GUIDE FOR VICTIMS OF DOMESTIC VIOLENCE, STALKING AND HOW TO OBTAIN A PERSONAL PROTECTION ORDER

Are You a Victim of Domestic Violence?

In the suburbs, a man kills his wife and then turns the gun on himself. Police are called to a hospital to investigate an elderly woman with a fractured hip after being pushed down by her adult son. A teenage girl is punched in the stomach by her ex-boyfriend in the hallway at school. Each of these events raises the same question: Could this tragedy have been prevented?

What is domestic violence?

Domestic violence is a pattern of learned behavior in which one person uses physical, sexual, and emotional abuse to control another person.

Domestic violence is not a family matter. It is a crime, and it is in Michigan. The Michigan State Police Uniform Crime Report tells us there were 54,258 reported victims and 30 reported murders related to domestic violence in 2004. Domestic violence is a misdemeanor punishable by up to 93 days in jail and/or a $500 fine.

Under Michigan law, a person has a domestic relationship if any of the following apply:

- Spouse or former spouse
- Dating relationship or former dating relationship
- Child in common
- Resident or former resident of the same household

What does domestic violence look like?

- The following are some of the most common tactics used by abusers to control their partners but certainly not a complete list. If you or someone you know has their personal freedom restricted or is afraid of their partner, they may be a victim of domestic violence.

Physical Abuse

- Pushed, shoved or kicked
- Slapped or bitten
- Strangled
- Hit or punched
- Locked out of your home
- Denied help when ill, injured or pregnant
- Weapon used against you
- By physical force, not being allowed to leave
- Objects thrown at you

- Abandoned in a dangerous situation

Sexual Abuse
- Forced to have sex or watch sexual acts
- Forced to perform sexual acts or have sexual acts performed on you
- Forced to dress more sexually than you wish
- Forced to have sex after a physical assault, when you are ill or as a condition of the relationship

Emotional & Psychological Abuse
- Threatened harm to you, your family or your pets
- Beliefs, race, heritage, class, religion, or sexual orientation ridiculed
- Manipulated with lies and contradictions
- Being convinced you are to blame for the abuse
- Stalked

Economic Abuse
- Denied access to bank accounts, credit cards or vehicle
- Partner controls all the finances
- Prevented from getting or keeping a job or from going to school
- Limits your access to health, prescription or dental insurance

What can you do to help someone who is being abused?
- Educate yourself about domestic violence.
- Let go of any expectations you have that there is a "quick fix" to domestic violence or to the obstacles a woman faces. Understand that a woman's "inaction" may very well be her best safety strategy at any given time.
- Believe her and let her know that you do.
- Listen to what she tells you and avoid making judgments
- Validate her feelings.
- Avoid victim blaming. Tell her the abuse is not her fault.
- Take her fears seriously. If you are concerned about her safety, express your concern without judgment by saying, "Your situation sounds dangerous and I'm concerned for your safety."
- Support her decisions. Remember there are risks attached to every decision an abused woman makes. If you truly want to help, be patient and respectful, even if you don't agree.

Who do you contact for help?
Often, the best source of help and information is your local program. For more information on local support services, please visit the Michigan Coalition Against Domestic and Sexual Violence website at: www.mcadsv.org and click on "Locate Help Near You."

You may also call the National Domestic Violence Hotline at 1-800-799-SAFE (7233.) Call toll free, 24 hours a day, anywhere in the U.S. Trained counselors provide confidential crisis intervention, support, information and referrals to local programs to victims of domestic violence, their families and friends. The hotline links people to help in their area, including shelters, legal and social assistance programs. Help in English and Spanish with interpreters available in 139 more languages.

For additional information on this important issue, please contact the **St. Joseph County Domestic Assault Shelter Coalition (24 hours) 800-828-2023**

Sources: The Michigan Coalition Against Domestic and Sexual Violence; Calhoun County Domestic Violence Council Education Prevention Safety and Support Information Guide; and the 2002 MSP Uniform Crime Report.

CRIME VICTIM'S COMPENSATION

The Michigan Crime Victim Compensation Act was established to give financial help to crime victims who are hurt or lose earnings or support because of a crime. Applications may be obtained from the St. Joseph County Prosecutor's Office at (269) 467-5546.

TO RECEIVE COMPENSATION:
You must be the victim of personal physical injury as a result of a criminal act. Medical treatment and psychological counseling may be covered. The crime must have been reported within 48 hours (waived for child victims, retired persons and other good cause). You must have at least $200 out-of-pocket expense and/or a loss of 2 continuous weeks earnings or support (waived for child victims, retired persons and other good cause). The claim must be filed within 1 year of the crime. Claims can be filed by deceased victim's families. Maximum award is $15,000. POPERTY LOSS IS NOT COVERED.

WHAT CAN I DO IF I FEEL I AM BEING STALKED?

Effective, January 1, 1993, several laws became effective that addressed stalking and related issues aimed at protecting stalking victims.

WHAT IS STALKING?
Stalking is defined as "a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested." Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

PROVING THE ELEMENTS OF STALKING

ELEMENT #1
To meet the elements of "Stalking" it must be shown the person is a "victim" and the target of a willful course of conduct involving two or more separate and repeated continuing harassment incidents.

