

CALIFORNIA DEPARTMENT OF JUSTICE
SPOUSAL ABUSER PROSECUTION PROGRAM



PROGRAM GUIDELINES

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STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL

Domestic violence is a crime that causes injury and death, endangers children and families, threatens society, and significantly increases health care costs. Domestic violence can occur anywhere and at any time. It is a crime that knows no cultural, racial, ethnic or economic boundaries.

California has been, and continues to be, a national leader in the effort to prevent domestic violence and punish abusers. State policymakers have for decades been at the forefront in enacting landmark legislation and launching effective new programs to address domestic violence. In 1994, the Battered Women Protection Act was signed into law (Assembly Bill No. 801, Chapter 599, (1993-1994 Reg. Sess.)). The Act specifies that most domestic violence occurs against women and, among other provisions, appropriated \$3,355,000 annually to the Department of Justice to implement the Spousal Abuser Prosecution Program (SAPP). In 1999, during my first year in office, I was able to increase the program by \$491,000 for the first time since its inception.

SAPP has become an integral part of many county family violence programs. In 2001, it provided funds to 47 district attorneys and 4 city attorneys for vertical prosecution, investigation, and counseling services for the most difficult family violence cases. The program has significantly improved prosecution of abusers by using the following methods:

- ! Vertical Prosecution: Each case is handled by the same attorney, throughout the adjudication process, resulting in more efficient handling of cases.
- ! Intensified Investigative Support: Preparation of each case includes extensive field investigation, in-depth interviews of victims and witnesses, and enhanced cooperation between law enforcement agencies and victim advocates.
- ! Assignment of Reduced Caseloads: Each attorney and investigator in the program is assigned a significantly reduced caseload. This allows them to give greater attention to the needs of the victims and greatly improves the prospects for successful prosecution.

The attached SAPP guidelines contain the terms and conditions upon which the Department of Justice offers grants. By following SAPP's guidelines, you will ensure continued eligibility for program grants.

We must give specialized attention to domestic violence prosecutions in order to better protect victims and their children and hold abusers accountable. I hope you will continue to improve the safety of our community and promote the well-being of families by implementing the goals of this important program.

Sincerely,
BILL LOCKYER
Attorney General

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100 BACKGROUND AND HISTORY

In 1994, California enacted the Battered Women Protection Act (Assembly Bill 801 (1993-1994 Reg. Sess.)). (See Exh. A.) A portion of this bill appropriated \$3,355,000 to the Department of Justice to implement the Spousal Abuser Prosecution Program (SAP Program). This program was previously established by statute in 1985 under Penal Code section 273.8. (See Exh. E.)

The 1994 law provides financial and technical assistance to district attorneys and city attorneys for the vertical prosecution of domestic violence offenses, reduction of spousal abuse caseloads, and improved coordination of local services for victims.

The vertical prosecution of spousal abuse cases is based on the successful model used for the prosecution of career criminals. Under vertical prosecution, victims of domestic violence benefit from being able to work with the same prosecutor and investigator from the initial filing through the sentencing of the offender. Prosecutors also are able to develop expertise and increase the time spent preparing spousal abuse cases and the victims for trial.

This comprehensive approach to prosecuting spousal abusers includes the use of trained counselors or victim witness advocates. The trained counselors/advocates work directly with a victim from the initial court appearance through the case's conclusion. Local vertical prosecution units that lack a domestic violence counselor or victim witness advocate on staff may refer victims to domestic violence centers, rape crisis centers or similar resources. The SAP Program is outlined in Penal Code section 273.8 (see Exh. E), et seq.

200 PROGRAM DESCRIPTION

The SAP Program is a vertical prosecution program that enhances the effort to prosecute and convict individuals arrested for spousal abuse crimes. The program requires highly qualified staff, reduced caseloads, victim counseling and coordination with local victim service organizations.

The SAP Program provides grants to district attorneys and city attorneys for the vertical prosecution of domestic violence offenses, which allow a victim to work with the same prosecutor and investigator from the time charges are filed through the sentencing of the offender. In addition, trained counselors/advocates also work with the victim to help make the trial process less traumatic and overwhelming.

