



The POWER Act: Pro Bono Opportunities to Help Victims of Domestic Violence

**United States District Court
Southern District of California**

**MCLE Written Materials
August 31, 2023**

2023 POWER Act Presentation

United States District Court for the Southern District of California

Moderator

Hon. Cynthia A. Bashant

Judge, U.S. District Court

Featured Speakers

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POWER ACT

- The Pro Bono Work to Empower and Represent Act of 2018 (POWER Act) is designed to help victims of domestic violence gain access to pro bono legal services.
- The chief judge in each judicial district shall lead at least one public event annually to promote free legal services to empower survivors of domestic violence, dating violence, sexual assault, and stalking.
- Every two years, a district that contains an Indian tribe or tribal organization shall include a public event promoting pro bono legal services in partnership with an Indian tribe or tribal organization to increase provision of pro bono legal services for Indian or Alaska Native victims of domestic violence, dating violence, sexual assault, and stalking.

CALIFORNIA RULES OF PROFESSIONAL CONDUCT

- A lawyer should be aware of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor cannot afford adequate legal assistance. Therefore, all lawyers are encouraged to devote professional time and resources and use civic influence to ensure equal access to the system of justice for those who because of economic or social barriers cannot afford or secure adequate legal counsel. In meeting this responsibility of the profession, *every lawyer should aspire to render at least fifty hours of pro bono publico legal services per year.* The lawyer should aim to provide a substantial majority of such hours to indigent individuals or to nonprofit organizations with a primary purpose of providing services to the poor or on behalf of the poor or disadvantaged...(See Bus. & Prof. Code, §6073; Rule 1.0, Note 5.)

Dr. Ramona Probasco – Recommended Links and Resources

Links

<https://drramona.com/hotlines-and-resources/>

<https://documenttheabuse.com>

Resources

<https://www.amazon.com/Why-Does-He-That-Controlling/dp/0425191656>

<https://www.amazon.com/When-Dad-Hurts-Mom-Witnessing/dp/0425200310>

https://www.amazon.com/dp/0465090745/ref=rdr_ext_tmb

<https://www.amazon.com/Healing-Well-Living-Abusive-Relationship/dp/080072965X>

Abuse Evaluation Form

Directions: Circle the words or phrases that you have experienced in your relationship even if it happened only once.

Physical Abuse

The misuse of size, strength or presence to control or hurt someone.

- Pushing
- Shoving
- Backhanding
- Biting
- Strangling
- Punching
- Burning
- Hair pulling
- Kneeling
- Smothering
- Grabbing
- Kicking
- Twisting arms
- Tearing clothes
- Clenching fist as if to hit
- Stab or cut with knife
- Standing or sitting on
- Smacking repeatedly or a single slap leaving a mark
- Banging your head or pinning you against a wall or the floor
- Holding or carrying you against your will
- Trying to hit you with a car or pushing you out of a car
- Driving recklessly in order to scare
- Throwing objects
- Breaking furniture
- Sweeping objects off a table or dresser
- Breaking windshield or windows
- Intentionally breaking your personal items
- Punching or kicking a wall or door
- Blocking a doorway so you cannot leave
- Standing behind your car so you cannot drive away
- Taking your keys so you cannot drive away
- Detaching or disabling phone to prevent a call

Abuse Evaluation Form

- Locking you in or out of the house, in a closet or other confined space
- Abusing or killing a pet

Verbal/Emotional Abuse

The misuse of words or voice to control or hurt another person.

- Consistently yelling
- Name calling
- Blackmail
- Threatening to abuse, divorce, report to welfare, kill, commit suicide
- Threatening to hurt kids or to take them away or keep them from your family
- Accusations of infidelity
- Having affairs
- Checking up on you, following or stalking
- Controlling who you see, talk to, what you read
- Making you drop legitimate charges
- Limiting outside involvement
- Questioning paternity
- Insults/put downs of yourself or your friends
- Humiliating
- Laughing at or making fun of
- Criticizing appearance
- Preventing attending school or work
- Manipulating
- Lying
- Minimizing your concerns
- Discounting
- Saying you caused their abusive behavior
- Using jealousy to justify abusive actions
- Withdrawal and silence
- Displaying or brandishing weapons
- Coercing you to do something illegal
- Making you feel guilty about the children, mistakes, housekeeping, etc.
- Making you feel afraid; intimidating with looks, actions, or gestures
- Playing mind games
- Denying that the abuse happened
- Treating you like a servant

Abuse Evaluation Form

- Being the only one to define roles in the relationship

Spiritual Abuse (a form of Emotional Abuse)

The misuse and misapplication of religious values or teachings to control or hurt another person.

