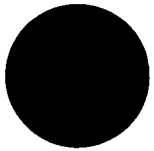


# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:



## SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

A publication of the



**NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE®**

and the

***INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE***



under a Cooperative Agreement with the

Office for Victims of Crime  
**OVC**  
*Advocating for the Fair  
Treatment of Crime Victims*

**U.S. Department of Justice**  
Office of Justice Programs  
*Office for Victims of Crime*

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# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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*Victim Services in Community Policing Programs* is a package of three publications: *The Participant' Guide*, *The Trainer's Guide*, and *Sample Protocols, Policies, and Procedures*. They are the products of a cooperative agreement (number 95-MU-MU-K006) between the Office for Victims of Crime (OVC) in the U.S. Department of Justice and the National Organization for Victim Assistance (NOVA) and the International Association of Chiefs of Police (IACP). Views and opinions in these publications are those of NOVA and the IACP, and do not necessarily represent those of OVC.

OVC, NOVA, and the IACP have a long-term commitment to implementing the kinds of victim-oriented practices described in this guide, and welcome comments and suggestions from readers. They may be contacted as follows:

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**To order any of these publications, please contact the Office for Victims of Crime Resource Center at the above Web site or at 1-800-627-6872**

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

165818

## VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS: SAMPLE PROTOCOLS, POLICES, AND PROCEDURES

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# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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## Introduction

The following fifteen protocols are offered as tools for law enforcement agencies which are seeking to update their policies and procedures as they affect the treatment of crime victims. They are followed by seven policies in relevant areas developed by the National Law Enforcement Policy Center of the International Association of Chiefs of Police (IACP).

The first set of protocols are the product of a nationwide request of law enforcement agencies to send us copies of their training materials and other writings on the subject. From these, we selected several for inclusion in this publication, or slightly modified or edited them, or, as in the first "general protocol," created an amalgam from several sources.

The authors do not view any of these as a "model" – and have uncovered no such ideal that would suit every kind of police or sheriff's department. In fact, recognizing that there is a major legal distinction in responding to one kind of crime, we included two sample protocols on that category: one in a state that has mandatory arrest in cases of domestic violence, and one where the police have, as a policy choice, sought to implement a pro-arrest policy in such cases.

While we chose not to call these samples models, we do believe they all reflect careful and thoughtful approaches to according victims respect in the course of investigating the crimes inflicted on them, and, by the way they are drafted, show promise of being fully implemented. We are very grateful to the departments whose written work we have borrowed for this chapter, and hope the samples will aid others in updating their own protocols.

In adding seven recommended policy statements, each with a companion "Concepts and Issues Paper," from the IACP's National Law Enforcement Policy Center, we have drawn from the work of a joint enterprise between the IACP and the Bureau of Justice Assistance in the U.S. Department of Justice. Launch in 1987, and guided by a broad-based advisory board of recognized law enforcement professionals, the Center purposefully takes on some of the most difficult policy issues facing law enforcement administrators today. Its careful, consultative process seeks to produce the best contemporary thinking on each of the subjects the Center takes on. As this is written, the Center has produced 75 of these policies; to learn more about the Center and its work, contact the IACP.



# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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## 1a. General protocol on victim assistance

The following protocol was developed by NOVA as an overriding policy for victim assistance efforts, offers pertinent definitions, and describes the responsibilities of dispatchers, patrol officers, supervisors, and investigators, as well as discuss crime prevention. A second protocol, in the form of a General Order of the Chicago, Illinois, Police Department, outlines specifics practices and discusses victim compensation.

### *General Considerations*

This policy is designed to assist patrol officers in responding to any crime victim and to describe appropriate steps for assisting the victim and apprehending suspects.

Successful law enforcement, both proactive and reactive, is predicated on building a partnership between the victim, community members, and law enforcement officers. That partnership is founded on the legal rights of victims as well as the fostering of a relationship of trust and cooperation between law enforcement and the community.

Critical rights of victims that directly involve law enforcement response are [these should be tailored to state law and departmental policy]:

1. The right to information about victim rights in this jurisdiction (each officer should have a copy of such rights);
2. Reasonable protection from intimidation and harm by suspects, offenders, and their associates;
3. The right to information about the status of the case during investigation, arrest, and any disposition of the case prior to prosecution;
4. The right to information about victim compensation;
5. The right to expeditious property return;
6. The right to be treated with fairness, dignity and compassion in all encounters with the Department.

The Department recognizes that all criminal victimization plays a role in the deterioration of life in the community and that immediate attention should be paid to the distress caused by crime and to rebuilding a sense of security and safety for the victims, their families and community members.

### *Policy*

It is the policy of this Department to safeguard the rights of victims of crime, to treat seriously reports of crime, to respond to victims with care and compassion, and to provide victims and the community with appropriate information on crime prevention.

### *Definitions*

**Victim:** a person who has been the target of criminal activity as defined in the penal code; and in the case of homicide, family members who survive the victim. Eye witnesses to criminal violence may also be considered victims when they have been traumatized by the violence.

**Victim Injuries:** the financial, physical, or emotional losses suffered by the victim.

**Victim Assistance Program:** a program that provides one or more of the following services to victims of crime: crisis intervention, supportive counseling and advocacy, information and referral, assistance during the criminal investigation, assistance during any stage of prosecution, and assistance after case disposition. A program may serve one or more types of crime victims such as sexual assault victims, victims of domestic violence, survivors of homicide victims, child victims, elderly victims, or victims of bias crimes.

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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**Victim Compensation Program:** a state program that provides limited financial compensation to victims of physical injury crimes.

**Victim Rights:** rights of crime victims as defined by state law or constitution.

## *Victim Injury Assessment*

The degree of victim injury can affect the assignment of case priority in investigation, the charges that are brought following arrest, pre-trial release decisions, and the eventual case disposition. Law enforcement officers can play a critical role in beginning to document such injury. The following questions can assist law enforcement professionals in determining the extent of impact of a specific crime on a victim. These questions are not exhaustive and each case should be assessed based on its particular facts and circumstances.

### **Financial Injury**

- What is the amount of dollar loss to the victim?
- What is the extent of property damage or loss?
- Does the victim require medical attention that will incur financial cost?
- Will the victim need to take time off work to assist in the investigation, to repair or replace property, or to receive medical care?

### **Physical Injury**

- What is the nature of physical injuries suffered?
- If the case involves sexual assault, is there evidence of additional physical injuries?
- If the case involves domestic violence, is there evidence of past abuse, e.g. faded bruises, old scars?
- If serious physical injury has occurred, what is the medical prognosis?
- If the victim is a survivor of a homicide victim, has the reaction to the death caused the victim to need medical or psychological attention?

### **Emotional Injury**

- Is the victim in shock?
- Does the victim show immediate signs of distress: outrage, fear, frustration or confusion, shame or humiliation, or grief?
- During the investigation and the aftermath of the crime, does the victim show evidence ongoing emotional trauma: sporadic memory loss, lack of concentration in daily tasks, interrupted sleep patterns, irritability and outbursts of anger, withdrawal from community or work activities, unwillingness to cooperate in the investigation, high anxiety or fear, outbursts of tears or unusual bursts of laughter?
- Does the victim want counseling support?

## ***Law Enforcement Dispatcher's Responsibilities***

Improving law enforcement response to victims begins when dispatchers receive reports.

When a dispatcher receives emergency calls for help, the dispatcher shall respond in a calm and professional manner. The dispatcher shall:

- Determine the nature of the emergency.
- Assess the safety of the callers and the potential of imminent danger.
- Determine the location and address of the callers or the scene of the crime.
- If imminent danger is present or a crime is in progress, immediately send law enforcement assistance. Patrol officers should be given information on the nature of the call and the location and address of the callers and the scene of the crime.

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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- Continue to talk with the callers to reassure them that help is on the way, to defuse crisis reactions, and to obtain as much additional information about the nature of the crime or the danger including:
  - whether injuries have already occurred and medical assistance is necessary,
  - whether children are at the scene,
  - if alcohol or drugs are a factor,
  - whether the callers knows if weapons are present.
- Convey to law enforcement responders any relevant information that could affect their safety or the safety of people at the scene.
- End the call when law enforcement responders are on the scene or when the threat of immediate danger has been extinguished.

When a dispatcher receives a non-emergency report of crime, the dispatcher shall respond in a calm and professional manner. The dispatcher shall:

- Determine the nature of the crime that has occurred.
- Allow the callers to report the details of the crime as they remembered or observed it.
- Determine the location of the crime, the date and time, any losses suffered by the callers, any identifying information concerning the perpetrator(s) of the crime.
- Convey sympathy to the callers, if they were the victim, and reassure them that their reactions are understandable.
- If needed, send patrol officers to a location and at a time of the callers' choosing, to take a fuller report.
- Explain what will happen with their report and if they will be needed for further investigation.
- Provide them with a law enforcement referral if they want to receive additional information on an investigation or the case.
- Refer them to the name and number of a local victim assistance program or other community resources for further help, if needed.

