

Welcome to the NNADV Advocate Certificate Course

Law Enforcement Response to Domestic Violence in Nevada



Course Overview

Section 1: Nevada Arrest Statistics

Section 2: Duties of Law Enforcement Agencies

Section 3: Commonly Charged Crimes

Section 4: Mandatory Arrest

Section 5: Role of the Advocate

Course Objectives

Upon completion of this course, you will be able to:

- Identify how many domestic violence-related arrests are made annually in Nevada;
- Identify the duties of law enforcement agencies in Nevada concerning incidents of domestic violence;
- Define domestic battery according to Nevada law;
- Identify the penalties for conviction of domestic battery;

Course Objectives

- List some other commonly charged crimes in domestic violence situations;
- Explain the mandatory arrest law for domestic violence in Nevada;
- List the factors in determining whether someone is a primary aggressor; and
- Identify the role of the advocate in assisting victims of domestic violence with law enforcement.

1. Nevada Arrest Statistics

Objective

After completing this section of the course, you will be able to:

- Identify how many domestic violence-related arrests are made annually in Nevada.



1. Nevada Arrest Statistics

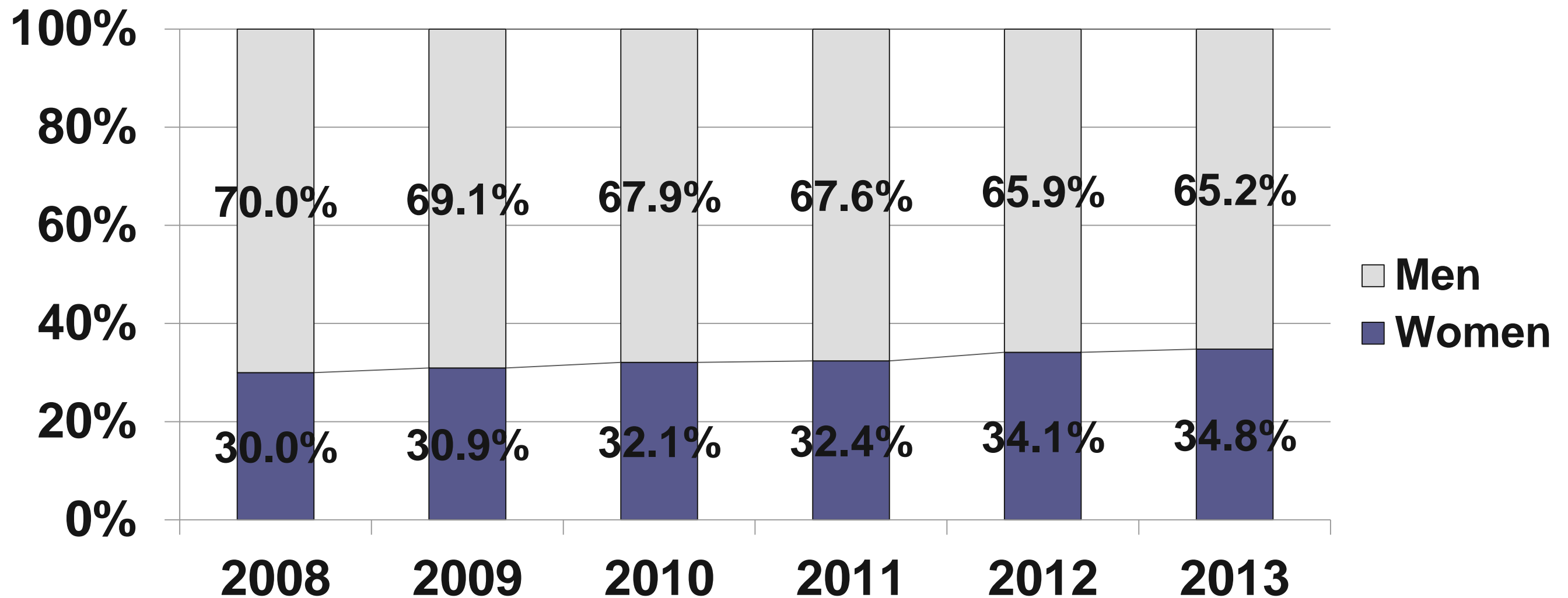
Statistics

- In 2013, local law enforcement agencies in Nevada arrested 11,446 domestic violence aggressors.
 - Of those arrested, 7,466 aggressors were male (65.2%) and 3,980 aggressors were female (34.8%).
 - This statistic is very disturbing because females were arrested at a rate approximately **3.5 times** higher than the acceptable rate recommended by national experts (Klein, 2002).

(See Resource # 1: *2013 Crime in Nevada*, pp. 216-233, in the Resource Folder to find the arrest statistics for your county.)