- Control-oriented leadership, in effect, lording it over you
- Demanding you to be submissive with unquestioning loyalty and obedience
- Not allowing you to question their decisions
- Using guilt, fear, intimidation and Bible verses out of context to control you
- Claiming that questioning them is akin to questioning God

Financial Abuse

The misuse of knowledge, position and relationship to take advantage of someone financially.

- Restricting access to family funds
- Detailed tracking of your money use
- Making you ask for money
- Grilling you for information about your activities and money use
- Taking money, checkbook, credit or bank cards
- Wasting family money on drugs or alcohol
- Refusing to keep a job or to let you work
- Asset fraud
- Lying about how much money they have or do not have
- Not letting you know about family income
- Giving you an allowance
- Gambling family funds

Sexual Abuse

A sexual act committed against someone without that person's freely given consent. Luring, tricking, trapping, coercing or bribing anyone with less maturity or power into a sexual experience.

- Sexually stimulating or being stimulated by anyone disempowered by age, size, handicap or situation. This stimulation could be physical, verbal, or visual including discussing or describing, watching, revealing, or fondling
- Derogatory name calling
- Deliberately causing unwanted physical pain during sex
- Deliberately passing on sexual diseases or infections

Abuse Evaluation Form

- Using objects, toys, or other items (e.g. baby oil or lubricants) without your consent and to cause you pain or humiliation
- Pornography use in any form
- Forcing participation in acting out fantasies or scenes from pornography
- Insisting on you watching pornography
- Refusing to use condoms or to allow you to use other forms of birth control
- Forcing an abortion
- Forcing sex, even within marriage
- Forcing sex with others
- Forcing oral or anal sex
- Indecent exposure
- Repeatedly withholding sex within marriage
- Pouting if reasonably declined sex
- Hitting while pregnant
- Rape
- Incest



Safety Planning

This plan contains suggestions for safety. Following these suggestions is not a guarantee of safety, but applying them to your own situation could improve your level of safety in an abusive relationship. You may be able to complete a more detailed, specific safety plan with a local domestic violence advocate.

Safety While in an Abusive Relationship

- If weapons are kept in your home, try to hide guns, ammunition, knives, and any other weapons, unless hiding the weapons would further jeopardize your safety. If this isn't possible, try to make them inaccessible.
- Think about your home; identify the areas that are easiest to escape from and are free of potential weapons. Try to move to those areas during an argument. Avoid going to rooms like the kitchen where there are knives and other potential weapons and the bathroom that has hard surfaces and most likely doesn't have a second exit.
- Try to have a phone accessible at all times. Consider hiding a prepaid cell phone to use in emergencies.
- Create a code word with friends and family in order to communicate to them that you need help.
- If an abusive incident seems imminent, trust your judgment. Sometimes it is best to leave; sometimes it is best to placate the abuser.
- Make a habit of backing your car into the driveway. Try to always have some gas. Keep the driver's door unlocked and lock all other doors. Have a copy of the car key made and hide one in the car.
- If leaving is not possible:
 - Try to move into safe areas of your home.
 - Make yourself physically smaller by curling into a ball and covering your head and face with your hands.

Safety While Preparing to Leave an Abusive Relationship

- Be aware that cellular phones can contain GPS tracking devices. If possible, plan to get a new phone and new service plan when you leave, and leave your original phone behind.

- Know that leaving an abusive relationship can be the most dangerous time for you.
- Try to set aside money, even in small amounts. Start your own savings or checking account. Use the address of a trusted friend or family member when setting up the account.
- Keep a written list of important phone numbers with you.
- Have a packed bag ready. Keep it hidden in your home or leave the bag with friends, family, or at work if possible.
- Items and documents to take:
 - Birth and marriage certificates
 - ID and Social Security Cards
 - Keys
 - School and Medical Records
 - Passports, green cards, work permits
 - Protective order, divorce papers, custody orders
 - Bank papers and credit cards
 - Medicine
- Talk to your local domestic violence agency to find out about help they may be able to offer. In an emergency, call 911 first.

After Leaving an Abusive Relationship

- If you have a protective order, always carry a copy with you. Make and keep copies for work, your car, and your home. Call the police and document when the protective order is broken.
- Consider letting friends, neighbors, and co-workers know about your situation and how they can help you stay safe.
- Try to carry a cell phone with you, and program it to dial 911.
- Change your regular travel habits. Try not to frequent the same stores or businesses you did when with your abuser.
- If you are moving:
 - Consider talking to your local shelter program about temporary shelter or other services they could provide.
 - If you need to conceal your new location, consider an address confidentiality program.
- If you are staying in your home:
 - Consider changing your locks or installing stronger doors.
 - If the exchange of children is necessary, arrange a safe, neutral place to do the exchange.