## *Patrol Officer's Responsibilities*

At the scene of a crime, the officer shall respond with courtesy and respect to the victims. The officer shall maintain a calm, helpful, and professional manner. The officer shall:

- Determine if any suspects are present, and, if so, take appropriate enforcement measures;
- Restore order and protect the crime scene, taking necessary action to gain control of the situation;
- Identify any injured parties and take steps to provide medical assistance;
- Separate victims from any suspects.
- Identify any witnesses or others who have knowledge of the crime.
- Reassure victims of their safety now that law enforcement assistance has arrived.
- Convey sympathy to victims about their situation, e.g. "I'm sorry that this happened to you."
- Ask the victims to describe what happened to them, allowing them to tell the story in their own way.
- Reassure the victims that their feelings and concerns are understandable.
- Determine if police photographs of the scene or victims, or other evidence-gathering tools, are necessary and take steps to obtain them if needed.
- If needed, summon a patrol supervisor or additional officers to the scene.

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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- Conduct the preliminary investigation of the crime and prepare a complete and detailed report, noting all victim injuries.
- Ask the victims if they have any immediate needs, and identify and obtain any available resources that might meet those needs.
- Advise the victims of their legal rights, and, if appropriate, refer them to the victim compensation program.
- Explain to the victims what additional steps will be taken in an investigation and what part they will be expected to play.
- If the victims appear to be coping effectively, provide them with the name and number of the local victim assistance program for further aid, if needed.
- If the victims appear to need immediate additional support, notify the victim assistance program and request a victim advocate come to the scene. If one is not available, assist the victim in identifying or contacting individuals or agencies that may provide support or guidance: family members, friends, or clergy.
- Advise the victims of any suggested crime prevention measures that might be taken at this time.
- Give the officer's name and telephone number to the victims should they have additional questions or want additional information.
- Upon leaving the victims, re-express concern and sympathy for their situation and their losses.

## ***Patrol Supervisor's Responsibilities***

Should a patrol supervisor be called to the scene, the supervisor shall:

- Confer with the responding officer.
- Request any additional personnel necessary to complete the preliminary investigation and begin the follow-up investigation.
- Ensure that the patrol officer has taken all appropriate initial steps in the response and investigation.
- Convey concern and sympathy for the victims' situation.
- Ensure that the victims' needs have been adequately responded to.
- Ensure that the victims have been informed of their legal rights and understand what will happen next in the investigation.
- Review the incident report and ensure that all relevant facts are documented.

## ***Investigation's Responsibilities***

If investigative personnel are assigned to the crime, they shall be responsible for taking the following actions:

- Assure that the scene is properly protected, preserved, and processed.
- Convey sympathy and concern for the victims' situation.
- Conduct a comprehensive interview with all victims and witnesses at the scene.
- Ensure that any property taken for evidence or recovered at the scene or during investigation is returned to the victims' promptly and expeditiously, subject to the needs of the prosecutor. If it cannot be returned immediately, provide ongoing information to the victims about the status of the property and why return has been delayed.
- Work closely with the prosecutor's office to ensure that a legally adequate case is developed for prosecution.

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- Work closely with the victim assistance program and the prosecutor's office to coordinate interviews with victims, witnesses, and community members in the follow-up investigation.
- Provide ongoing information to the victims about the status of the criminal investigation.
- Contact the victims periodically to determine whether they are receiving adequate and appropriate assistance.
- Keep the initial responding patrol officer informed about the status of the criminal investigation.

## *Crime Prevention*

Crime, violence, and victimization – and even lower-level acts of disorder – break down community ties due to fear, anxiety, anger and frustration. The Department takes all crime victimizations seriously and is committed to working constructively with the community as a whole to prevent crime, encourage victims to report crime, and respond to victims and their neighbors with care and concern. To that end, crime prevention and victim assistance shall be a priority in community policing, and community policing officers shall:

- Meet regularly with neighborhood groups, civic organizations, religious congregations, school communities, and other collective bodies to identify and describe patterns of criminal activity, reduce fear, provide information on current criminal investigations that take place in designated communities, and provide information on victim rights, victim compensation, and assistance programs.
- Ensure that victims and their families receive ongoing victim assistance and crime prevention information and referrals.
- Conduct special public meetings on specific criminal events when they are of particular public concern.
- Work with victim assistance programs to conduct community-wide group defusings after significant community tragedies.
- Develop a community network of safe houses and safe places (such as schools, storefront police stations, victim assistance offices) where victims may turn for emergency aid.
- Establish partnerships with the prosecutor's office, community corrections agencies, victim assistance programs, neighborhood and teen courts, private businesses, the media, and other public agencies to address problems in the communities that contribute to a deterioration of the quality of life in neighborhoods and to increased criminal activity.
- Establish and implement a public education plan that includes prevention programs for children and youth on victimization, specific crimes such as domestic violence, sexual assault, homicide, burglary, and victim assistance.
- Work with community leaders to develop a local newsletter or news column in a local paper devoted to victim assistance and crime prevention activities.

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## **1b. General Order on Crime Victim Assistance - Chicago (IL) Police Department**

### **I. PURPOSE**

This addendum informs Department members of the:

- A. Victim Assistance Program (VAP) and outlines operational procedures for administering the program.
- B. Department of Human Services (DHS), Emergency Services Program (ESP) and delineates specific criminal offenses in which emergency support/services will be provided.
- C. Provisions of the Illinois Crime Victims Compensation Act (Ill. Rev'd. Stat., Chap. 30)

### **II. VICTIM ASSISTANCE PROGRAM**

#### **A. General Information**

The Department's VAP is designed to achieve the following goals:

- 1. Reduce the impact of violent crimes on victims by making them aware of available services and resources to accommodate their immediate needs and reduce the trauma of victimization.
- 2. Engender greater cooperation among victims in both the investigative and judicial processes.
- 3. Enhance the referral processes between the Department and community agencies.

#### **B. Operational Procedures**

- 1. The VAP will provide assistance to victims (and their families) of the following crimes:
  - a. Murder
  - b. Aggravated Assault, Aggravated Battery
  - c. Criminal Sexual Assault, Aggravated Criminal Sexual Assault
  - d. Robbery, Armed Robbery
  - e. Residential Burglary
  - f. Threats and Intimidation
- 2. Field personnel assigned to calls for service involving victims of any of the above listed offenses will conduct preliminary investigations in accordance with the applicable provisions of Department directives. They will also be responsible for:
  - a. Providing a completed Victim Information Notice and explaining pertinent information to victims.
  - b. Communicating offers of assistance and/or related information to victims.

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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- c. Contacting the DHS Emergency Services Program as outlined in Item-III.
3. Victims will be advised that additional social service assistance may be available by contacting one or more of the following entities:
  - a. The Illinois Crime Victims's Compensation Program [phone number deleted] to determine if they qualify for monetary compensation.
  - b. The Mayor's Office For People With Disabilities at [voice phone number] or [text telephone number].
  - c. The district neighborhood relations officer.
  - d. The Youth Division for youth services.
4. Referrals will be made for a victim or witness requesting immediate social services as well as a victim or witness involved in a previously reported offense. A toll-free telephone number [number deleted] is available for indigent persons.
5. Field personnel will indicate in the narrative of the case report the type of referral made or suggested, and the identity of the referral agency.
6. In cases when a victim or witness receives threats and/or is intimidated, officers will include this information in the narrative of the case supplementary report with the name of the offender, if identified, and immediately notify the appropriate follow-up investigative unit as indicated in the directive entitled "Preliminary Investigations."
7. DHS participation in the VAP does not relieve officers of the responsibility for notifying victims/witnesses of required court appearances.

## C. Command Responsibilities

Command personnel, as identified in the VAP manual, will have the responsibility to coordinate Department operations to ensure compliance with program objectives.

## D. District Command and Supervisory Responsibilities

1. District commanders will:
  - a. Be responsible for the administration of this program within his/her district.
  - b. Designate a member of his command to contact victims to ascertain the level of satisfaction with police service provided.
  - c. Receive selected weekly copies of case reports from review officers.
2. District watch commanders will ensure that all personnel are familiar with this program and their respective duties, as established in this addendum.
3. Field supervisors will:
  - a. Ensure compliance with the provisions of this addendum through continuous

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review of reports and evaluation of their subordinates' performance.

b. refer to the VAP manual located in the watch commander's office for guidance.

## E. Program Evaluation

1. The district review officer will review the subject case and supplementary reports and submit a written report each month to the district commander that indicates the number of referrals made by district personnel by category of crime.
2. Evaluation of levels of satisfaction with police service will be summarized in a To-From-Subject report on a monthly basis from the district commander to the responsible area deputy chief. This report will be submitted no later than seven days after the end of each month.
3. The deputy chief of the area in which the crime occurred will review the evaluation summary report and maintain a file in his office. The file copies of these reports will be retained for a minimum of one year. After reviewing this report, a cop will be forwarded to the Chief of the Patrol Division for informational purposes.

## III. DEPARTMENT OF HUMAN SERVICES, EMERGENCY SERVICES PROGRAM (DHS ESP)

- A. Emergency services Program personnel will provide the following support services to eligible victims and/or witnesses: court advocacy, counseling, referral, and transportation services.
- B. Eligible crime victims/witnesses include:
  1. Persons who have sustained a emotional trauma, physical injury, or property loss as a result of being a victim/witness of a murder, criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, robbery, aggravated assault and aggravated battery.
  2. Those persons, *i.e.*, the family of the victim/witness, affected by the commission of the offenses listed in Item III-B-1.
- C. The DHS ESP will be contacted via telephone [number deleted] for the following bona fide cases:
  1. Murder
  2. Aggravated Assault/Aggravated Batter
  3. Robbery/Armed Robbery
  4. Residential Burglary
  5. Threats
  6. Intimidation
- D. Victims of criminal sexual assault/abuse may utilize the services provided by the ESP Sexual



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Assault/Abuse Assistance on a 24-hour basis, at [phone numbers deleted].