The SAP Program, within the California Department of Justice (DOJ), reflects a strong commitment of Attorney General Bill Lockyer to the prosecution of domestic violence offenses. In 1999, his first year in office, Attorney General Lockyer secured the support of the California Governor and Legislature to increase program funding by \$491,000 for the first time since the Department of Justice began operating the program in 1994.

As stated by Attorney General Lockyer:

"We need to stop the tragedy of domestic violence, which victimizes women and ripples through so many families and communities. A civilized society should offer no less than a safe home and family environment."

300 ELIGIBILITY AND FUNDING AVAILABILITY

The following organizations are eligible to apply for funds:

- A) California County District Attorney Offices.
- B) California City Attorney Offices currently authorized pursuant to Government Code section 41803.5 or 72193 (see Exh. D) to prosecute state law misdemeanors.

The grant award entered into with the Department of Justice is subject to any applicable restrictions, limitations, or conditions enacted by California subsequent to execution of the grant award.

400 GRANT DURATION

The SAP Program grant period is from July 1 through June 30 of the current funding year. Projects selected for funding are expected to begin within 60 days or less of the grant period starting date. If this does not happen, DOJ may terminate the project and redistribute the funds.

500 TERMINATION OF CONTRACT OR GRANT

A determination of noncompliance will jeopardize eligibility for continued grant funding. Each grant award may be subject to suspension of payments or termination of the grant, if the DOJ determines that any of the following has occurred:

- ! The grantee has made a false certification.
- ! The grantee fails to carry out the legislative requirements of the 1994 Battered Women Protection Act.

600 REDUCTION OR TERMINATION OF GRANT FUNDS

The DOJ may withhold grant funds and/or disallow expenditures when the program fails to comply with any term or condition of the grant award. This may include, but is not limited to the following:

- A) Failure to comply with any term or condition of the grant award.
- B) Reduction or elimination of grant awarded funds by the Governor or the California Legislature.
- C) Failure to submit the required expenditure claims in a timely manner.
- D) Failure to submit the required quarterly reports in a timely manner.
- E) Failure to resolve interim or final audit exceptions on past or current grants in a timely manner.

700 DENIAL OF FUTURE FUNDING

Failure to comply with any term or condition of a grant award may result in the denial of future grant awards.

800 PROGRAM DIRECTOR

The SAP Program director has general administrative authority for implementing program activities and maintaining compliance with all program, administrative, and fiscal requirements of the grant award.

The program director is responsible for:

- A) Ensuring that any program monies expended or obligated are for allowable costs and are in compliance with the approved budget;
- B) Maintaining required documentation of program activities and accomplishments;
- C) Submitting all reports and grant modifications to DOJ.

900 LEGISLATIVE REQUIREMENTS

The 1994 Battered Women Protection Act contains the legislative requirements that district attorneys and city attorneys must meet in order to receive SAP Program grant funds from the Department of Justice.

910 SUPPLANTION OF EXISTING FUNDS

Funds disbursed under the 1994 Battered Women Protection Act must be used to supplement existing funds for program activities and shall not supplant local funds that would, in the absence of the California Spousal Abuser Prosecution Program, be made available to support the prosecution of spousal abuser cases.

920 MATCHING REQUIREMENTS

Local government recipients shall provide twenty (20) percent matching funds for every grant awarded under this program. Programs must also document all in-kind and other matching contributions. The required match can be either cash or in-kind. (See SAP Program Invoice.)

Cash match, also known as hard match, is income from a source other than SAP Program grant funds that is budgeted for the program.

In-kind match, also known as soft match, is the program's contribution of non-cash outlay of materials or resources to support a percentage of SAP Program grant award activities. Examples include office supplies, equipment, and staff expenditures. Programs must maintain documentation to support the claimed in-kind costs. The match must be noted on the SAP Program Invoice and maintained as part of the accounting records.

930 ENHANCED PROSECUTION AND RESOURCES (SEE PEN. CODE, § 273.82 AND STATE SEN. BILL 241, CH. 641 (STAT. OF 1995))

Spousal abuser prosecution units receiving funds under the 1994 Battered Women Protection Act shall concentrate enhanced prosecution efforts and resources upon individuals identified under selection criteria set forth in Penal Code section 273.82. (See Exh. E.) Enhanced prosecution efforts and resources shall include, but not be limited to, all of the following:

- A) Vertical prosecutorial representation, whereby the prosecutor who, or prosecution unit that, makes all major court appearances on that particular case through its conclusion, including bail evaluation, preliminary hearing, significant law and motion litigation, trial, and sentencing. (Pen. Code, § 273.82(a)(1).) (See Exh. E.)
- B) Vertical counselor representation, whereby a trained domestic violence counselor maintains liaison from initial court appearances through the case's conclusion, including the sentencing phase. (Pen. Code, § 273.82(a)(2).) (See Exh. E.)