- If your abuser comes to your home, you do not have to let him in. Keep the doors closed and locked, and call the police.

Safety and Technology

- Know that your computer activity can be monitored or checked without your knowledge. It is not possible to delete or clear all of the “footprints” from your computer or online activities. If you are being monitored, it may be dangerous to change your computer behaviors such as suddenly deleting your entire Internet history if that is not your regular habit.
- If you think you may be monitored on your home computer, be careful how you use your computer since an abuser might become suspicious. You may want to keep using the monitored computer for non-personal activities, like looking up the weather or reading the news. Use a safer computer to research an escape plan, look for new jobs or apartments, bus tickets, or ask for help.
- Consider opening a free email account that your abuser doesn't know about. Only check it from public or otherwise safe computers (libraries, schools, a friend's home).
- If you use a cell phone, be aware that even calls that are toll-free will likely show up on your phone bill. If you are on a joint plan or access your phone bill online, others may have access to it. Consider making calls to shelters, lawyers, or other confidential services from a payphone or prepaid cell phone.
- Call your local domestic violence program and ask them about free cell phone programs. Usually these phones will allow you dial 911.

Please call the 24-Hour National Domestic Violence Hotline at 1-800-799-SAFE (7233) or TTY 1-800-787-3224 to discuss your concerns and questions.

REASONS A VICTIM REMAINS IN AN ABUSIVE RELATIONSHIP

- You fear your abuser will become more violent, perhaps fatal, if you try to leave.
- You want to protect your partner's and your family's images.
- Your partner is your support system, even though he is abusive. Psychologically, he has destroyed your outside relationships.
- You think this time will be the last time; he will change.
- You fear being a single parent with a reduced income.
- You fear he will stalk you and harass you at your workplace.
- You do not realize you have the right *not* to be abused.
- Your only desire for change is not to be abused.
- You fear living alone.
- You were raised in an abusive home, and this feels normal.
- You think the abuse will stop if you will only . . .
- Religious and cultural beliefs keep you in the marriage.
- You stay for the children; any father is better than none.
- Your confidence has deteriorated as a result of continuous put-downs, name-calling, or other forms of abusive behavior.
- You have no place to go. Often friends and family are not helpful.
- You have feelings of powerlessness and fear.
- You believe that all you have in life is your family, house, children, husband, and/or marriage. They are your responsibility, and you must fix whatever goes wrong.
- You believe divorce is not a viable option.
- Your partner is not always abusive. After the violence, he is often contrite, asking for forgiveness, promising to change, and acting like the model father and husband . . . for a while.
- You feel trapped and do not know about help services.
- You believe that if you disclose the secret, no one will believe you. He is a pillar in the community and/or church.
- You believe the law will not take you seriously and that he will not be punished.
- You fear the complexities of the legal system. Lawyers are expensive.
- You still love him.

REASONS A VICTIM LEAVES AN ABUSIVE RELATIONSHIP

- You believe the next abusive incident could be fatal.
- He is either sexually or physically abusing the children.
- The children are acting abusive, and you realize you need to remove them from the abusive situation.
- You are informed of available help via Internet, radio, TV, church, etc.
- You are encouraged by other women who have left.
- A friend, family member, counselor, or church leader gives you the support you need.
- You are learning to truly love yourself.

MANUEVERS AN ABUSER MAY USE TO KEEP YOU FROM LEAVING

- Promises to change
- Enters therapy or abusers' program
- Stops drinking/attends AA
- Apologizes
- Says no one else will want you
- Says you're abandoning him
- Threatens to kidnap/take custody of the children
- Threatens to withhold finances
- Acts nice
- Persuades others to pressure you, giving him another chance
- Threatens suicide
- Spreads rumors or your confidential information
- Starts a relationship/affair to upset you
- Insists he's changed
- Threatens or assaults anyone helping you or starting a relationship with you
- Gets you pregnant
- Stalks you
- Physically/sexually assaults you
- Destroys property
- Threatens to harm or kill you

The above material was adapted from Lundy Bancroft, *Why Does He Do That? Inside the Minds of Angry and Controlling Men*: Pgs. 213-214, ©2002 Berkley Books, New York, NY



Domestic Violence Pro Bono Assistance: How You Can Help

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San Diego Volunteer Lawyer Program Mission Statement

To provide equal access to the justice system by serving as a bridge between indigent and other disadvantaged people in San Diego County and the volunteer lawyers and others who are willing to donate their time and resources.