- E. Officers conducting preliminary investigations of an offense listed in Item III-B-1 of this addendum will:
1. Provide for the immediate physical needs of the victim and, if necessary, transport the victim to the nearest hospital approved for emergency room services.
  2. Notify other Department units which may render assistance in accordance with existing directives.
  3. In criminal sexual assault/abuse cases or instances where the victim/witness requests or requires immediate social service assistance, the responding officer will notify the ESP by telephone.
  4. Complete the appropriate case report and indicate in the narrative portion whether or not ESP service was requested. In addition, in criminal sexual assault/abuse cases, they will:
    - a. When necessary, remain with the victim until the arrival of ESP personnel. (Preliminary investigators will obtain the approval of their supervising officer if it is necessary to remain after completion of the case report.)
    - b. Upon completion of the preliminary investigation, note in the report narrative whether or not ESP personnel responded.
- F. Detective Division personnel who are conducting follow-up investigations of any case involving criminal sexual assault/abuse will determine if ESP personnel responded at the time that the offense was first reported to the police. In cases where ESP did not respond, and the preliminary investigator or the victim requested that ESP be contacted, the detective will notify ESP by telephone. The name of the ESP person notified will be included in the narrative section of the Supplementary Report.

## IV. CRIME VICTIMS COMPENSATION ACT

- A. The Illinois Crime Victims Compensation Act is designed to reduce the financial burden imposed on the victims of crimes of violence, their relatives and dependents, and requires any investigating law enforcement agency to notify eligible individuals of the availability of compensation under this Act.
- B. For the purposes of the Act, "crimes of violence" shall mean and include the following offenses which occur within this state:

- |                         |                        |
|-------------------------|------------------------|
| 1. First Degree Murder  | 13. Aggravated Battery |
| 2. Second Degree Murder | 14. Heinous Battery    |

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|-------------------------------------|--|
| 3. Involuntary Manslaughter         | 15. Reckless Conduct                   |
| 4. Reckless Homicide                | 16. Criminal Sexual Assault            |
| 5. Kidnapping                       | 17. Aggravated Criminal Sexual Assault |
| 6. Aggravated Kidnapping            | 18. Criminal Sexual Abuse              |
| 7. Sexual Relations within Families | 19. Aggravated Criminal Sexual Abuse   |
| 8. Exploitation of a Child          | 20. Arson                              |
| 9. Child Pornography                | 21. Aggravated Arson                   |
| 10. Assault                         | 22. Driving Under the Influence of     |
| 11. Aggravated Assault              | Alcohol, or other drug combination     |
| 12. Battery                         |  |

C. The following persons are eligible for compensation and may file a claim:

1. Victims of crimes of violence who sustain personal physical injuries.
2. Relatives who pay or become obligated to pay reasonable medical, hospital and funeral expenses of a victim, or who are either wholly or partially dependent upon a deceased victim's income at the time of the victim's death, including a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, brother-in-law, sister, sister-in-law, half brother, half sister, spouse's parent, nephew, niece, uncle, aunt stepchild, adopted child, illegitimate child, or the child of such victim born after his death.
3. A child who personally witnessed a violent crime perpetrated or attempted against a relative.

D. In order to qualify for compensation under this Act, the applicant must:

1. Report the crime to the proper police authorities within 72 hours of its occurrence.
2. Cooperate fully with law enforcement officials in the apprehension of the offender.
3. File an application for compensation within one year of the occurrence of the crime.

[NOVA recommends including reference to waivers for good cause of such provisions, if contained in state law.]

E. Compensation is not available when:

1. The loss represents the proceeds of a burglary, robbery, or theft.
2. The applicant is also the offender, or the offender's accomplice.
3. The injury to or death of the victim was substantially attributable to his own wrongful act or was substantially provoked by the victim.

F. Upon interviewing the victim or surviving relatives who may be in the eligible dependent category, the preliminary investigating officer will:

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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1. Make verbal notification of the availability of compensation under the Crime Victim Compensation Act.
  2. Ensure that the victim or eligible dependent is given the Victim Information Notice, Part Three of the case report formset.
  3. Ensure that any additional victims are given the required information in the most expeditious manner possible.
  4. Record the name of the person notified, date, time and place of notification within the narrative section of the appropriate case report.
- G. If the crime occurred outside the State of Illinois, the resident has the same rights under this Act as if the crime had occurred in this state, upon showing that the location in which the crime occurred does not have a compensation of victims of crimes law for which that Illinois resident is eligible.
- [NOVA also recommends clarifying what rights victims suffering a crime in the agency's state, but residing out-of-state, have.]

MATT RODRIGUEZ  
Superintendent of Police  
91-071- MU

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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## 2. Protocol on adult sexual assault investigation

Adult victims cases, like those with child victims, are more effectively prosecuted if law enforcement conducts a timely, aggressive investigation. Due to the nature of the situation, it is prudent to minimize the number of interviews to protect the victim from further trauma. The following protocol comes from the King County (Washington) Special Assault Networking Agreement between the Seattle Police Department, the King County Police Department, the Office of the Prosecuting Attorney, the Department of Social and Health Services, Office of the Attorney General, and a number of municipal police departments and victim advocacy organizations within the county.

### I. Process

**A. Initial contact** - The detective assigned to the case after the initial police report is taken, will make contact with the victim as long as the victim is willing to cooperate. This contact will be in person, at a place convenient to the victim, and as soon as possible following the initial victim report.

#### Purposes of Contact

- To advise the victim of the case status and provide information about the investigation process and discuss protection and advocacy issues.
- To ensure that all evidence that may quickly disappear has been gathered (*e.g.*, photos of injuries, damaged clothing).
- To refer for a medical exam as appropriate.
- To take the detailed victim statement if the case is clearly fileable, or on the other hand, document the detective's determination the case will be "unfounded," "clearly exceptional," or otherwise closed at the police level in accord with the law enforcement agency's procedures.
- To arrange for a pre-filing prosecutor/detective in person interview and case assessment if the case is not clearly fileable. In unclear cases or those with delayed reporting, the detective will postpone the pre-filing interview until a prosecutor can be present. Generally, cases with a significant delay in reporting will have problems that should be viewed by the detective and prosecutor jointly. The need for immediate evidence gathering is also not present.

**B. Pre-filing Interview** - The detective shall arrange the pre-filing interview in the prosecutor's office and participate in that interview. The purpose of the pre-filing interview is:

- To obtain the formal, detailed version of events from the victim.
- To assess victim credibility and case problems.
- To inform the victim about the decision-making.

### C. Prosecutor's Role

- In cases filed by the prosecutor where there was no pre-filing interview, a deputy prosecutor will be assigned at filing. That deputy is responsible for making immediate phone contact with the victim for the purpose of identifying him or herself, advising the victim about the criminal justice system and answering the victim's questions.

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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- In cases where only the detective took the pre-filing victim statement, the prosecutor will attempt to reach a filing decision without reinterviewing. Frequently, phone contact with the detective or victim may resolve concerns. If there is a need to reinterview, the interview should be limited to the areas of concern. The detective shall be present to document any clarifications, supplements, or changes to the statement obtained earlier.

## ***D. Involvement of Victim Advocates***

- Upon initial contact, law enforcement shall provide the victim with advocacy information including referrals to victim advocacy agencies (see Addendum on Community Resources [not included]). All victim requests to have their advocate present at interviews shall be honored by all participants. Once a victim advocate has become involved in a case, the prosecutor's office will attempt to inform them of all scheduled victim contacts, such as defense attorney interviews.

## ***E. Victim Notification***

- In cases where charges are filed, the prosecutor's office is responsible for victim notification.
- In charged cases, the prosecutor will seek input on all plea negotiations.
- For all declined cases, the deputy prosecuting attorney must contact the victim and explain the decline.
- For all cases not being forwarded to the prosecutor, the detective will inform the victim of the case status and explain their case disposition.

## ***F. Timelines (See Addendum [not included])***

- The pre-filing interview shall be set within two weeks of the request by the detective to the prosecutor's office. Law enforcement will make every effort to complete and submit the case to the prosecutor's office within 60 days of the victim's pre-filing interview.
- Cases shall be filed or declined by the prosecutor's office within 10 days of receipt of the completed case.

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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## 3. Protocol on domestic violence victims (mandatory arrest state)

Protocols dealing with domestic violence cases differ significantly between states that do or do not require that the officer must arrest a suspect whenever probable cause is found. The following protocol is the Milwaukee Police Department's method of implementing Wisconsin's mandatory arrest law.

### DOMESTIC VIOLENCE

#### 3/110.00 PURPOSE

This standard operating procedure recognizes that domestic violence is not a private, civil matter but a crime against the State of Wisconsin, whose prosecution does not depend upon the willingness of a victim to press charges.

The intent of this procedure is to focus on violent or otherwise criminal conduct and not on the relationship of the parties involved. Therefore, the Department's official response to cases of domestic violence is strict enforcement of the criminal laws, protection of victims, and an uncompromising attitude that violent or otherwise criminal behavior is neither excused nor tolerated.