Projects may satisfy this statutory requirement by implementing one of the following options:

- ! Employ a domestic violence counselor utilizing Spousal Abuser Prosecution Program funding, or grantee match funds, or
- ! Enter into an Operational Agreement with the local Victim Witness Assistance program or other victim service program meeting the statutory definition for Domestic Violence Counselor.

Please Note: Victim witness participation must not conflict with the statutory and program guideline requirements for the Victim Witness Assistance Program. Victim Witness Assistance Centers are legislatively required to serve victims of all types of crimes. This may limit victim witness availability to participate in the Spousal Abuser Prosecution Program if such participation prevents the efficient delivery of the services mandated for victim witnesses. ("Domestic Violence Counselor" is defined in Evid. Code, § 1037.1. (Exh. C).)

- C) The assignment of highly qualified investigators and prosecutors to spousal abuser cases. "Highly qualified" means any of the following:
 - ! Individuals with one year of experience in the investigation and prosecution of felonies, or
 - ! Individuals with at least two years of experience in the investigation and prosecution of misdemeanors, or

! Individuals who have attended a program providing domestic violence training as approved by the Office of Criminal Justice Planning or the Department of Justice.

- D) A significant reduction of caseloads for investigators and prosecutors assigned to spousal abuser cases.
- E) Coordination with local rape victim counseling centers, spousal abuse services programs, and victim-witness assistance programs. That coordination shall include, but not be limited to: referrals of individuals to receive client services; participation in local training programs; membership and participation in local task forces established to improve communication between criminal justice system agencies and community service agencies; and cooperating with individuals serving as liaison representatives of local rape victim counseling centers, spousal abuse victim programs, and victim-witness assistance programs.

940 INDIVIDUALS SUBJECT TO SPOUSAL ABUSER PROSECUTION EFFORTS; SELECTION OF CASES (PEN. CODE, § 273.83) (SEE EXH. E.)

- A) An individual shall be the subject of a spousal abuser prosecution effort who is under arrest for any act or omission described in subdivisions (a) and (b) of Penal Code section 13700. (Exh. E.)
- B) Cases shall not be rejected for filing exclusively on the basis that there is a family or personal relationship between the victim and the alleged offender.
- C) In exercising the prosecutorial discretion granted by Penal Code section 273.85, (see Exh. E) prosecutors shall consider the number and seriousness of the offenses currently charged against the defendant.

950 POLICIES FOR SPOUSAL ABUSE CASES (PEN. CODE, § 273.85) (SEE EXH. E)

Each district attorney's or city attorney's office establishing a spousal abuser prosecution unit and receiving funds under the 1994 Battered Women Protection Act shall adopt and pursue the following policies for spousal abuse cases:

- A) All reasonable prosecutorial efforts shall be made to resist the pretrial release of a charged defendant meeting spousal abuser selection criteria.
- B) All reasonable prosecutorial efforts shall be made to persuade the court to impose the most severe authorized sentence upon a person convicted after prosecution as a spousal abuser. In the prosecution of an intrafamily sexual abuse case, discretion may be exercised as to the type and nature of sentence recommended to the court.

- C) All reasonable prosecutorial efforts shall be made to reduce the time between arrest and disposition of charge against an individual meeting spousal abuser criteria.
- D) All policies developed in conjunction with the foregoing objectives shall be in writing and available to unit staff. These policies should be reviewed periodically to insure that they reflect current concepts and applicability. The existence and evaluation of current written policy regarding the foregoing will be considered when determining compliance with these objectives. (Pen. Code, § 273.84.)

960 DEPARTURE FROM SELECTION CRITERIA UNDER EXTRAORDINARY CIRCUMSTANCES (PEN. CODE, § 273.85) (SEE EXH. E)

The policies set forth in Penal Code section 273.85 shall be adhered to for each spousal abuse case unless, in the reasonable exercise of prosecutor's discretion, extraordinary [emphasis added] circumstances require departure from those policies in order to promote the general purposes and intent of this chapter.