Two Ways to Help Domestic Violence Survivors

- 1) Temporary Restraining Order (TRO) Clinic
- 2) Direct Representation in Domestic Violence Restraining Order (DVRO) hearings



Life of a Domestic Violence Restraining Order

1

- File TRO (granted/denied same day)
- *This is what **DV clinic** volunteers help with

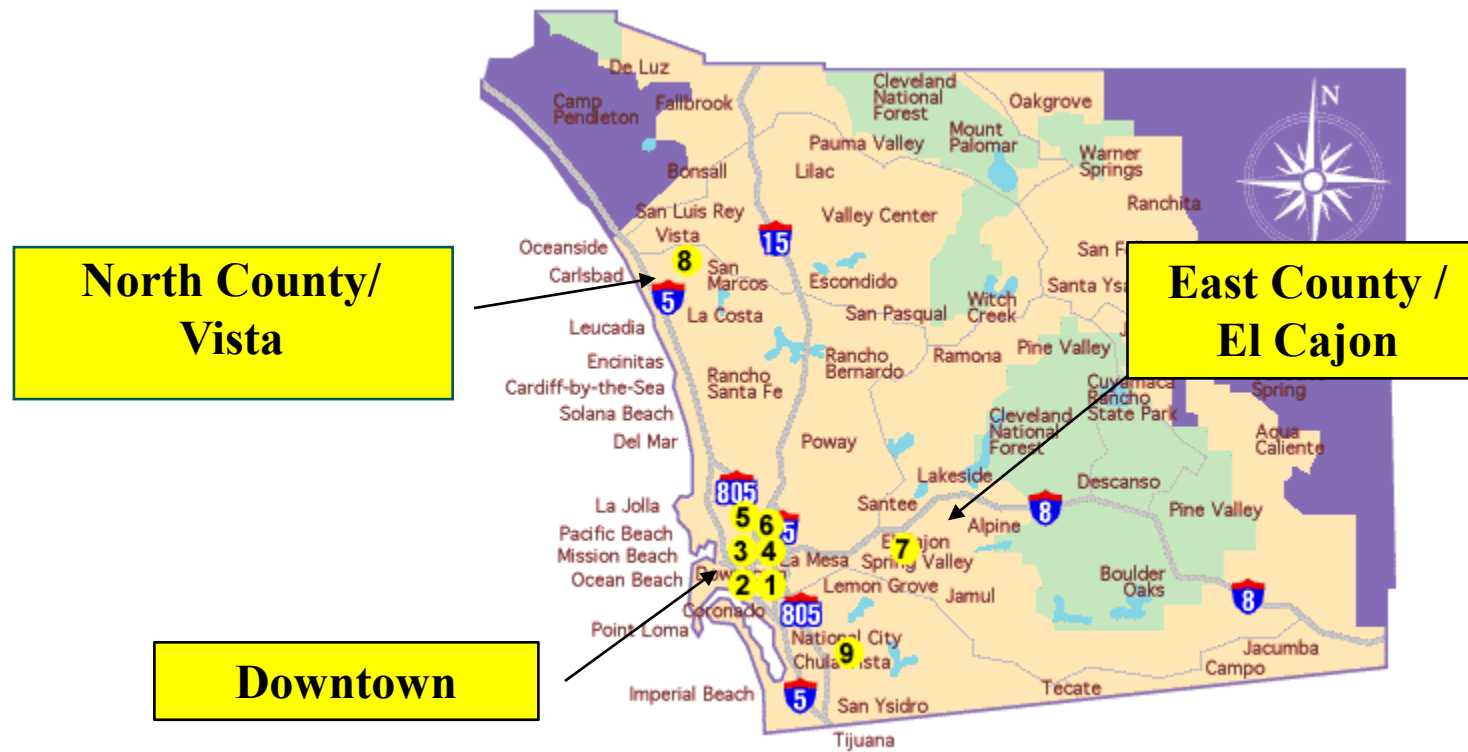
2

- 21 days (TRO in place, serve TRO, prepare for hearing)

3

- DVRO Hearing (1-5 yr order)
- *This is what **DV direct rep** volunteers help with