This procedure proposes to deter future acts of domestic violence and to reduce potential injury to victims by mandating a warrantless arrest supported by probable cause for all cases of domestic violence and sexual assault.

#### 3/110.05 PERSONS SUBJECT TO MANDATORY ARREST FOR DOMESTIC VIOLENCE OFFENSES

Pursuant to Wis. Stat. 968.075, the following **adult** persons are subject to mandatory arrest for domestic violence offenses when committed against the following:

1. His or her spouse
2. Former spouses
3. An adult or adult relative with whom the person resides or formerly resided.
4. An adult with whom the person has created a child.

**NOTE:** Domestic abuse is defined as . . .

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. Sexual assault (1st through 4th degree); or
4. A physical act that may cause the other person to reasonably fear imminent engagement in the conduct described above.

#### 3/110.10 DOMESTIC VIOLENCE OFFENSES

- A. Officers will attempt to determine if probable cause exists that a battery [as defined by Wis. Stats. 940.19 and 939.22 (4) and (14)] has occurred and that the battery was not in self-defense (as defined by Wis. Stats. 939.48).
- B. The Officer will attempt to determine if probable cause exists that a Sexual Assault (1st, 2nd, 3rd or 4th degree) has occurred as defined in Wis. Stats. 940.225 (1),(2),(3), or (4). Marriage to the victim does **NOT** prevent arrest or prosecution.
- C. The Officer will attempt to determine if probable cause exists for any crime as a result of a physical act that may cause the other person reasonably to fear imminent engagement in a

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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battery or sexual assault (e.g. Disorderly Conduct-Threat or Disturbance, 947.01; Threat to Injure 943.30; Intimidation of Witnesses, 940.42, 43 or Intimidation of Victims, 940.44, 45; Endangering Safety by Use of a Dangerous Weapon, 941.20, etc.).

1. **Threats alone no longer constitute a violation of the domestic abuse law** and must be handled as non-domestic violence cases.
  2. Complaints such as burglary, theft, entry into locked vehicle, and many criminal damage to property incidents will not qualify as domestic abuse cases. There must be evidence to indicate that these physical acts will reasonably lead the victim to fear imminent engagement in a battery or sexual assault. If this connection cannot be established, the incident must be handled as a non-domestic violence case.
- D. The Officer will attempt to determine if probable cause exists that a person violated the terms of the 24-hour no-contact order following an arrest for a domestic violence offense pursuant to Wis. Stat. 968.075(5).
- E. The officer will attempt to determine if probable cause exists that a person violated the terms of a domestic violence restraining order/injunction pursuant to Wis. Stat. 813.12 (7).

## **PROBABLE CAUSE FOR WARRANTLESS ARREST:**

Probable cause factors include but are not limited to:

- \* bodily harm or pain to victim (**visible injury is NOT required for arrest**) Wis. Stat. **939.22 (4) and (14)**
- \* sexual contact or sexual intercourse as defined in Wis. Stat. 940.225 (5)
- \* whether a battery was in self-defense
- \* statements of victim including non-consent to the offense
- \* statements of family members
- \* statements of friends or neighbors
- \* statements of suspect
- \* excited utterances (*res gestae*) of suspect or victim
- \* **All interviews shall be conducted out of presence and hearing of the suspect.**
- \* observations of the scene and victim
- \* previous calls at same location or with the same parties
- \* previous threats/offenses against the victim by the suspect
- \* physical evidence (clothing, weapons, blood-stained articles, items left by suspect, etc.)

“Probable cause to arrest refers to that quantum of evidence which would lead a reasonable police officer to believe that the defendant probably committed a crime. *Henry v. United States* (1959), 361 U.S. 98, 102, 80 Sup. Ct. 168, 4 L. Ed.2d 134. It is not necessary that the evidence giving rise to such probable cause be sufficient to prove guilt beyond a reasonable doubt, nor must it be sufficient to prove that guilt is more probable than not. It is only necessary that the information lead a reasonable officer to believe that guilt is more than a possibility. *Brown v. State, supra*, and it is well established that the belief may be predicated in part upon hearsay information. *Draper v. United States* (1959), 358 U.S. 307, 79 Sup. Ct. 329, 3 L. Ed. 2d 237. The quantum of information which constitutes probable cause to arrest must be measured by the facts of the particular case. *Wong Sun v. United States* (1963), 371 U.S. 471, 83 Sup. Ct. 407, 9 L. Ed.2d 441...” *Hills v. State*, 93 Wis.2d 139, 145 (1980).

## **3/110.15 MANDATORY ARREST FOR DOMESTIC VIOLENCE OFFENSES REQUIRED BY STATE LAW**

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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A. If probable cause exists that a domestic violence offense occurred as determined by the totality of the circumstances under subs (A) through (E) of 3/110.10 above, **the suspect shall be summarily arrested and taken into custody for a State charge even if the victim declines to prosecute.** [Wis. Stats. 968.075 (2) and 905.01 (1); *State v. Gilbert*, 109 Wis.2d 501 (1982)]. **NOTE:** *Thurman v. City of Torrington*, 595 F. Supp. 1521 (1984).

1. When the officer has probable cause to believe that parties have committed domestic violence offenses against each other, the officer does NOT have to arrest both persons, but should arrest the person whom the officer believes to be the primary physical aggressor. In determining who is the primary physical aggressor, the officer should consider the intent of the State to protect victims of domestic violence, the relative degree of injury or fear inflicted on the persons involved and any history of domestic violence between these persons, if that history can reasonably be ascertained by the officer. [Wis. Stat. 968.075(3) (a), 1, b.]
2. If the suspect is not on the scene and cannot readily be located, the investigating officer shall apply for a State warrant in accordance with 3/110.65.
3. It is required that a good faith effort be made to locate the suspect. Efforts to locate the suspect must be documented on the Incident Report Supp. (Form PO-14).  
**NOTE: The lack of visible injury or the victim's unwillingness to prosecute, by themselves, are not legal grounds to refuse to make the mandatory arrest.**
4. If probable cause cannot be established, do **not** arrest! Contact the shift commander for advice.  
**NOTE:** Failure to make the mandatory arrest may result in disciplinary action, civil liability, and/or a felony charge against the officer for Misconduct in Public Office. (See 2/020.00.)

## B. MANDATORY ARREST REVISIONS (28 day exception)

1. If the officer's probable cause to believe is based on a **report** of an alleged domestic abuse incident, the officer is required to make an arrest only if the report is **received within 28 days** after the day the incident is alleged to have occurred (excluding the date of the incident).
2. In addition to the above, either or both of the following circumstances must be present:
  - a. The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim is likely, and/or
  - b. There is evidence of physical injury to the alleged victim.
3. If an officer is acting on the basis of a **domestic abuse report** that is received more than **28 days after the alleged** incident occurred (excluding the date of the incident), the officer is **not obligated** to follow the arrest requirements of the law. Generally in this situation an order-in would most likely occur.

### \* NOTE - OFFICER IMMUNITY (S. 968.075 (6M))

- a. A law enforcement officer is immune from civil and criminal liability arising out of a decision by the officer to arrest or not arrest an alleged offender, providing the decision is made in a good faith effort to comply with the domestic abuse arrest statute.

**\*\*NOTE: This does not pertain to federal suits.**



# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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## NOTIFICATION TO VICTIM:

Per Wis. Stat. 968.075(5)(d), if an arrest has been made for a domestic violence offense, the arresting officer(s) shall inform the victim of the following while outside the presence of the arrestee:

- \* During the 24 hours immediately following the arrest for a domestic violence offense, the arrestee shall avoid the residence of the victim and any premises temporarily occupied by the victim, and avoid contacting or causing any person, other than attorneys for the arrested person and victim, to contact the victim. **Law enforcement officers can contact the victim during this time period if the need arises.**
- \* If the arrestee violates this 24 hour no-contact provision, he/she is subject to an immediate, mandatory arrest and a forfeiture of up to \$1,000 [Wis.Stat. 968.075(5)].
- \* Any subsequent domestic violence offense committed by the arrestee within the 24 hours following the original arrest will elevate the later offense from a misdemeanor to a felony (Wis. Stat. 939.621).
- \* The victim may waive the 24 hour no-contact provision at any time during that period by signing a written form (Form PD-36) in person at the Prisoner Processing Section (PPS). Sufficient identification must be provided by the victim when requesting the waiver.
- \* The arresting officer(s) shall give each victim (and potential victims, when no probable cause exists) a pink domestic violence referral notice (Form PD-33). District, Metro and Vice Division commanders shall ensure that an adequate *supply* of these referral notices is continuously maintained for their personnel.

## 3/110.20 DISTRICT ATTORNEY PROCESSING AND VICTIM REFERRALS

Domestic violence arrests, warrant applications, and order-in's are not part of the 7:00 a.m. D.A. charging program. Those cases will be processed by specially selected district attorneys and social workers at the regular 'court times' for each shift/division. (See 3/110.75 re D.A. scheduling times for summary and order-in cases.)