1. Nevada Arrest Statistics

Gender of Persons Arrested for Domestic Violence in Nevada

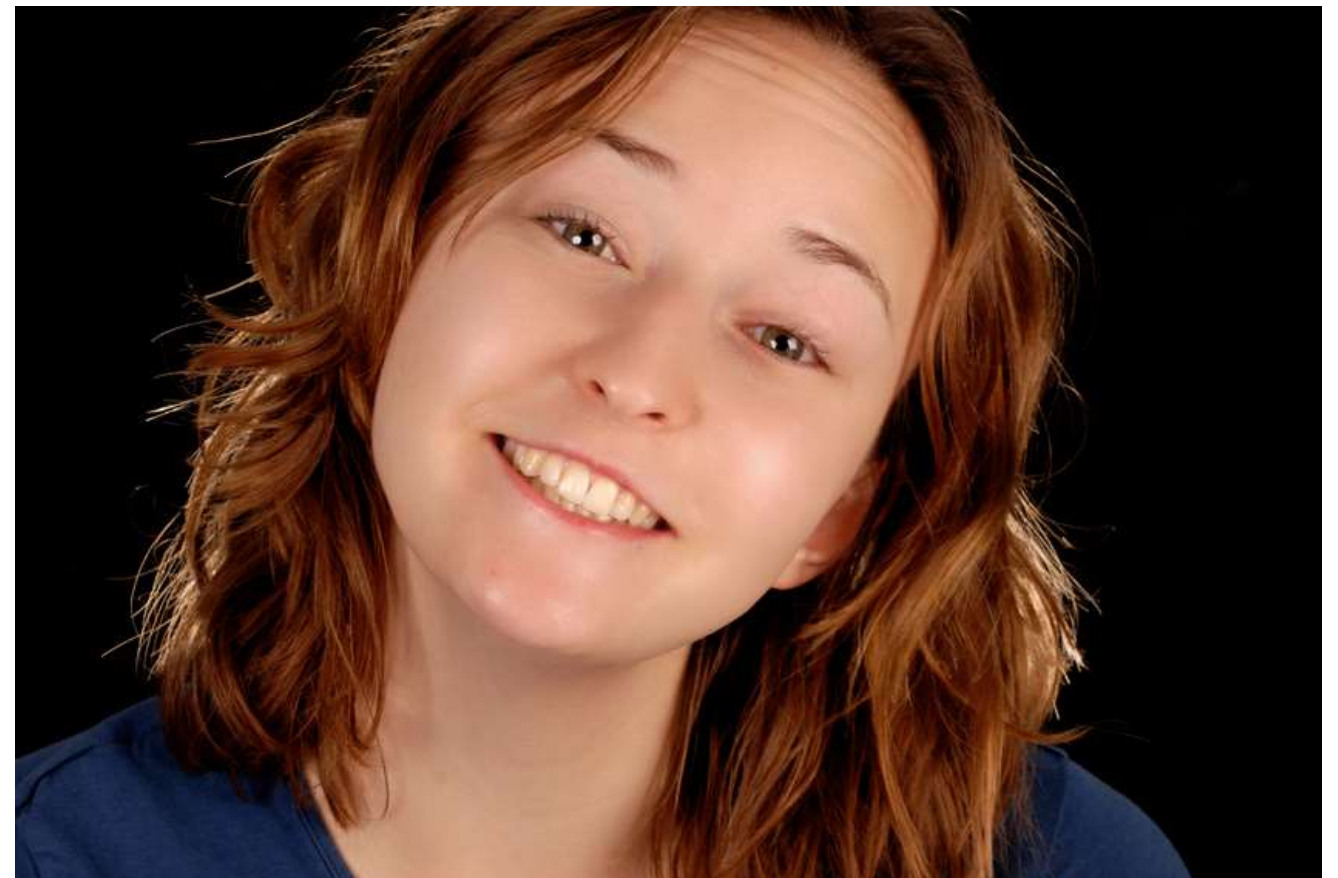


Source: Nevada Department of Public Safety Crime in Nevada Reports

1. Nevada Arrest Statistics

Advocates

- Advocates have an important role to play in ensuring that law enforcement officers are using the best procedures to help victims of domestic violence in Nevada.



2. Duties of Law Enforcement Agencies

Objective

After completing this section of the course, you will be able to:

- Identify the duties of law enforcement agencies in Nevada concerning incidents of domestic violence.



2. Duties of Law Enforcement Agencies

Victim Notice of Rights

- Nevada law requires law enforcement officers to give victims of domestic violence certain information, including:
 - the availability of shelter or other services;
 - information on how to seek an order for protection; and
 - how to file a complaint if the perpetrator has not been arrested

(NRS § 171.1225).