SDVLP TRO Clinic Locations



How to Help: TRO Clinics

- Interview clients and draft paperwork (forms + statement) needed to request a temporary restraining order
- Everything is supervised by in-clinic supervising attorney + comprehensive training manuals
- In-person vs. Remote volunteering (during 4 or 8 hour shifts)
- How an attorney can help - # of forms can be overwhelming, relevance, being succinct, identifying helpful evidence
- Client is in crisis, having to file adds stress to an already traumatic situation

The TRO

DV-100	Request for Domestic Violence Restraining Order	Clerk stamps date here when form is filed.
Instructions To ask for a domestic violence restraining order, you will need to complete this form and other forms (see page 12 for list of forms). If this case includes sensitive information about a minor child (under 18 years old), see form DV-160-INFO, Privacy Protection For a Minor (Person Under 18 Years Old) Domestic Violence Prevention for more information on how to protect the child's information.		
1 Person Asking for Protection		Fill in court name and street address:
a. Your name: _____		Superior Court of California, County of _____
b. Your age: _____		
c. 1 Address where you can receive court papers		Court fills in case number when form is filed.
(This address will be used by the court and by the person in 2 to send you official court dates, orders, and papers. For privacy, you may use another address like a post office box, a Safe at Home address, or another person's address, if you have their permission and can get your mail regularly. If you have a lawyer, give their information.)		Case Number: _____
Address: _____		
City: _____ State: _____ Zip: _____		
d. 1 Your contact information (optional)		
(The court could use this information to contact you. If you don't want the person in 2 to have this information, leave it blank or provide a safe phone number or email address. If you have a lawyer, give their information.)		
Telephone: _____ Fax: _____		
Email Address: _____		
e. Your lawyer's information (if you have one)		
Name: _____ State Bar No.: _____		
Firm Name: _____		
2 Person You Want Protection From		
a. Full name: _____		
b. Age (give estimate if you do not know exact age): _____		
c. Date of birth (if known): _____		
d. Gender: <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> Nonbinary		

Sample Declaration – Self Represented Litigant

Describe Abuse

Describe how the person in (2) abused you. Abuse means to intentionally or recklessly cause or attempt to cause bodily injury to you; or to place you or another person in reasonable fear of imminent serious bodily injury; or to harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, keep you under surveillance, impersonate (on the Internet, electronically or otherwise), batter, telephone, or contact you; or to disturb your peace; or to destroy your personal property. (For a complete definition, see Fam. Code, §§ 6203, 6320.)

a. Date of most recent abuse: 6/7/20

1. Who was there? [redacted], [redacted], [redacted], [redacted], [redacted]

2. Describe how the person in (2) abused you or your child(ren):
He came to my home unannounced with his daughter [redacted] and [redacted] I left my children [redacted] and [redacted] in their room and after [redacted] banging on my door I stepped outside to let him know he was not going to be seeing the children and not allowed to drop by.

attach a sheet of paper and write "DV-100, Recent Abuse" for a title.

Same Facts – Drafted by an Attorney

Important Details:

-Harassment since 2019

-Between 4/3 and 6/17, he showed up at her home almost every day

-On 4/3, he called her 17 times in 1 hour

-On 4/12, he grabbed phone away from her and she had to lock herself in bedroom until he left

Respondent's Ongoing Harassment

6. I am seeking this restraining order because Respondent will not leave me alone, despite my attempts to end our relationship. We were together for approximately seven years, from 2012 to 2019. As described in detail below, Respondent was emotionally and physically abusive throughout our relationship. I ended the relationship in July 2019, and Respondent moved out of my home. Since then, Respondent has been harassing me by repeatedly calling me and showing up to my home uninvited, and refusing to leave.
7. Between April 3 and June 17, 2020, Respondent has shown up uninvited to my apartment almost every day. I am not able to leave my apartment without interacting with Respondent, because he waits in the alley by my door. In addition to banging on the door, Respondent calls and texts me repeatedly when he is outside of my home.
8. For example, on April 3, 2020, Respondent called me 17 times in one hour. A screenshot showing the missed calls from Respondent is attached as Exhibit 1.
9. Between April 3 and April 12, Respondent came to my home uninvited every day. I finally let him inside on April 12, because I thought that if I talked to him he would leave me alone. I let him in around 8 pm. I asked him to leave around 10pm, and he refused to go. I asked him to leave multiple times, then I told him that I would call the police. Respondent grabbed my phone from me and hid it so that I could not call the police. I went into the bedroom and locked the door and waited for Respondent to leave. He finally left around 4am.
10. On April 14, 2020, Respondent came over to my home uninvited again. He sat on my porch at around 10am and refused to leave when I asked him to go. I told him I was going to call the police, and he left.