**In all probable cause cases, the victim shall be given an order-in slip to meet either the Court Administration Section's (CAS) D.V. Liaison Officer or the investigating officer at the D.A.'s office even if the victim declines to prosecute.** All reports must be completed prior to the D. A.'s charging conference. **ARREST AND INCIDENT REPORTS MUST ADDRESS ALL THE ELEMENTS OF EACH OFFENSE CHARGED.**

### Domestic Violence Order-in Situations

- \* If or when it is not reasonable to believe that a particular physical act by the suspect would result in either a battery or sexual assault to the victim, or
- \* If or when it is determined that the victim has suffered no physical injury and the officer reasonably believes that continued domestic abuse against the victim is not likely, or
- \* If or when probable cause cannot be established.

## 3/110.25 FIRST AID

If necessary, the officer shall render first aid to the victim in which case an Emergency Medical Services Report (Form PF-3) will be filed (original only). If the victim requires emergency medical treatment, the investigating officer will request the appropriate medical conveyance through the police dispatcher. If medically feasible, request conveyance to the domestic violence treatment centers at Good Samaritan Hospital 2000 W. Kilbourn Ave. (345-3400) or Northwest General Hospital, 5310 W. Capitol Dr. (447-8634) for specialized services to the victim.

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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## **3/110.30 DOMESTIC VIOLENCE HOTLINE (933-2722)**

**While still at the scene**, the investigating officer(s) shall call the 24-hour domestic violence hotline (933-2722) and provide the social worker with the names of the investigating officers, the charges, and all requested information about the victim, the suspect, their relationship, and whether an arrest has been made. This is done to provide the victim with immediate support and services, emergency shelter, transportation, child care, assistance with prosecution, etc.

**The Officer must also obtain the closest phone numbers where the victim may be reached so he/she can also be warned if the suspect is released on bail.** After providing all the requested information, the officer shall hand the phone to the victim to talk directly to the social worker. **If the victim has no phone, the officer shall notify the hotline from the most expedient location as soon as possible.**

### **THIS CALL MUST BE MADE**

Felony sexual assault cases will be called in to the hotline by Vice Control Division personnel so the **proper order-in time** and the names of the investigators can be recorded on the hotline sheet.

**NOTE:** Per Wis. St. 895.67 employees and agents of a domestic abuse service provider (safehouses, advocates, counselors, and hotlines) are prohibited from intentionally disclosing the location of any services recipient\* to **anyone**, unless the recipient has given informed, written consent to do so.

\* Service Recipient - Any person who receives or has received domestic abuse services from a domestic abuse services organization.

- a. The investigating police officer needing to contact a victim of a domestic violence at any one particular safehouse, should leave a message for the victim to call the officer back.
- b. Violation of this statute is a Class "C" misdemeanor (Penalty \$500 and/or 30 days in jail.)

## **3/110.35 FIREARMS**

All firearms not seized as evidence shall be placed on inventory for 'safekeeping'. (Note: Check for prior convictions with the Identification Div. while still at the scene. Convicted felons in possession of any firearm shall be summarily arrested for violation of Wis. Stat. 941.29).

## **3/110.40 BAIL AND NOTIFICATION TO ARRESTEE OF 24 HOUR NO-CONTACT PROVISION**

A. If a D.V. arrestee is released from custody within 24 hours of arrest (including the D.A. review procedure), PPS personnel before releasing the arrestee, shall inform the arrestee both orally and in writing (Form PD-37) of the following:

- \* During the 24 hours immediately following the arrest for a domestic violence offense, the arrestee shall **avoid** the residence of the victim and any premises temporarily occupied by the victim and avoid contacting or causing any person, other than attorneys for the arrested person and victim, to contact the victim.
- \* If the arrestee intentionally violates this 24 hour no-contact provision, he/she is subject to an immediate, mandatory arrest and a forfeiture of up to \$1,000 [Wis Stat. 968.075(5)].
- \* Any subsequent domestic violence offense committed by the arrestee within the 24 hours following the original arrest will elevate the later offense from a misdemeanor to a felony (Wis. Stat. 939.621).

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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- B. The PPS officer shall request the arrested person to sign the written notice (Form PD-37) acknowledging that he/she has received notice of and understands the 24 hour no-contact provisions, the consequences of violating same, and the increased felony penalty for another domestic violence offense within the 24 hour period. **If the arrestee refuses to sign the notice, he/she may not be released from custody on bail.**
- C. The arrestee shall be given a copy of the written notice (Form PD-37) and also shall be advised by PPS personnel if the victim has waived the 24 hour no-contact provision by the time of release. NOTE: The 24-hour no-contact order remains in effect even if the D.A. declines to issue a charge UNLESS the victim signs a waiver form at PPS. D.V. court liaison officers will also have waiver forms (Form PD-36) available at the D.A. charging conferences.
- D. Suspects arrested pursuant to this policy shall be held for cash bail/MasterCard/Visa only; **no personal checks may be accepted for bail.** Release on personal recognizance is prohibited unless personally authorized by a circuit court judge. The PPS officer shall also advise the arrestee of the no-harassment provisions of the State bail release form. Violation of any condition of the bail release (while the case is still open) can result in a summary arrest for Bail Jumping, Wis. Stat. 946.49.

## 24 HOUR NO CONTACT ORDER (FORM PD-37)

- E. The order is in effect for 24 hours from the **time of arrest** even if the D.A. “no processes” the case.
- F. No-Contact forms (PD-37) will be issued only by PPS personnel to every suspect who leaves PPS custody within 24 hours of his/her arrest time and is released due to “no process,” bail, pending review by the D.A.’s Officer, etc.
- G. The no contact forms are completed in duplicate with the original being filed **immediately** in the Head Jailer’s Office at PPS (Ext. 6465) so that any violation of this no contact order can be ascertained if an incident occurs within minutes of the defendant’s release. A copy of the no contact order is given to the suspect.
- H. If the suspect refuses to sign a no contact order, the PPS officer serving the order shall indicate “refused” on the suspect’s signature line. This will prevent the suspect from being released on bail until after 24 hours have elapsed from the arrest time but will allow a release from custody if the D.A. “no processes” the case for whatever reason.
- I. During the time period that the no contact order is in effect the police, at the request of the suspect, may intervene to obtain needed medication, tools of the trade, clothes, etc., from the victim.

## VICTIM WAIVER (FORM PD-36)

- J. This form is completed only if the victim wishes to waive the no contact order **and** it is within 24 hours of the suspect’s **arrest time**.
- K. The victim must be ordered to the Head Jailer’s Officer at PPS, Room 508, in order for the waiver to be signed and put into effect.
- L. This report is also filed in duplicate with the original filed at the Head Jailer’s Officer **immediately** and a copy given to the victim.
- M. Separate forms are used for each individual victim.
- N. D.V. Liaison Officers are authorized to obtain the victim’s signature on a waiver form in the District Attorney’s Office to expedite case processing but these forms must be transported immediately to the Head Jailer’s Office for filing without fail.

## VIOLATION OF THE 24 HOUR NO CONTACT ORDER

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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- O. Violation of the 24 hour no contact order is currently a civil forfeiture processed by the **County Corporation Counsel** through Small Claims Court. The defendant is subject to mandatory D.V. arrest, booked at PPS, and released with no bail. The victim is instructed to **call** the Corporation Counsel Room 303 of the Court House, 2784300. In all cases an Incident Report must be filed, entitled, "Violation of 24 Hour No Contact Order, 968.075 (5). The disposition of this report will be listed as "Victim referred to the Corporation Counsel. In those cases where an arrest is made, the Arrest Report (PA-45) shall indicate the same charge and the same disposition. **The D.V. 'green' PO-14B must be filed for all 24-hour no contact violations.**

**The suspect is not referred to the Corporation Counsel, just the victim.** If the case reaches Small Claims Court status, the suspect will be served by Milwaukee County Sheriff's Department Deputies with a notification of his court date in civil court.

## P. INVESTIGATING OFFICER'S RESPONSIBILITY

Officers dispatched to investigate incidents involving a violation of the 24 hour no contact order are responsible for the following:

1. The status of the no contact order must be ascertained by calling the Head Jailer's Officer in PPS at Ext. 6465. PPS personnel will determine if (a) a valid no contact order is on file, and (b) whether or not a waiver of this no contact order is on file.
2. If a violation of the no contact order is apparent, PPS personnel will notify the officer to instruct the victim to call the Corporation Counsel during normal business hours at 278-4300. **The victim is not to report to the Corporation Counsel without an advance telephone call from that office.** The investigating officer shall provide the victim with a Department referral memo (Form PR-3) regarding the phone call to the Corporation Counsel's officer
3. If the suspect is on the scene, he/she must be placed under arrest and conveyed to PPS where he/she is booked and released. The Incident Report, Arrest Report (PA-45), D.V. 'green' (PO-14B) and other required reports are filed. The suspect is **not** referred to the Corporation Counsel, just the victim.
4. If the suspect is not on the scene, an effort should be made to locate him/her whereupon an arrest is to be made. If this cannot be accomplished, all D.V. reports are filed (except the PA-45) and the victim is instructed to call the Corporation Counsel.

**Note:** A violation of the 24 hour no contact order does not, in itself, initiate another 24 hour no contact period. This only occurs when the violation of the 24 hour no contact order occurs in conjunction with another separate D.V. charge. In addition, the second offense is elevated to a felony.

## 3/110.45 BAIL-OUT NOTIFICATION TO HOTLINE

Per Wis Stat. 950.04(1), the PPS officer **before** releasing a domestic violence suspect on cash bail shall immediately notify the domestic violence hotline (933-2722) by providing the suspect's name. The hotline will then inform the victim of the suspect's release so emergency shelter can be obtained if desired.