(See Resource #2: *Victim Information Card*, in the Resources Folder. This card is available in English and Spanish from NNADV).

2. Duties of Law Enforcement Agencies

Victim Notice of Rights (continued)

- Victims should insist on getting this information because they have a legal right to it and their safety and the safety of their children may depend on it.
- If this information is not provided, the local domestic violence program should contact the local law enforcement agency to remind it of its legal responsibility to provide this written notification.

2. Duties of Law Enforcement Agencies

Incident Reports

- Nevada law requires law enforcement officers to complete a report every time they respond to a domestic violence call (NRS § 171.1227).
- The report contains the dates and names of people involved, what happened, and how the dispute was handled, including whether an arrest was made, and, if not, why not.

2. Duties of Law Enforcement Agencies

Incident Reports (continued)

- It is important for the victim to make sure that this report is made, even if she doesn't want the perpetrator to be charged with a crime:
 - to substantiate the story if the victim changes her mind about wanting the perpetrator to be charged with a crime;
 - to provide a past history of abuse that may be useful in gaining the help of law enforcement and the prosecutor if she is threatened again;

2. Duties of Law Enforcement Agencies

Incident Reports (continued)

- to help the court in granting an order for protection;
- to help in some immigration cases; and
- to file a claim for victim compensation.

2. Duties of Law Enforcement Agencies

Incident Reports (continued)

- The victim should write down the name and badge number of the officers, as well as the report number.
- Having this information will make it easier to retrieve a copy of the report later.



2. Duties of Law Enforcement Agencies

Statistical Analysis

- Each law enforcement agency must forward a copy of its domestic violence-related calls for assistance reports to the Central Repository for Nevada Records of Criminal History.
- To facilitate collection of data in a uniform manner, law enforcement agencies have implemented the “State of Nevada Domestic Violence Statistical Form.”

2. Duties of Law Enforcement Agencies

Statistical Analysis (continued)

- The State's Uniform Crime Reporting Program is responsible for collecting domestic violence statistics on a statewide basis.
- Legal advocates can access the number of reported domestic violence arrests by county and contributing law enforcement agency by visiting the State of Nevada Department of Public Safety website.

2. Duties of Law Enforcement Agencies

Law Enforcement Training

- **Entry-level training:**
 - Patrol officers in Nevada are required to take a minimum of 480 hours of basic training, including training on procedures related to “domestic violence and stalking” (Nevada Administrative Code 289.140(2)(e)).

2. Duties of Law Enforcement Agencies

Law Enforcement Training (continued)

- **Entry-level training:**
 - The Nevada Commission on Peace Officers' Standards and Training (POST) provides a basic academy that far exceeds this minimum standard, with one set of training performance objectives dedicated exclusively to “domestic violence and stalking.”

2. Duties of Law Enforcement Agencies

Law Enforcement Training (continued)

- **In-service training:**
 - Patrol officers also are required to take 12 hours of agency in-service training annually; however, none of these hours must be dedicated specifically to domestic violence training (Adopted Regulation to Nevada Administrative Code 289.230 LCB File No R121-13A-Effective 3-28-2014).