How to Help: Direct Representation (DVRO hearings)

- Represent clients in court at their DVRO hearings
 - Draft supplemental declarations
 - Gather evidence and file with court
 - Appear at hearings with client
 - Provide motivation and support
- 10-20 hour time commitment



SDVLP Mentorship

- Zoom Training
- Comprehensive Training Manual
- Checklists + “Cheat Sheets”
- Sample Documents + Templates
- Ongoing guidance from SDVLP Mentor Attorney

Your Help Matters

- Courage to follow through with case
- Explain abuse in clear/concise manner
- Gather evidence
- Help with logistics (service, filing)
 - Divorce, child custody, child/spousal support = **social justice issues!**
 - On average takes 6-8 attempts to leave abusive relationship
 - Threats to take away children
 - Economic abuse



Covid-19 Considerations

- The pandemic has led to an increase in domestic violence
- “Shadow Pandemic” of abuse – people are trapped at home in high stress situations (increase in people working from home, and others who have not entered back into the job market)

**HOME ISN'T SAFE
FOR EVERYONE.**

Survey Responses

- “Attorney was caring and professional. She helped me a great deal with my statement. I don’t know what I would have done without this service.”
- “The service I received was excellent. Very kind, and understanding staff during this very difficult time. Thank you so much.”
- “Todo estuvo excelente, muy bien trato, y buena atencion (everything was excellent, great service, and good attention).”
- “Thank you for stating my case accurately and being so helpful and understanding.”
- “More staff please.”

Thank You!

If interested in volunteering, please feel free to
email me directly:

Bhavani Peesapati-Madero

bpeesapati@sdvlp.org

619-804-4296

www.sdvlp.org/volunteer

SDMLP

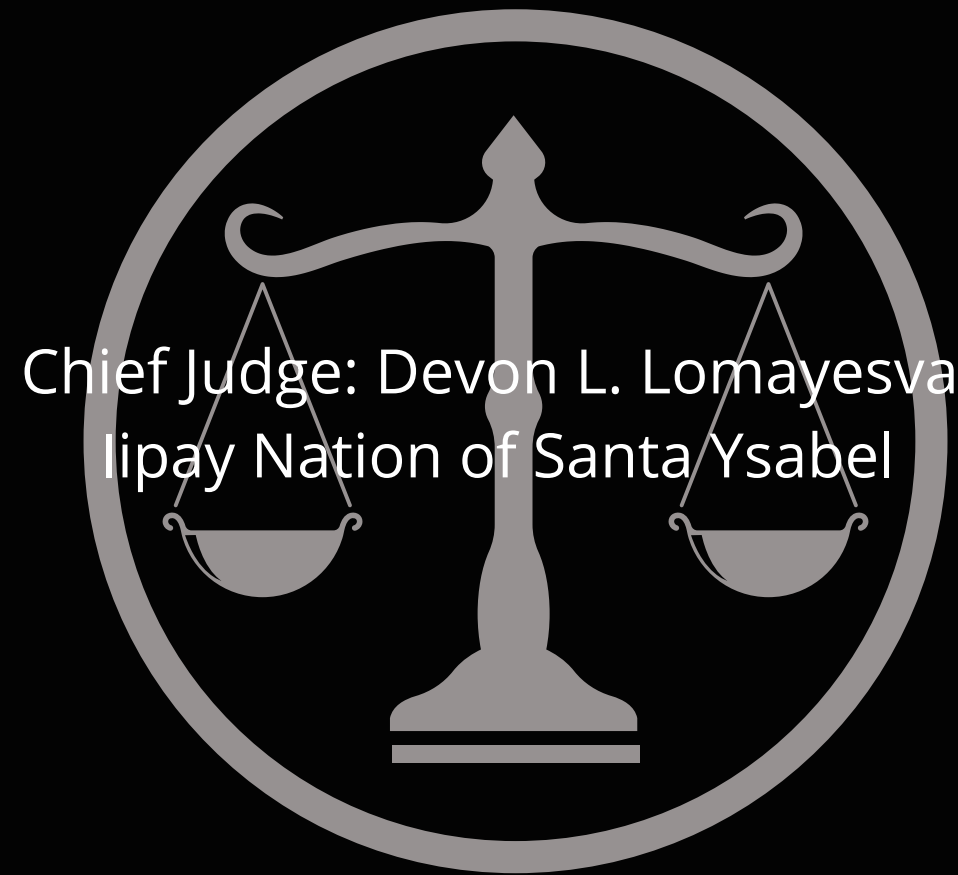
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VOLUNTEER LAWYER PROGRAM

PURSUING *Justice* | **TRANSFORMING** *Lives*

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A TRIBAL COURT PERSPECTIVE: EXPANDING VICTIM SERVICES IN INDIAN COUNTRY



Chief Judge: Devon L. Lomayesva
Ipai Nation of Santa Ysabel



WHY ARE WE HERE ?