## 3/110.50 DOMESTIC ABUSE RESTRAINING ORDER/INJUNCTION HARASSMENT RESTRAINING ORDER/INJUNCTION [813.125(6)1

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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## CONFIRMATION BY THE SHERIFF'S DEPARTMENT

Before making an arrest for a temporary restraining order (7 days) or permanent injunction (up to 2 years), the officer shall check with the Sheriff's Department Detective Division (2784713) (824713 by callbox) to determine:

- A. **The temporary restraining order has been served on the defendant.** (The permanent injunctions (2 years) have already been served before they are entered into the Sheriff's computer.)
- B. The temporary restraining order or permanent injunction has not expired.

## 3/110.55 TEMPORARY RESTRAINING ORDER NOT SERVED

- A. If the temporary restraining order (7 days) has not **been on the suspect, the officer shall advise the suspect of its existence** and that he/she is to have no contact with the victim by any means. The officer should then take the following steps:
  1. Using one of the two copies the victim should have in her possession, the officer should endorse his rank signature (legible), payroll number, district and shift, date and time of service and serve that copy on the suspect. (If the victim has only one copy, that copy should be served on the suspect and given to him.)
  2. The officer shall make a similar endorsement of service on the victim's remaining copy.
  3. The officer shall notify the Sheriff's Dept. of service by calling 278-4713 (or 82-4713 by callbox).
  4. If the suspect returns to the scene or contacts the victim after service has been made, the suspect is subject to a mandatory arrest.

## 3/110.60 MANDATORY ARREST FOR DOMESTIC VIOLENCE AND HARASSMENT RESTRAINING ORDERS REQUIRED BY STATE LAW

If the officer determines that a Domestic Abuse or Harassment restraining order/injunction is in effect and there is probable cause to believe that the suspect violated any part of the court order, **the officer shall arrest the suspect and take him/her into custody.** The suspect is prohibited from contacting the victim "at work, school, at public places or by phone or in writing." Contact is also prohibited at the victim's residence and/or any residence temporarily occupied by the victim.

**NOTE:** The arrest **MUST** be made even if the victim permitted the suspect to return contrary to the injunction or restraining order. **No private person can authorize the violation of a court order—including the victim.** [Wis. Stat. 813.12(7); 813.125(6).]

Failure to make the mandatory arrest may result in disciplinary action, civil liability, and/or a felony charge against the officer for Misconduct in Public Office. [*Nearine v. Weaver*, 295 Or. 702, 670 P.2d 137 (1983).] (See 3/110.15(b) Note)

## ADDITIONAL OFFENSES:

If the suspect violates any other criminal laws in addition to the court order, he/she shall also be charged with those additional offenses (battery, criminal trespass to dwelling, harassment, criminal damage, intimidation of victim or witness, etc.).

## 3/110.65 COURT LIAISON OFFICER PROGRAM FOR SUMMARY AND ORDER-IN

### DOMESTIC VIOLENCE (D.V.) CASES FOR ALL DISTRICTS AND BUREAUS

If probable cause exists, officers are **REQUIRED** to make a State summary arrest for domes-

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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**tic violence (D.V.) offenses for adult parties enumerated in Sec. 3/110.05** even if the victim does not wish prosecution or there is no visible injury to the victim, although bodily harm, pain, or sexual assault must have occurred. Order-ins to the District Attorney's office for a warrant are authorized only for the following reasons:

- A. Suspect is **not on** the scene and cannot be readily located with reasonable effort. (Such efforts must be recorded on the Incident Report.)
- B. The suspect is detained under Wis. Stat. 51.15 "Emergency Detention..
- C. The suspect is incapacitated by alcohol and processed pursuant to Wis. Stat. 51.45 (11).
- D. The suspect is admitted to a hospital for inpatient medical treatment.

For cases (A) through (D) above, the D. V. Liaison package and reports should be completed immediately and forwarded to the Court Administration Section (CAS). If the suspect is detained as an M.O., treated for incapacitation by alcohol, or an inpatient for medical treatment, the package will be retained at PPS pending the release of the suspect and his conveyance to PPS for processing. Note the location where the suspect is being detained or treated on the "Order-In Date" line of the large PD-34 D.V. envelope.

Officers should request the charge nurse or supervisor to call PPS (935-7521) to arrange for the pickup of the suspect following release from the hospital or institution. (Use Form PD-35, red "Discharge Notice" per Order 10035, March 21, 1989.)

Court Liaison officers assigned to PPS will process through the D.A.'s office the following **misdemeanor** summary arrests and order-ins made on all shifts:

- \* Misdemeanor Domestic Violence Battery [1940.19 (1)]
- \* Violation of 24 Hour No-Contact Order [968.075 (5)]
- \* Misdemeanor Domestic Violence Bail Jumping (946.49)
- \* Misdemeanor Domestic Violence miscellaneous offenses (Disorderly- Threats, 947.01; Criminal Trespass to Dwelling, 943.14; etc.)
- \* D.V. Restraining Order/Injunction [813.12(8)], **NOT HARASSMENT INJUNCTIONS.**
- \* A second misdemeanor D.V. offense during the 24 hour no-contact period is elevated to felony status by Wis. Stat. 939.621. These cases will be processed by D.V. liaison officers.
- \* Non-D.V. Battery (misdemeanors)
- \* Criminal Damage to Property (CDTP)
- \* Carrying Concealed Weapon (CCW) (On person incident to arrest)
- \* **NOTE: See 3/150.15 Court Procedures for additional list of offenses processed by court liaison personnel.**

**NOTE:** Investigating officers will continue to process the following cases through the D.A.'s office:

- \* Felonies (excluding D.V. misdemeanors elevated to felony status)
- \* Aggravated Battery (D.V.)
- \* D.V. Arrests with another State, non-liaison summary charge
- \* D.V. 4th degree Sexual Assaults (which are reviewed at the Sensitive Crimes Unit of the D.A.'s office.)
- \* (Vice Control Division personnel will process felony D.V. Sexual Assault cases.)
- \* Harassment injunctions.

## **3/110.70 REQUIRED REPORTS**

Officer who establish probable cause for one of the Domestic Violence Offenses pursuant to Sec. 3/

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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110.10 shall provide the following reports. Officer failing to provide the required information may be contacted at home and/or directed to report to the D.A.'s Office. **All reports and referral memos shall be marked with the letters "D.V." in bold print. The letters "D.V." shall be placed after all statute numbers which are D.V. offenses, e.g., 940.19 (2) D.V. - Aggravated Battery.**

A. **M.P.D. REFERRAL MEMO (Form PR-3)** - Given to victim and witnesses to appear in Room 412 at the D.A.'s office. Write "D.V. Liaison" across the top. Write the victim's name on the face of the referral so that victims can be located in the D.A.'s office. Instruct them to report to the front desk in Room 412. (D.V. felony sexual assault referrals will be made out by Vice Control Division personnel).

B. **M.P.D. pink "DOMESTIC VIOLENCE REFERRAL NOTICE" (Form PD-33)**  
This pink D.V. referral notice must be given to each victim of a domestic violence offense; this notice may also be given to potential victims. In addition, the D.V. Notice may be given to abusers for referral to a batterers' program

C. **PA-45 ARREST REPORT (ONLY FOR SUMMARY ARRESTS)**

1. All the elements of each offense must be contained in the "details of arrest" section on the back of the PA-45, including the nature of the "physical pain or injury" or sexual assault or contact suffered by the victim. If additional space is needed, a PA -SA supplementary report should be used.
2. The suspect must be advised of his/her Miranda rights and **the suspect's statement recorded on the back of the PA-45.** In felony cases this will be done only by C.I.B. or Vice Control personnel.
3. The victim's phone number is required on the face of the PA-45.

D. **INCIDENT REPORT (FORM PO-13) AND D.V. 'GREEN' (FORM PO-14B)**

The D. V. 'green' shall also be used for all D.V. offenses listed in 3/110.10 except for sexual assaults. The normal clearance report must also be filed in addition to the D.V. 'green.'

A detailed account of the offense **INCLUDING ALL THE ELEMENTS OF EACH CHARGE** must be recited on the Incident Report or Domestic Violence 'green' to include the following:

1. How the call originated (victim, neighbor, relative, etc.) and the time and nature of the dispatch (family trouble, battery, cutting, etc.).
2. **Officers observations of the scene and the demeanor of the parties**, e.g. furniture overturned, broken glass, parties loud or abusive in your presence, etc.
3. Separate paragraphs for the detailed statements of the victim, witnesses, and the suspect, if available. Don't be vague; be specific as to what they saw or heard.
4. Indicate if one or both parties had been drinking and their state of sobriety.
5. Indicate if there is a history of abuse, or if the police had been there before (if known).
6. **Precise nature of pain and/or injury and how inflicted**, i.e. open hand, closed fist, knife, table leg, etc., also describe the victim's appearance (disheveled, clothes torn, finger marks on neck, etc.).
7. Did the victim need hospitalization or medical treatment? Where treated? (This is important since the court liaison officer may have to contact the victim at the named hospital.)
8. Were any threats made in the presence of the Officers? Describe in detail.
9. Were any weapons used or threatened to be used? If yes, a summary arrest is required if

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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the suspect can be readily located.