2. Duties of Law Enforcement Agencies

Law Enforcement Protocol

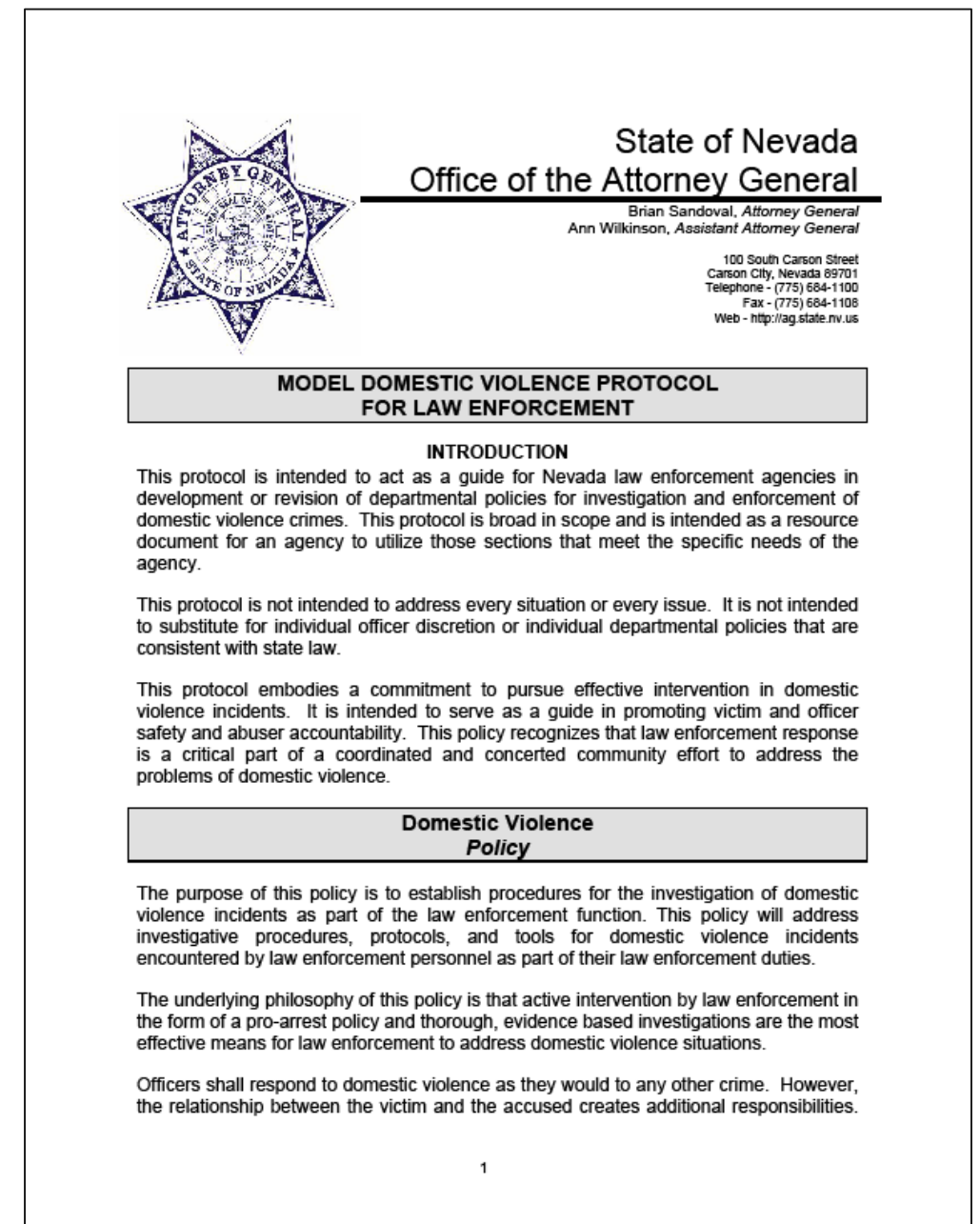
- Nevada law does not require law enforcement agencies to have a domestic violence protocol, sometimes called a “general order.”
- Furthermore, even if they have a domestic violence general order, law enforcement agencies are not required by law to make it available to the public.

2. Duties of Law Enforcement Agencies

Law Enforcement Protocol

- In 2004, the Office of the Attorney General developed a model domestic violence protocol that several Nevada law enforcement agencies have adopted voluntarily.

(See Resource # 3: *Model Domestic Violence Protocol for Law Enforcement*, in the Resources Folder)



2. Duties of Law Enforcement Agencies

Law Enforcement Protocol (continued)

- Check in with your supervisor to see if your local law enforcement agency has adopted the model domestic violence protocol and, if so, if your organization has a copy of it.



3. Commonly Charged Crimes

Objectives

After completing this section of the course, you will be able to:

- Define domestic battery according to Nevada law;



3. Commonly Charged Crimes

Objectives (continued)

- Identify the penalties for conviction of domestic battery; and
- List some other commonly charged crimes in domestic violence situations.

3. Commonly Charged Crimes

Battery Which Constitutes Domestic Violence

- In 1997, the Legislature passed an omnibus domestic violence bill that made major changes in the way domestic violence cases are prosecuted and adjudicated in Nevada.



3. Commonly Charged Crimes

Battery Which Constitutes Domestic Violence

- Under this legislation, prosecutors are prohibited from dismissing or reducing a charge of domestic battery
 - unless it is obvious the charge is not supported by probable cause or cannot be proven at trial (NRS § 200.485(8)).

3. Commonly Charged Crimes

Battery Which Constitutes Domestic Violence

- The legislation also amended the domestic battery statute to:
 - enhance penalties for subsequent convictions (NRS 200.485(b)(c));
 - set minimum mandatory sentences for each conviction (NRS 200.485(1)(a)(b)(c)); and
 - prohibited judges from suspending sentences or granting probation for these offenses (NRS 200.485(8)).

