address the ramifications.

Law enforcement officers and other first responders should provide resource information to victims to the local sexual assault resource center.

## **Sexual Assault Investigation:**

Because intimate relationships are sensitive areas, it is important that law enforcement officers be trained to ask difficult questions in a respectful way. Below are simple examples of ways to ask questions to determine whether sexual assault is an element in a domestic violence case. Asking these kinds of questions should be included in agency domestic violence investigation protocol. As an example the Clark County protocol is included in the training manual.

Also included is a short guide to assess for sexual assault within domestic violence. A key point in the guide is for law enforcement officers to know what they will do if the victim provides information that indicates a sexual assault. The guide provides additional screening questions for follow-up as necessary.

Reviews of the definitions of Washington State's rape laws that may be applicable in domestic violence cases are presented. The laws are followed by possible questions that victims of domestic violence should be asked during an investigation. These questions would follow initial questions regarding a domestic violence episode.

**RCW 9A.44.040 - Rape in the First Degree:**

*A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory:*

- a. Uses or threatens to use a deadly weapon or what appears to be a deadly weapon.*
- b. Kidnaps the victim.*
- c. Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious.*
- d. Feloniously enters into the building or vehicle where the victim is situated.*

Potential questions and responses:

Did your partner use or threaten to use a weapon or physically injure you to force you to have sex?

Has your partner ever used or threatened to use a weapon to force you to have sex in the past?

**If yes:**

**Investigator:** I am sorry to say that is not unusual in domestic violence situations. *Follow up investigative questions as needed.* You should receive medical care to ensure any injury is attended to. I would also suggest a rape exam to gather evidence and to check for internal injuries. You may want to call the sexual assault program for assistance. Here is their contact information.

**Investigator:** I am sorry to say that is not unusual in domestic violence situations. Were you ever injured? Did you seek medical attention? Was a rape exam completed? *Follow up as necessary.* Here is a resource, the local sexual assault program. You may want to call them sometime when you are in a safe place, just to get more information and/or support. Here is their contact information.

**RCW 9A.44.050** - Rape in the second degree:

*A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:*

- a. By forcible compulsion.
- b. When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated.

Potential questions and responses:

Did your partner force you to have sex against your will?

Has your partner ever threatened to hurt you, a family member, your pet, or destroy your property to force you to have sex in the past?

**If yes:**

**Investigator:** I am sorry to say that is not unusual in domestic violence situations. *A definition of what you are asking may be needed - threaten to hurt you, other family member, pet, or destroy property. Follow up investigative questions as needed.* You should receive medical care to ensure any injury is attended to. I would also suggest a rape exam to gather evidence and to check for internal injuries. You may want to call the sexual assault program for assistance. Here is their contact information.

**Investigator:** I am sorry to say that is not unusual in domestic violence situations. Were you ever injured? Did you seek medical attention? Was a rape exam completed? *Follow up as necessary.* Here is a resource, the local sexual assault program. You may want to call them sometime when you are in a safe place, just to get more information and/or support. Here is their contact information.

**RCW 9A.44.060** - Rape in the third degree:

*A person is guilty of rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person, not married to the perpetrator:*

- a. *Where the victim did not consent as defined in RCW 9A.44.010(7), to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's word or conduct.*

- b. *Where there is threat of substantial unlawful harm to property rights of the victim.*

Potential questions and responses:

Did your partner insist on sexual intercourse even without your consent or willingness?

**If yes:**

**Investigator:** I am sorry to say that is not unusual in domestic violence situations. How did you let him/her know you were unwilling? You should not be forced to have sex without your consent.

**Investigator:** Are you married to the person who physically hurt you?

**If yes:**

**Investigator:** The law limits rape in the third degree to those people who are not married to one another. However, even though this is not covered in the law, it doesn't mean that you didn't have the right to say no. When you are in a safe place you may want to call your local sexual assault program at some point to talk about this. Here is their contact information.

In each of these scenarios there is the possibility of more than one crime being investigated. It is important that as much initial detail be collected as possible. Domestic violence, stalking and sexual assault victims have community-based advocates available to them. Making those referrals early in the process, not only provides needed support to the victim, but result in increasing your ability to move the case forward.

## **CONCLUSION**

Far too often these situations are a combination of domestic violence, sexual assault and/or stalking. Law enforcement plays a key role in investigating and identifying exactly how many crimes were committed. Therefore it is imperative that law enforcement be trained on and adhere to protocols that will ascertain the scope of the situation to gather the necessary information. Law enforcement actions lead to vitally important functions such as victim safety and access to appropriate services for victims, enhanced investigations and potentially additional and more accurate charges and convictions.

Asking basic questions about stalking behavior and forced or unwanted sex in domestic violence interviews will result in additional charges. One of the pilot projects is already seeing results when the investigation includes the "forced sex"

question on the victim statement. They are having great success in getting pleas from these offenders. In one case the suspect had at least seven prior victims.

The goal to achieve more effective investigation procedures and increased prosecutions is easily met by providing information and training to officers who respond to domestic violence calls. It is the hope of the authors and developers of this material, and all the project partners, that this training manual will be useful in expanding the scope to understanding stalking and sexual assault in the context of domestic violence.

## Other Resources

*Creating an Effective Stalking Protocol.* National Center for Victims of Crime April 2002. [www.cops.usdoj.gov/ric/ResourceDetail.aspx?RID=45](http://www.cops.usdoj.gov/ric/ResourceDetail.aspx?RID=45)

*Intimate Partner Sexual Violence: Sexual Assault in the Context of Domestic Violence.* Washington Coalition of Sexual Assault Programs. [www.wcsap.org](http://www.wcsap.org)

*Know the Truth about Intimate Partner Sexual Violence brochure.* Washington Coalition of Sexual Assault Programs. [www.wcsap.org](http://www.wcsap.org)

Lewis, Susan H. *Unspoken Crimes: Sexual Assault in Rural America*, National Sexual Violence Resource Center – A Project of the Pennsylvania Coalition Against Rape. 2003. [www.nsvrc.org/cms/fileUpload/rural.pdf](http://www.nsvrc.org/cms/fileUpload/rural.pdf)

McFarlane, et al. (1999). "Stalking and Intimate Partner Femicide." *Homicide Studies*, 3 (4), Sage Publications, Inc.

*Problem-Specific Guides Series No. 22- Stalking.* Problem-Oriented Guides for Police, U.S. Department of Justice, Office of Community Oriented Policing Service. [www.cops.usdoj.gov](http://www.cops.usdoj.gov).

*Protocol for Law Enforcement Response to DV.* Washington State Coalition Against Domestic Violence. [www.wscadv.org](http://www.wscadv.org)

*The Model Stalking Code, Revisited: Responding to the New Realities of Stalking.* National Center for Victims of Crime. [www.ncvc.org](http://www.ncvc.org)

Washington Violence Against Women Network (WAVAW). [www.wavawnet.org](http://www.wavawnet.org)

CD and paper copy of the – *2009 Intimate Partner Sexual Violence & Stalking Training Guide* PowerPoint located in the Appendix of the Training Manual.