10. State whether or not a restraining order or no contact order is in effect. If yes, a summary arrest is required by State law if the suspect can be readily located.
11. State whether victim will cooperate in the prosecution and if the victim will appear at the D.A.'s office.

## **E. D.A.'s "COMPLAINT WORKSHEET."**

**F. D.A.'S "WITNESS SUBPOENA DATA. FORM."** List all witnesses and their home and work numbers, including neighbors and other tenants. Briefly state what they will testify to.

## **G. D.A.'s CRIMINAL CASE SCHEDULING CALENDAR**

**H. CIB PACKAGE** containing criminal record of both suspect and victim. This may be obtained by calling **Ext. 7388**. Inform whomever you talk to that this is a D.V. case and that if it's an order-in, the liaison officer will pick up the package. For summary cases, the arresting officer will obtain the package for PPS prisoner processing. Give payroll number. **This call must be made.**

**I. DOMESTIC VIOLENCE HOTLINE CALL.** Officers are reminded that per Section 3/110.30, **ALL** probable cause D.V. offenses must be called in to the Domestic Violence Hotline (933-2722) from the scene or as soon as possible if no phone is available. This applies even if the suspect has left the scene and the case will be an order-in. The hotline call must be made even if the victim is a male.

After providing the necessary information, the officer should put the victim on the phone to speak directly with the social worker who will assess the need for victim services. **This call must be made.**

**J. ALL REPORTS FOR ORDER-IN CASES MUST BE IN THE COURT ADMINISTRATION SECTION (CAS) LIAISON OFFICER'S OFFICE AT LEAST ONE DAY PRIOR TO THE ORDER-IN DATE.** All order-in reports should be mailed directly to "CAS, Attention D.V. Section", using the white D.V. Order-in envelopes (Form PD-34). If time is short, the packages should be hand-delivered by courier to CAS instead of using Department mail.

Form PD-34 "D.V. Order-In Package for Battery D.V. and Violation of D.V. Restraining Order/Injunction" is an official Police Department form. This envelope shall be utilized for the purposes of gathering, reviewing, and containing all necessary reports for the court liaison officer to process a non-summary Domestic Violence (D.V.) order-in case.

The District/Shift/Division Commander shall certify that all necessary reports and telephone notifications have been made by affixing his/her signature on the face of the PD-34 envelope.

Command Officers shall maintain an adequate and continuous supply of Form PD-34 envelopes as well as the pink Domestic Violence Referral Notice, Form PD-33.

## **3/110.75 SCHEDULE FOR ORDER-INS PROCESSED BY CAS LIAISON OFFICERS:**

[Deleted]

**SCHEDULE FOR SUMMARY CASES PROCESSED BY CAS LIAISON OFFICERS:** Follow Order No. 9353 (Sept. 4, 1986) and amendments thereto.



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## **EMERGENCY ORDER-IN:**

For cases of serious injury or involving a high likelihood of future danger to the victim, or for other extenuating circumstances, the district or shift commander may authorize an order-in to the District Attorney as soon as possible regardless of the above schedule. **Offenses involving - weapons should also be ordered in as soon as possible regardless of the above schedule.**

**For emergency order-ins, the D.V. liaison officers must be notified by calling Ext. 7304 and the D.V. package (Forte PD-34) hand-delivered by courier to CAS**

## **ARREST AFTER AN ORDER-IN:**

A domestic violence suspect may still be summarily arrested (if probable cause exists) after an order-in has been made, either for the original D.V. order-in offense or for a subsequent D.V. offense prior to the order-in date. **In both instances, the D.V. liaison officers must be notified by calling extension 7304.**

## **3/110.80 SUPERVISORY RESPONSIBILITIES**

District/Vice Control Division supervisors are responsible for items (a) through (e) for order-in cases. CAS Supervisors are responsible for items (b) and (c) for summary arrests.

- A. Determining the lawfulness of an order-in for a warrant instead of an immediate, mandatory arrest per the four exceptions listed in 3/110.65.
- B. Confirming that the Domestic Violence Hotline call (933-2722) has been made.
- C. The completeness of the investigation and reports. **Teletypes should be sent for suspects at large when weapons are involved, there has been serious injury to the victim, or there is a serious threat to the safety of the victim.**
- D. The filing of all necessary reports required for liaison officer processing and the forwarding of order-in reports to CAS-Domestic Violence Section.
- E. CAS, Ext. 7304, has been notified if an 'emergency' order-in **has been made or a summary arrest made prior to the order in date.**

## **3/110.85 NOTES RE: DOMESTIC VIOLENCE ARREST POLICY**

### **A. MANDATORY ARREST PER STATE LAW**

Calls to the Shift Commander are only necessary when the officer feels that probable cause is **NOT CLEAR**. If probable cause is clearly present or clearly lacking, there is no need for a call. If probable cause is established, a summary arrest is **required** by State Law; the shift commander by State law can no longer authorize an order-in for "extraordinary circumstances."

### **B. VICTIM TRANSPORT**

Transporting victims from the hospital back to their home is permitted according to existing procedures, particularly if the suspect is not yet in custody.

### **C. ARREST TIME LIMIT**

Under the State mandatory arrest law, there is no cutoff time for the summary arrest. If the D.V. offense that comes to your attention happened some time in the past, an arrest must still be made if there is probable cause that the crime occurred and the statute of limitations has not expired (Wis. Stat. 939.74).

### **D. DISPATCH INFORMATION**

Desk personnel and Telecommunicators should make efforts to determine if the suspect is still on the scene and pass that information and a description along to the dispatcher. The presence of weapons should always be determined when possible.

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## E. D.V. REPORT MARKING

AU reports concerning domestic violence offenses shall all be marked as "D.V." using a wide felt tip pen, **especially after statute numbers**, e.g. Battery, 940. 19D.V. This is required for statistics mandated by State law which the Department must compile.

## F. BAIL-OUT NOTIFICATIONS

Bail-Out notifications that are not able to be made by phone, due to the victim not having a phone, may be handled by sending a squad to the home of the victim to ensure he/she is notified.

## G. D.V. TREATMENT FACILITIES

Treatment facilities are: GOOD SAMARITAN/ LUTHERAN HOSPITAL at 2000 W. Kilbourn or NORTHWEST GENERAL HOSPITAL at 5310 W. Capitol Dr. but the final conveyance decision may be determined by medical necessity or the victim's wishes.

## H. HOTLINE INFORMATION

Hotline information on previous cases and/or suspects will be provided to officer on request. However, the officer will have to leave an extension to be called back so that the Hotline people can be sure it is the Police that are making the inquiry.

## I. ARRESTS OF DEPARTMENT MEMBERS

Under this procedure, members of the Department will be treated the same as members of the general public. The Department member's commanding officer and the field deputy inspector must be notified immediately.

(NOTE: New S.O.P. 2/015.00)

## J. CHILD ABUSE

When investigating domestic violence offenses, officers should be alert for signs of child abuse. If a suspect has abused an adult victim in a family or domestic relationship, he or she may have also caused abuse to children who are in the household. Contact the Sensitive Crimes Division for further advice.

## 3/110.90 INFORMATION FOR CITIZENS FOR OBTAINING TEMPORARY RESTRAINING ORDERS

- A. Report to ROOM 711 in the Courthouse, 901 N. 9th Street - Ask for all forms (petition, TRO, affidavit of indigency, and order waiving costs). Fill out forms completely and press hard. (DO NOT SIGN FORMS) Advocates will help with forms.
- B. **For domestic abuse**, then proceed to Room 707 of the Courthouse, 901 N. 9th Street. Check in at registration desk. A family court commissioner will review your Restraining Order Petition and your request to waive fees. **For harassment**, go to the assigned judge in the Courthouse-Check in with clerk in courtroom. A Judge will review your Petition and your request to waive fees.
- C. Proceed to ROOM 104 of the Courthouse, 901 N. 9th Street, Window #G9. Pay fee (\$78.00) or show signed order waiving costs and fees to the clerk. A case number will be stamped on all forms.
- D. Proceed to ROOM 164 in the Safety Building, 821 W. State St. Give TEMPORARY RESTRAINING ORDER and YELLOW SHEET to clerk. Pay \$20.00 fee for service or show order waiving costs and fees. There will be an additional \$20.00 fee for each additional service attempt.
- E. Then take a copy of TEMPORARY RESTRAINING ORDER to the police district in which you live. (KEEP A COPY FOR YOURSELF.)  
[District list deleted]

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A final injunction hearing will be held in 7 to 10 days. The date will be on your TEMPORARY RESTRAINING ORDER/NOTICE OF HEARING. Return on this date for your final hearing. If the respondent has not been served by that time, request another final hearing date. **YOU MUST APPEAR** or a new date will not be set and your case will be dismissed. If the respondent does not show, you can still get a Final Injunction, but you must take a copy of the FINAL INJUNCTION TO ROOM 168 in the Safety Building at 821 W. State St. (Sheriff's Dept.) so that the sheriff can serve respondent with the Final Injunction.

IF YOU HAVE ANY QUESTIONS, CALL:

Task Force on Battered Women [number deleted]  
ROOM 711, Courthouse  
901 North 9th Street  
Milwaukee Wisconsin 53233

## 3/110.95 ELDER ABUSE REPORTING SYSTEM

The Community Care Organization of Milwaukee County, Inc. (CCO), located at 5228 West Fond du lac Avenue has been designated by Milwaukee County as the agency that will receive reports of ELDER ABUSE through the published phone # [deleted].