3. Commonly Charged Crimes

Definition of Domestic Battery (NRS § 200.485)

Relationships	Type of Abuse
<ul style="list-style-type: none">• Spouses,• Former spouses,• Persons related by blood or marriage,• Persons who currently or formerly reside together,• Persons with a past or present dating relationship,• Persons with a child in common, or• Child of any of these persons (<u>NRS 33.018</u>).	<ul style="list-style-type: none">• <i>Battery</i>—any willful and unlawful use of force or violence upon the person of another (<u>NRS 200.481(1)(a)</u>)• <i>Battery by strangulation</i>—intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person (<u>NRS 200.481(1)(h)</u>)

3. Commonly Charged Crimes

First Conviction

- On the *first conviction* for domestic battery, the abuser must:
 - spend at least two days in jail (with credit for time served) (NRS 200.485(1)(a)(1));
 - perform not less than 48 hours of community service (NRS 200.485(1)(a)(2));

3. Commonly Charged Crimes

First Conviction (continued)

- pay at least \$200 in fines (NRS 200.485(1)(a)(2)); and
- participate in weekly domestic violence counseling sessions for at least six months (NRS 200.485(3)(a)).

3. Commonly Charged Crimes

Second Conviction

- On a *second conviction* for domestic battery within seven years, the penalties increase to:
 - at least ten days in jail (NRS 200.485(1)(b)(1));
 - at least 100 hours of community service (NRS 200.485(1)(b)(2));

3. Commonly Charged Crimes

Second Conviction (continued)

- a fine of at least \$500 (NRS 200.485(1)(b)(2); and
- weekly domestic violence counseling sessions for at least 12 months (NRS 200.485(3)(b)).

3. Commonly Charged Crimes

Third Conviction

- The *third conviction for domestic battery* within seven years is a Category C felony. A Category C felony requires:
 - imprisonment for no less than one year and no more than five years, and
 - a fine of not more than \$10,000 (NRS 193.130(2)(c)).

3. Commonly Charged Crimes

Strangulation

- *Domestic battery committed by strangulation* is a Category C felony requiring:
 - imprisonment for no less than one year and no more than five years; and
 - a fine of not more than \$15,000 (NRS 200.485(2)).



3. Commonly Charged Crimes

Penalties for Domestic Battery					
Conviction	Category	Jail Time	Community Service	Fine	Batterer Counseling
First	Misdemeanor	Two days (with credit for time served) to six months	48 hours to 120 hours	\$200 to \$1,000	Weekly sessions for 1.5 hours for six to 12 months
Second	Misdemeanor	Ten days to six months	100 hours to 200 hours	\$500 to \$1,000	Weekly sessions for 1.5 hours at least 12 months
Third	Category C felony	State prison for one to five years		Up to \$10,000	
Strangulation	Category C felony	State prison for one to five years		Up to \$15,000	

3. Commonly Charged Crimes

Penalties for Other Commonly Charged Crimes

- Assault, battery, kidnapping, false imprisonment, and murder, among others, are crimes regardless of whether the perpetrator has a relationship with the victim or not.
- The designation of these crimes as a misdemeanor, gross misdemeanor, or felony, and the possible penalties for these crimes are the same for everyone, regardless of the relationship between the perpetrator and the victim.

3. Commonly Charged Crimes

Penalties for Other Commonly Charged Crimes

- In general, a misdemeanor is punishable by imprisonment in the county jail for not more than six months, and/or a fine of not more than \$1,000 (NRS 193.150).

3. Commonly Charged Crimes

Penalties for Other Commonly Charged Crimes

- Most gross misdemeanors are punishable by imprisonment in the county jail for up to one year and/or a fine of up to \$2,000 (NRS 193.140).

3. Commonly Charged Crimes

Penalties for Other Commonly Charged Crimes

- The general provision for felony punishments varies depending on the category:
 - Category B felony normally requires imprisonment in the state prison for no less than one year and no more than 20 years (NRS 193.130(2)(b)).
 - Category C felony normally requires imprisonment for no less than one year and no more than five years, and a fine of not more than \$10,000 (NRS 193.130(2)(c)).

3. Commonly Charged Crimes

General Penalties for Crimes by Category	
Category	Penalty
<ul style="list-style-type: none">Misdemeanor	<ul style="list-style-type: none">County jail up to six monthsFine of up to \$1,000
<ul style="list-style-type: none">Gross Misdemeanor	<ul style="list-style-type: none">County jail up to one yearFine of up to \$2,000
<ul style="list-style-type: none">Category C felony	<ul style="list-style-type: none">State prison from one to five yearsFine of up to \$10,000
<ul style="list-style-type: none">Category B felony	<ul style="list-style-type: none">State prison from one to 20 years

3. Commonly Charged Crimes

Penalties for Particular Crimes

- Higher or lower punishments may be specified for particular crimes by law:
 - Battery with a deadly weapon, a Category B felony, is punished by imprisonment in the state prison for no less than two years, and a fine of not more than \$10,000 (NRS 200.481(2)(e)).
 - Aggravated stalking, under circumstances making it a Category B felony, is punished by imprisonment in the state prison for no less than two years, and a fine of not more than \$5,000 (NRS 200.575(2)).