- **Indigenous Women (girls +) are murdered 10xs more than all other ethnicities.**
- **Murder is the 3rd leading cause of death for Indigenous Women (Centers for Disease Control).**
- **More than 4 out of 5 Indigenous Women have experienced violence (84.3%) (National Institute of Justice Report).**
- **More than half of Indigenous Women experience sexual violence (56.1%).**
- **More than half of Indigenous Women have been physically abused by their intimate partners (55.5 percent).**
- **Nearly half of Indigenous Women have been stalked in their lifetime (48.8 percent).**
- **Indigenous Women are 1.7xs more likely than Anglo-American women to experience violence.**
- **Indigenous Women are 2xs more likely to be raped than Anglo-American white women.**
- **Murder rate of Indigenous Women is 3xs higher than Anglo-American women**

Statistics Pulled from: <https://www.nativewomenswilderness.org/mmiw>

CHALLENGES THAT WE ENCOUNTER AS A TRIBAL COURT

1 This has always been a problem in Native communities, so changing the narrative is hard.

2 Tribal Courts are still building trust in Tribal communities.

3 Many Tribes are rural and it can be hard to get out information to victims who need it.

4 Tribes lack adequate resources/codes/knowledge to take action.

5 State law enforcement and judicial systems not acknowledging or enforcing Tribal orders.

STEPS ICSC IS TAKING TO ADDRESS ISSUES



Community Exposure

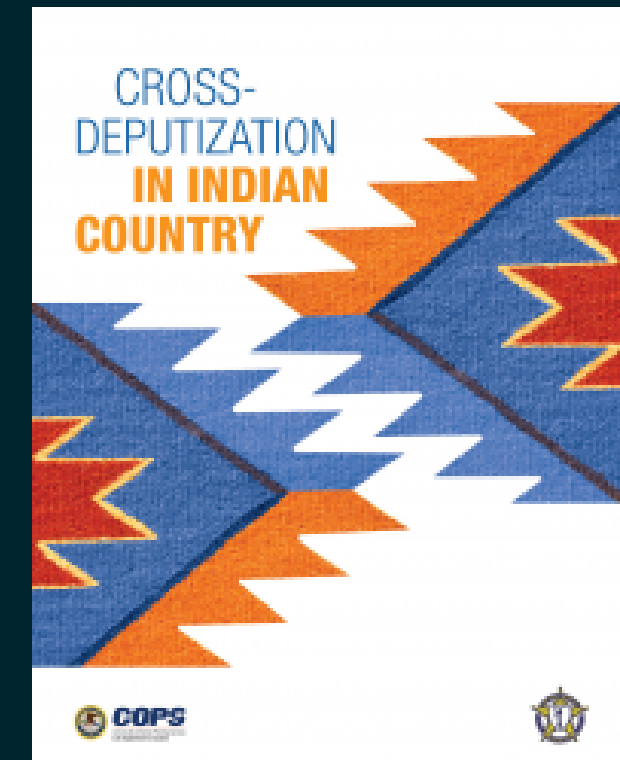


Iipay Nation of Santa Ysabel, 2023 Gathering

Providing Resources to Communities



Fostering Relationships with Local Law Enforcement and State Courts



OTHER COURT INITIATIVES UNDER DEVELOPMENT AND CONSIDERATION

Pro Bono Program

Talking Circles

Tribal Youth Court

Lay Advocacy

Tribal Access Program (TAP)

Legal Aid Clinics

Special DV Criminal Jurisdiction

Referral Lists

CURRENT TRIBAL COMMUNITY PARTNERS



Cahuilla Consortium: <https://www.cahuillaconsortium.org/>
(951)-330-0479

Strong Hearted Native Women's Coalition:
<https://strongheartednativewomen.org/our-services/> (760)-644-4781

Indian Health Council: <https://www.indianhealth.com/> (760) 749-1410 Ext. 5249

Southern Indian Health: <https://sihc.org/> (619)-445-1188 Ext. 210 or 214

San Pasqual Native Women's Resource Center:
<https://www.sanpasqualbandofmissionindians.org/departments/domestic-violence-department>

National Indigenous Women's Resource Center:
<https://www.niwrc.org/>

(406) 477-3896
Strong Hearts Native Helpline: <https://strongheartshelpline.org/>
(844) 762-8483