ELEMENT #2
Secondly, it must be shown whether or not the acts constitute "unconsented contact". Unconsented contact means any contact with another person that is initiated or continued without that individual's consent, or in disregard of that individual's express desire that the contact be avoided or discontinued. It includes but is not limited to any of the following:

1. Following or appearing within sight of that individual.

2. Approaching or confronting that individual in a public place or on private property.

3. Appearing at the work place or residence of that individual.

4. Entering onto or remaining on property owned, leased, or occupied by that individual.

5. Contacting that individual by telephone.

6. Sending mail or electronic communications to that individual.

7. Placing an object on, or delivering an object to, property owner, leased, or occupied by that individual.

ELEMENT #3

The third element in proving "Stalking" is whether or not the contact would cause a reasonable individual to suffer emotional distress, and whether it actually caused the harassed victim to suffer emotional distress. Emotional distress does not mean medical or professional counseling or treatment is required.

The courts will consider evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact as a presumption that the continuation of the unconsented contact caused the person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, thus meeting the standards for Element #3.

PENALTIES

MCL 750.411H Misdemeanor stalking

Punishable by not more than one year in jail and/or a fine of not more than $1,000.

MCL 750.411i Felony aggravated stalking

Punishable by up to 5 years and/or a fine of $10,000.

A misdemeanor stalking becomes aggravated stalking when the stalking occurs under any of the following circumstances:

1. Stalking is done in violation of a retraining or other court order which they have received notice of.
2. Stalking is committed in violation of a condition of probation, pretrial release, or release on bond pending appeal.
3. The person has a previous conviction of stalking or aggravated stalking.
4. The stalking includes the making of one or more credible threats against the victim, a member of the victim's family, or another individual living in the victim's household. (A credible threat means a threat to kill or inflict physical injury causing the person to fear for their personal safety)

WHAT DO I DO ABOUT IT?

1. Notify the person to stop the stalking activity. Have a witness to this request or other documentation.
2. Should the conduct continue call the police to request help or press charges.
3. Consider obtaining a PPO (Personal Protection Order) from the courts.

NOTE: The law authorizes a warrantless arrest for violation of restraining orders or domestic Assaults.

RESOURCES:

1. St. Joseph Co. Domestic Assault Shelter Coalition (24 hours a day) – 1-800-828-2023 or (269) 279-5122.

2. National Domestic Violence Hotline. 1-800-799 (SAFE) or 1-800-787-3224.

3. www.michigan.gov/domesticviolence

PERSONAL PROTECTION ORDERS

As a victim of domestic violence you have the legal right to go to court and file a petition requesting a personal protection order to protect you or other members of your household from domestic abuse which could include restraining or enjoining the abuser from doing the following:

- Entering onto a premises.
- Assaulting, attacking, beating, molesting, or wounding you.
- Threatening to kill or physically injure you or another person.
- Removing minor children from you, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.
- Engaging in stalking behavior.
- Purchasing or possession a firearm.
- Interfering with your efforts to remove your children or personal property from premises that are solely owned or leased by the abuser.
- Interfering with you at your place of employment or education or engaging in conduct that impairs your employment relationship of your employment or educational environment.
- Engaging in any other specific act or conduct that imposes upon or interferes with your personal liberty or that causes a reasonable apprehension of violence.
- Having access to information in records concerning any minor child you have with the abuser that would inform the abuser about your address or telephone number, the child's address or telephone number, or your employment address.

DO YOU REALLY WANT A PERSONAL PROTECTION ORDER?
Sometimes people are improperly advised to ask for a PPO to try to solve a problem they are having with another person.

Are you seeking help with:

- A neighborhood argument?
- A personal property issue?
- A dispute between landlord and tenant?
- Small claims case?
- Support issues?
- Visitation concerns?
- Concerns about the behavior of your minor child?

If you answered yes to any of the above you probably are in need of another action other than a Personal Protection Order. You should consult with your attorney.

A PPO offers a measure of protection to **one person** who is experiencing a pattern of physical, verbal or emotional abuse, threats or two or more incidents of stalking from **another person.**

HOW DO I REQUEST A PPO AND IS THERE A COST?

Applications for a Personal Protection Order are available through the St. Joseph County Clerk's office in Centreville, MI. (269) 467-5602. The clerk will provide you with the forms that fit your situation and instructions on how to complete the form.

There is not cost to petition for a PPO or to make a motion to Modify, Terminate or Extend an order.

HOW LONG IS A PPO IN EFFECT?
A PPO is generally in effect for one year, but the length of the PPO is stated on the order. A PPO can ONLY be removed by the Judge that signs the order.

HOW IS THE PPO SERVED?
Anyone over the age of 18 may serve the order however the courts can provide you with a list of process servers that are available to assist you to serve the order for a fee.

THE MEDIATION CENTER

"An effective approach to resolving conflicts"

The Center enables people to resolve disputes by talking with each other with the help of trained mediators. The cost is minimal. You may contact the center at 1-800-873-7658 or (269) 467-5624.