3. Commonly Charged Crimes

Penalties for Particular Crimes		
Crime	Category	Penalty
Battery with a deadly weapon	Category B felony	<ul style="list-style-type: none">• State prison for two to 10 years• Fine of up to \$10,000
Aggravated stalking	Category B felony	<ul style="list-style-type: none">• State prison for two to fifteen years• Fine of up to \$5,000

4. Mandatory Arrest

Objectives

After completing this section of the course, you will be able to:

- Explain the mandatory arrest law for domestic violence in Nevada; and



4. Mandatory Arrest

Objectives (continued)

- List the factors in determining whether someone is a primary aggressor.

4. Mandatory Arrest

Arrest by a Law Enforcement Officer

- In certain circumstances, law enforcement agencies in Nevada operate under a mandatory arrest policy by state law.



4. Mandatory Arrest

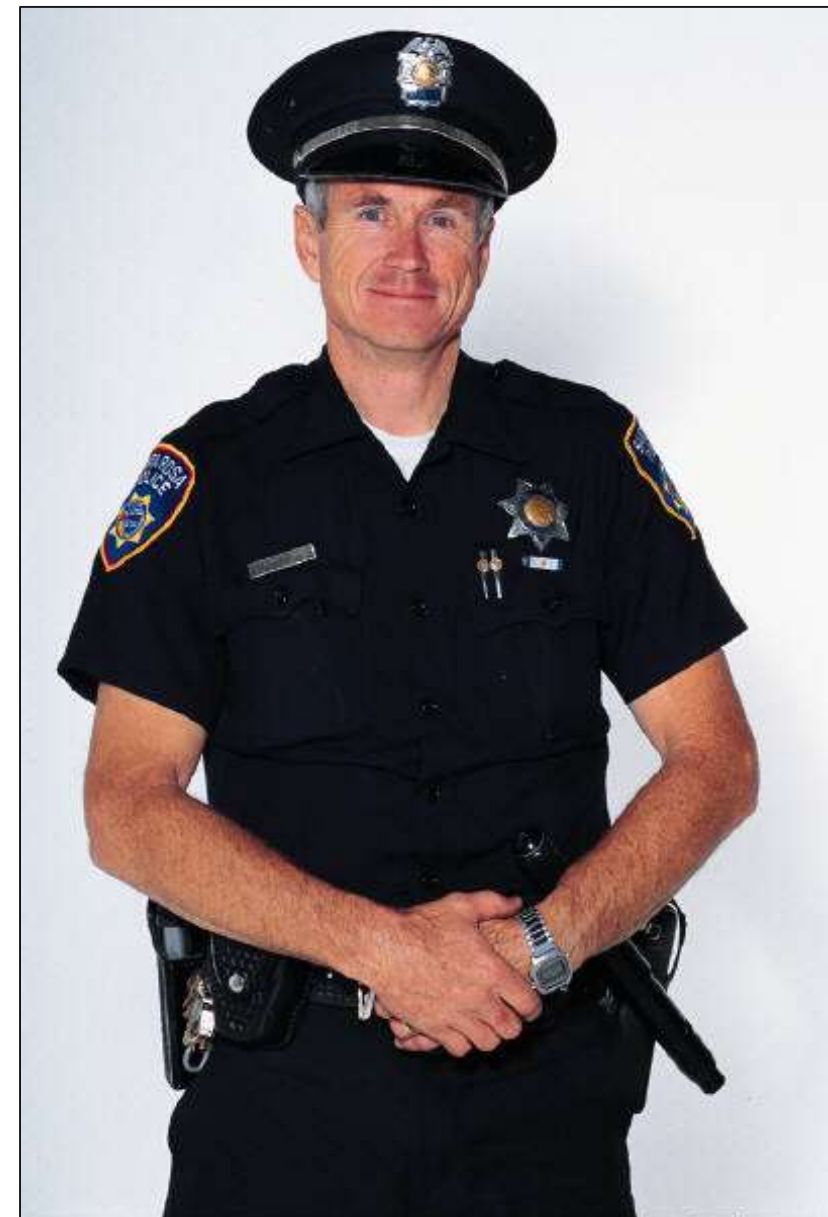
Arrest by a Law Enforcement Officer (continued)

- This means that, absent mitigating circumstances, if a law enforcement officer has sufficient reason to believe that a person committed an act of domestic violence or spousal battery, within the preceding twenty-four hours, the officer is required to arrest that person (NRS 171.137(1)).

4. Mandatory Arrest

Arrest by a Law Enforcement Officer (continued)

- The officer may not base the decision to arrest on the perceived willingness of the victim or other witnesses to testify or otherwise participate in any related court proceeding (NRS 171.137(3)).