Pauma and Rincon Sexual Assault Response Team (SART):
(760) 807-8565 | (760) 742-1289

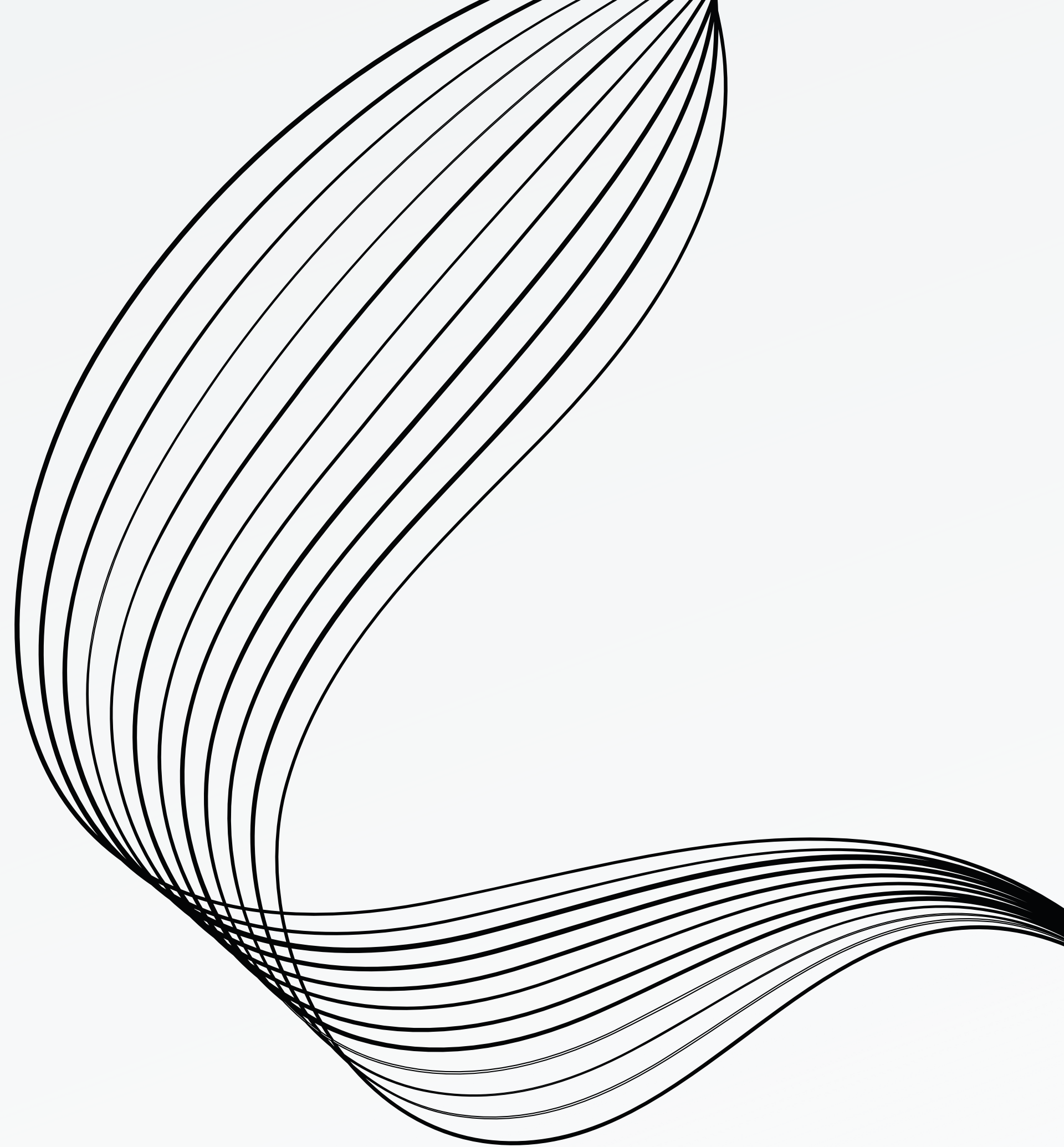
Iipay Nation of Santa Ysabel DV/SA Program: (760) 685-8897

La Jolla, Avellaka: https://avellaka.com/?page_id=373
(760) 742-8628

California Indian Legal Services:
<https://www.calindian.org/domestic-violence-protection-support/>
(760) 746-8941 Ext. 106

HOW CAN YOU HELP?

Offer pro-bono services to the
Intertribal Court of Southern
California!



CONTACT US



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