1000 ADMINISTRATIVE REQUIREMENTS OF THE SAP PROGRAM (SEE EXH. F FOR ALL SAP PROGRAM REPORTING FORMS)

1010 PROGRESS REPORTS

Pursuant to Penal Code section 273.85(b) (Exh. E), funded projects are statutorily required to submit progress reports (see Exh. F, Progress Report) to DOJ. Projects are required to keep accurate records to document the project's progress in achieving the objectives. These records must be kept by the program for a period of three years. DOJ will, during programmatic site visits, review these records for accuracy and will compare quarterly data to the quarterly progress reports submitted by the program. A Progress Report (see Exh. F) form has been developed to serve as the vehicle for reporting the foregoing information. All prosecutors, investigators, and counselors working on the SAP Program, receiving SAP Program or other funding, must be listed on the report.

Progress Reports for the current grant period are due to DOJ by the following dates:

Reporting Period	Due Date
July 1 – September 31	October 30
October 1 – December 31	January 30
January 1 – March 31	April 30
April 1 – June 30	July 30

1020 PROGRAM INVOICES (SEE EXH. F)

Programs are required to submit invoices to DOJ on a quarterly basis. They are due to DOJ by the thirtieth (30th) day of each month immediately following each quarter of the grant period. Delays in submitting these invoices may result in the withholding of funds and in the reduction or termination of the grant award. Amounts must be reported in whole dollars, rounded up when \$.50 or above and rounded down when \$.49 or below. The grantee must expend cash before claiming an expenditure. The grantee must not request funds for expenses that have not been paid.

DOJ staff will review all claims to ensure they are for expenses approved in the program budget and are in compliance with the required match funding. Claims that do not comply with those requirements will be returned.

Typically, programs can expect to receive payments 30-45 calendar days after receipt of the invoice. Due dates for Program invoices of the current grant period are shown in the above chart.

Programs must document every cost charged to the grant. For example, programs must keep signed time and attendance records for each and every individual. An official of the organization shall approve payroll documents. Programs allocating an employee's salary between this grant and another funding source must keep individual time distribution records. Expenditures of grant funds must be recorded in categories, which parallel the grant award. The program must be able to show with documentation that all costs can be traced to the program invoice. (See Exh. F).

The claimed expenses must be grant-related (i.e., they must further the program objectives as defined in the grant award agreement) and be incurred during the grant period. DOJ reserves the right to make the final determination if an expense is allowable and necessary.

1030 ALLOWABLE COSTS TO SAP PROGRAM GRANT

An allowable cost is:

- ! Incurred specifically for the SAP Program;
- ! Benefits the SAP Program and other work, but can be distributed fairly between the grant and another funding source;
 - ! Reasonable;
 - ! Budgeted under the grant;
 - ! Complies with generally accepted accounting principles;
 - ! Not charged against any other grant;
 - ! Treated consistently with other costs incurred by the organization; and
 - ! Documented.

1040 BUDGET REVISIONS

Revisions to individual line item expenditures may not exceed \$1,000 of the budgeted amount without prior approval of a budget revision by DOJ (see Exh. F). Changes to an individual line item should be reflected in the current quarterly program invoice.

1050 GRANT PERSONNEL

The 1994 Battered Women Protection Act requires grant recipients to have three staffing components that meet minimum qualifications (see SAP Program Guidelines, section 930). The staffing components consist of at least a prosecutor, an investigator, and a domestic violence counselor.

The Verification of Staff Qualifications form must be submitted at the start of the program year for all staff attached to a SAP Program grant. In addition, whenever a staff member is replaced, this form should be submitted to DOJ within 30 days of staff replacement. (Exh. F, Verification of Staff Qualifications.)

1060 SUBMITTAL OF AUDIT REPORT

Programs must submit an audit report to DOJ by December 31st. Programs must correct weaknesses or findings identified in the audit report. Audit reports must be submitted to:

Department of Justice
Spousal Abuser Prosecution Program
P. O. Box 944255
Sacramento, CA 942440-2550
Attention: Anna Rich, Coordinator

SAP Program revenues and expenditures must be shown separately in the audit by supplemental information. Expenditures must be reported by expenditure categories and each grant must be identified by name and grant award number. The audit report must identify that the 20% match requirement (cash or in-kind) was met. The report must also identify the revenues and expenditures made to meet the match requirement in the financial schedules or notes to the financial statements.