4. Mandatory Arrest

Primary aggressor

- If the officer has reason to believe that the battery was a mutual battery committed by both people involved, the officer must attempt to determine which person was the primary physical aggressor (NRS 171.137(2)).

4. Mandatory Arrest

Primary aggressor (continued)

- In determining whether a person is a primary physical aggressor, the officer is required to consider:
 - prior domestic violence involving either person;
 - the relative seriousness of the injuries inflicted upon each of the persons involved;

4. Mandatory Arrest

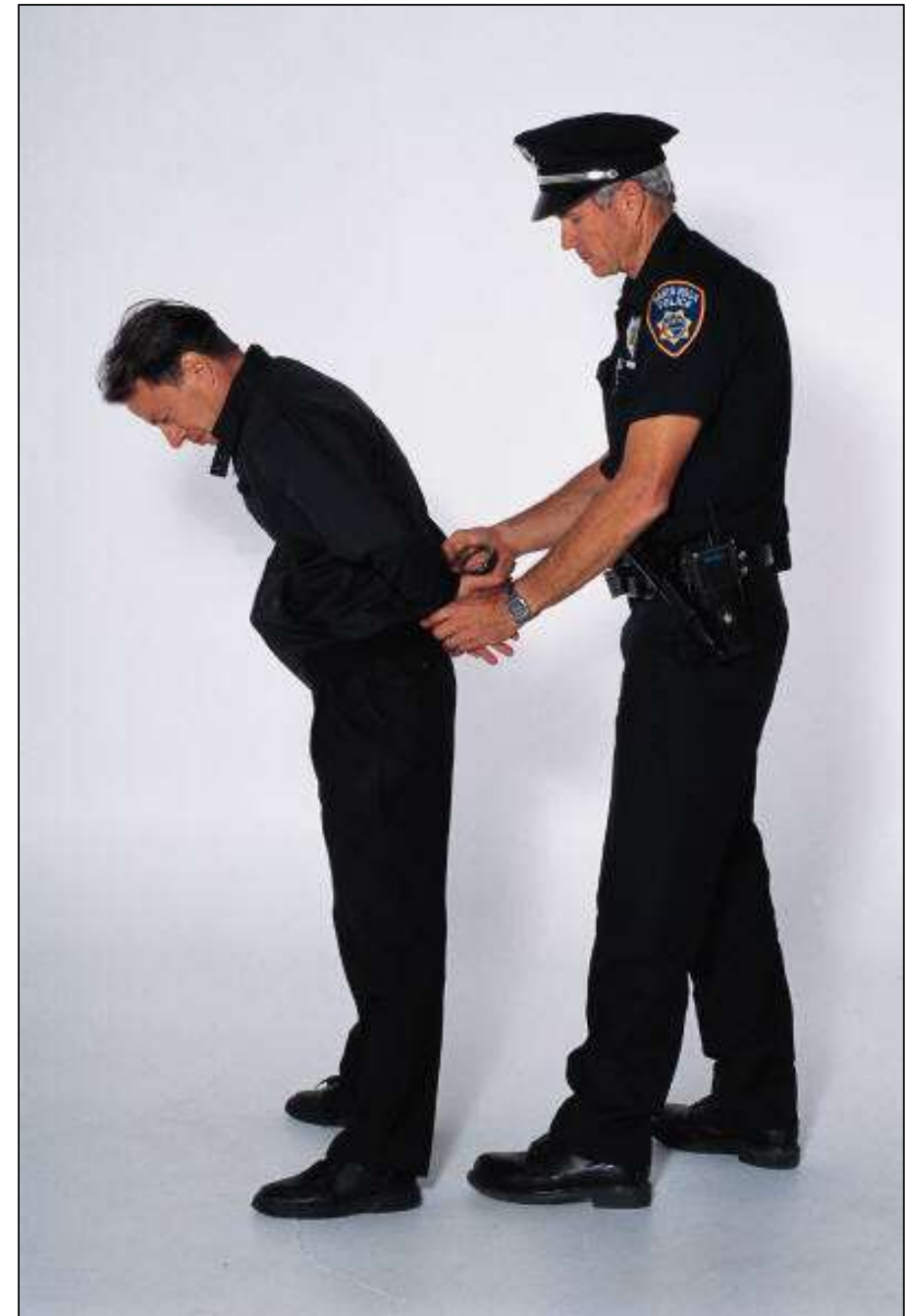
Primary aggressor (continued)

- the potential for future injury;
- whether one of the alleged batteries was committed in self-defense;
- any other factor which helps the officer decide which person was the primary physical aggressor.

4. Mandatory Arrest

Primary aggressor (continued)

- Once the officer makes the primary aggressor determination, the officer is required to arrest that person.



4. Mandatory Arrest

12-hour hold

- If a perpetrator is arrested at the time of an incident, the laws of the state are designed to give a victim the time to leave, seek assistance, or otherwise ensure her safety.

4. Mandatory Arrest

12-hour hold (continued)

- If a perpetrator has been arrested for domestic violence, he will not be released from jail or be able to bail out of jail for a minimum of 12 hours (NRS 178.484(7)).



4. Mandatory Arrest

Enforcement by the Victim

- In spite of the mandatory arrest law, law enforcement officers are sometimes reluctant to make an arrest:
 - if they did not witness the attack,
 - if they cannot determine the primary physical aggressor,
 - if there are no visible injuries, or
 - if they cannot determine whether or not a crime has been committed.

4. Mandatory Arrest

Enforcement by the Victim (continued)

- Under these circumstances, the victim is always entitled to make a citizen's arrest (NRS 171.126).
 - The citizen's arrest must be made in the presence of a law enforcement officer.
 - The perpetrator also may attempt to make a citizen's arrest, in which case both the victim and the perpetrator may be taken into custody.

4. Mandatory Arrest

Enforcement by the Victim (continued)

- To make a citizen's arrest, the victim must ask the law enforcement officer to give her the appropriate forms to sign.
- She should tell the officer, "I want to make a citizen's arrest."
- Once she has told the officer what the perpetrator did to her and signed the papers, the officer is required to ensure the arrest is lawful and probable cause is established.

4. Mandatory Arrest

Enforcement by the Victim (continued)

- If the victim did not call the police, or if the police do not arrest the perpetrator or take the case to the prosecutor to obtain a complaint and arrest warrant, the victim may file a criminal complaint against the perpetrator.
 - She should ask her local law enforcement agency for the procedure for filing the complaint.

4. Mandatory Arrest

Enforcement by the Victim (continued)

- Once she knows when and where to go, she should take as much evidence with her as possible. Examples include photographs, letters from the perpetrator, etc.
- She must be willing to follow through with the charges and be prepared to testify. She may have to be very persistent.

4. Mandatory Arrest

Enforcement by the Victim (continued)

- The prosecutor's office will determine whether to go forward with the case. If charges are filed, a warrant will be issued for the perpetrator's arrest.
- The victim should check with local law enforcement concerning how long it will take for the arrest warrant to be executed.

5. Role of the Advocate

Objective

After completing this section of the course, you will be able to:

- Identify the role of the advocate in assisting victims of domestic violence with law enforcement.



5. Role of the Advocate

Role of the Advocate

- As advocates for victims of domestic violence, we can assist them in demanding that law enforcement officers enforce their basic legal rights.



5. Role of the Advocate

Role of the Advocate (continued)

- Victims are often not informed of their rights or the various ways law enforcement can assist them after an attack.
- Advocacy includes informing victims about legal options and appropriate law enforcement procedures.

(See Resource #4: *Domestic Violence Handbook for Victims & Professionals*, in the Resources Folder. This booklet is available from NNADV in English and Spanish and can be used to educate victims about their rights).

5. Role of the Advocate

Role of the Advocate (continued)

- Check with your supervisor to see if your organization has a written agreement with your local law enforcement agency outlining the ways in which your organizations work together to assist victims of domestic violence in your community.

(See Resource #5: *Working Agreement between Domestic Violence Advocacy Programs and Law Enforcement Agencies*, in the Resources Folder, for a sample agreement).

5. Role of the Advocate

Role of the Advocate (continued)

- For a detailed handbook of law enforcement advocacy tips and strategies for domestic violence advocates, review *Advocating for Women in the Criminal Justice System in Cases of Rape, Domestic Violence and Child Abuse*, developed by the Women's Justice Center.
- ✓ Be sure to share this information with your supervisor before you attempt any of the suggestions in this handbook.

Course Review

Your are now able to:

- Identify how many domestic violence-related arrests are made annually in Nevada.
- Identify the duties of law enforcement agencies in Nevada concerning incidents of domestic violence.
- Define domestic battery according to Nevada law;
- Identify the penalties for conviction of domestic battery;

Course Review

- List some other commonly charged crimes in domestic violence situations;
- Explain the mandatory arrest law for domestic violence in Nevada;
- List the factors in determining whether someone is a primary aggressor; and
- Identify the role of the advocate in assisting victims of domestic violence with law enforcement.

Conclusion

This concludes the content for this course. After reviewing the accompanying resource materials, please proceed to the learning assessment for this course.

You must receive a 90% or higher on this assessment to receive credit for the course.

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Reference

Klein, A. (2002, April). Criminal justice domestic violence response standards, part 1. *National Bulletin on Domestic Violence Prevention*, 8(4), 1.