1100 TRAVEL AND PER DIEM

Project travel costs based on the current year allowable costs for travel and per diem is dictated by State and/or local government policy and regulations.

Out-of-state travel is restricted and only allowed in exceptional situations. Requests for approval for out-of-state travel will be reviewed by DOJ if the applicant requests funding for such travel.

1200 EQUIPMENT (SEE EXH. F, EQUIPMENT INVENTORY)

Equipment is property having a useful life of more than one year and an acquisition cost of \$1,000 or more per unit (including tax and installation).

Grant funds cannot be used to reimburse the program for equipment already obtained.

Equipment, which is initially budgeted in the grant award, should be ordered within the first four months so that it can be placed in service during the grant period. Equipment must also be reported to DOJ within 30 days of the purchase date and a DOJ decal (bar code) requested.

Programs shall obtain prior written approval for the purchase or lease of equipment with either an acquisition cost of \$1,000 or a useful life of one or more years, unless listed in the program budget. Programs must inventory equipment purchased with grant funds.

The property management standards for equipment acquired with State funds shall include all of the following:

- A) Equipment records shall be maintained accurately and include the following information:
 - 1) A description of the equipment;
 - 2) Manufacturer's model number and serial number;
 - 3) Cost, purchase date or acquisition date and DOJ decal number.
- B) Equipment purchased by the SAP Program funds belong to the State of California.
- C) A physical inventory of equipment shall be taken and the results submitted to DOJ on June 30th of the current fiscal year. (See DOJ calendar.) Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated.
- D) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated, fully documented, and reported immediately to DOJ.
- E) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.
- F) Obsolete equipment must be reported to DOJ on the Equipment Inventory form. Contact Program Administrator for further details.

1300 PROGRAM MONITORING

A site visit is an on-site assessment by the DOJ to determine if the SAP Program is in compliance with the Grant Award Agreement and the 1994 Battered Women Protection Act. The goal of the site visit is to support programs and help them to achieve their goals.

The site visit will cover all areas of program operation. Source documentation to be reviewed may include: data collection sheets, financial documents, or any other documents that will substantiate data reported in quarterly progress reports. Achievement of program objectives will be verified by examining program data.

1400 DRUG-FREE WORKPLACE CERTIFICATION

Through the enactment of Senate Bill 1020 (1990-1991 Reg. Sess.) (Exh. B), the Drug-Free Workplace Act of 1990 was established requiring grantees to ensure DOJ that they will comply with the requirements of Government Code sections 8350-8357 (Exh. D).

Every organization awarded a grant for the procurement of any property or services shall certify that it will provide a drug-free workplace by doing all of the following:

- A) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace and specifying the actions that will be taken against employees for violations of the prohibition.
- B) Establishing a drug-free awareness program to inform employees about all of the following:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The person's or organization's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - 4) The penalties that may be imposed upon employees for drug abuse violations.
- C) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.
- D) Each employee must sign a written agreement that she/he received a copy of the statement and she/he will abide by it. The grantee/contractor then must maintain the documentation (signed agreement) on file.

EXHIBIT A

**1994 BATTERED WOMEN PROTECTION ACT
ASSEMBLY BILL NO. 801, CHAPTER 599
(1993-1994 REG. SESS.)**

EXHIBIT B

**STATE SENATE BILL 169, CHAPTER 641
(STATUTES OF 1995)**

**STATE SENATE BILL 1020, CHAPTER 1170
(STATUTES OF 1990)**

EXHIBIT C

EVIDENCE CODE SECTION 1037.1

EXHIBIT D

GOVERNMENT CODE SECTIONS

41803.5

72193

8350-8357

EXHIBIT E

PENAL CODE SECTIONS

273.8 - 273.88

13700 (a) & (b)

EXHIBIT F

SAP PROGRAM FORMS

- EQUIPMENT INVENTORY
- PROGRAM INVOICE
- PROGRESS REPORT
- REQUEST FOR BUDGET REVISION
- VERIFICATION OF STAFF QUALIFICATIONS