To comply with the provisions of State Statute 46.90 (Elder Abuse Reporting System) which defines elder abuse as "willful infliction on an elder person of physical pain or injury or unreasonable confinement to a person who is age 60 or older or who is subject to the infirmities of aging, members of the Milwaukee Police Department shall adhere to the following:

- A. Respond promptly to all calls for assistance made by staff members of CCO.
- B. Assist staff members of CCO in the investigation of suspected elder abuse cases.
- C. Reports of suspected elder abuse or neglect received directly by officers shall be documented by filing an "In the Matter Of" report. These reports shall then be forwarded to the Senior Citizen Assault Unit for screening and referral to the CCO.
- D. Incident reports that involve elder abuse [e.g. 940.29(2) Abuse of Residents of Facilities; or 940.19(3)(a) Battery, etc.] shall be handled by the investigating officers. In addition, these reports shall be forwarded to the Senior Citizen Assault Unit for processing to the CCO.
- E. The Senior Citizen Assault and Prevention Unit is the Department's liaison with the CCO and will receive and forward reports of elder abuse and neglect that are received by the Department.

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## 4. Protocol on domestic violence victims (pro-arrest policy)

As the following protocol explains, all the law enforcement agencies, plus the District Attorney, in Ventura County, California, adopted a common “pro-arrest” policy in responding to cases of domestic violence.

### POLICY STATEMENT

Law enforcement agencies of the County of Ventura and all incorporated cities within Ventura County will respond to acts of domestic violence as a crime, regardless of the relationship of the parties.

Victims of domestic violence will be treated with respect and dignity and will be given all available assistance by law enforcement personnel responding to an incident of domestic violence.

Law enforcement officers should arrest batterers in all situations where an arrest is legally permissible for acts of domestic violence.

Training will be provided regularly to enhance law enforcement’s response to domestic violence incidents.

### DEFINITIONS

- A. Abuse means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or another (13700(a) P.C.).
- B. Domestic Disturbance is an argument or disagreement within the family or between boyfriend/girlfriend that does not involve violence, threats of violence, or court order violations. Officers will prepare a brief written report or other retrievable documentation on any domestic dispute reported to Ventura County law enforcement agencies.
- C. Domestic Violence is abuse committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or has had a dating or engagement relationship (13700(b) P.C.).
- D. Domestic Violence Order is a protective order which is issued pursuant to the Domestic Violence Protection Act (Code of Civ. Proc. §§ 541-549), the Family Law Act (Civ. Code §§ 4359, 4458, and 4516), or the Uniform Parentage Act (Civ. Code §§ 7020-7021).
- E. Emergency Protective Order (EPO) is an order issued by a judge during an evening, holiday, or weekend when court is not in session. It is intended to function as a restraining order against a perpetrator of domestic violence. The maximum duration of such an order is four (4) days.
- F. Officer is defined as any law enforcement officer employed by a local police department or sheriff’s office, consistent with California Penal Code section 830.1.
- G. Pro-Arrest Policy refers to a philosophical position which prioritizes arrest over misdemeanor citation, letter notification or warrant in every situation where an arrest on probable cause is legally permissible.
- H. Protective Order is an order which requires a person to restrain from doing a particular act or acts. It is issued by the Superior Court, with or without notice to the person who is to be restrained. A protective order will remain in effect for a set period of time which is stated on the face of the order.

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- H. [sic] Stay Away Order is an order in a criminal case involving domestic violence where there is a likelihood of harassment of the victim by the defendant. The courts previously issued Stay Away Orders under Penal Code section 13720. A Stay Away Order may remain in effect as long as the defendant is under a court's jurisdiction, including any sentence or probationary period. Stay Away Orders are now issued pursuant to Penal Code section 136.2 while a criminal prosecution is pending.
- I. Victim means a person who is a victim of domestic violence (13700(d) P.C.).

## COMMON CHARGES

A situation involving domestic violence may result in a violation of one or more of the following sections of the Penal Code:

1. 136.1 - Intimidating or dissuading a witness
2. 148 - Resisting arrest
3. 166.4 - Criminal contempt
4. 187 - Murder
5. 207 - Kidnapping
6. 240 - Assault
7. 242 - Battery
8. 243(a) - Battery
9. 245 - Assault with a deadly weapon
10. 246 - Shooting at an inhabited dwelling
11. 262 - Spousal rape
12. 273.5 - Spousal abuse
13. 273.6 - Violation of a restraining order
14. 417(a) - Brandishing a weapon
15. 418 - Forcible entry into the home of another
16. 459 - Residential burglary
17. 591 - Malicious destruction of a telephone
18. 594(b) - Vandalism
19. 602.5 - Trespassing
20. 603 - Forcible entry with damage to proper"
21. 647(f) - Public drunkenness
22. 12020(a) - Possession of a dangerous weapon
23. 12025(a) - Possession of a concealed firearm
24. 12031 - Possession of a loaded firearm

## 911 OPERATOR/DISPATCHER RESPONSE

- A. The dispatcher who receives a domestic violence incident call will dispatch officers to every reported incident. The dispatcher will, when warranted, give a domestic violence incident call the same priority as any other life threatening call and will, whenever possible, dispatch two officers to the scene.
- B. No dispatcher or 911 operator, in speaking with a victim of domestic violence, will discuss the victim's desire to "press charges," "drop charges," or "prosecute."! Any comment or statement which seeks to place the responsibility for enforcement action with the victim is inappropriate.

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- C. During the initial call for assistance, the call taker should ask these questions:
1. Where is the emergency? What address? What apartment number? Call back number?
  2. Has anyone been injured? If yes, is an ambulance needed?
  3. Who is the suspect and is he/she present? If not, a description of the suspect and his expected whereabouts.
  4. Are weapons involved or available? If yes, what kind?
  5. Who am I speaking to? Are you the victim? If no, are you a witness?
  6. What has happened? What is happening now?
  7. How many are children present?
  8. How are you related?
  9. Is the offender under the influence of drugs or alcohol? If yes, what substance?
  10. Does the victim have a current restraining order? Has the suspect been served with the order?
  11. If possible continue to gather additional information such as: Have the police been to the address before? Have they been involved in prior domestics, etc.
- D. The safety of domestic violence victims, whether the threat of violence is immediate or removed, should be the primary concern of 911 operators. 911 operators shall advise victims to protect themselves in any way possible including, but not limited to, waiting for officers at a friend's house or simply leaving the residence if the batterer may return.

## PATROL OFFICER RESPONSE/ INVESTIGATION

- A. Enforcement of Laws in Domestic Violence Incidents.
1. An arrest shall be made in the event that there is reasonable cause to believe that a felony has occurred. Except where authorized all suspects arrested will be booked into the county jail. A pro-arrest policy will be implemented by all officers.  
If an officer has reasonable cause to believe that a felony has occurred, an arrest shall be made irrespective of whether the officer believes the offense may ultimately be prosecuted as a misdemeanor.
  2. The suspect shall be arrested in the event that misdemeanor domestic violence incident occurs in the officer's presence. Such situations include, but are not limited to, an officer who witnesses an act of domestic violence, a violation of a restraining order, or illegal possession of a weapon where the officer believes a domestic violence history exists involving the suspect in possession of the weapon.
  3. When a crime has been committed outside the officer's presence which does not meet the requirements for a felony arrest, the officer must inform the complainant of his/her right to make a citizen's arrest and advise the victim how to safely execute the arrest (836 P.C.). Whenever possible such discussion shall be held out of the presence of the suspect. An officer shall not dissuade complainants from making a citizen's arrest.
  4. The existence of the elements of a crime and/or the willingness of the victim to make a citizen's arrest shall be the sole factors that determine the proper method of handling the incident. The following factors, for example, are not to influence the officer's course of actions in domestic violence incidents:
    - a. The relationship or marital status of the suspect and the victim *i.e.*, not married, separated, or pending divorce.
    - b. Whether or not the suspect lives on the premises with the complainant.

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- c. The existence or lack of a temporary restraining order.
  - d. The potential financial consequence of arrest.
  - e. The complainant's history or prior complaints.
  - f. Verbal assurances that violence will cease.
  - g. The complainant's emotional state.
  - h. Injuries are not visible.
  - i. The location of the incident (*i.e.*, public or private).
  - j. Speculation that the complainant may not follow through with the criminal justice process or that the arrest may not lead to a conviction.
5. Once a suspect is arrested on a misdemeanor offense, he/she should be booked into the county jail unless the officer can identify a strong likelihood that the offense will not continue once the officer leaves the scene and that there has been no prior history of domestic violence.
- a. Relevant consideration for the officer in determining whether a suspect should be booked into jail on a misdemeanor offense may include, but are not limited to: the level of violence (*e.g.*, pushing or grabbing versus multiple blows), the suspect's willingness to leave the scene, the victim's desires regarding the suspect's arrest and existence of other criminal violations (*e.g.*, under the influence of alcohol or drugs or violation of a restraining order).
  - b. In determining whether prior violence has occurred, the officer should interview the victim, suspect, children, and any available neighbor witnesses. A warrant check, automatic records, and, if possible, criminal history check should also be conducted.
  - c. The officer shall make an arrest if the victim expresses fear of retaliation or further violence should the suspect be released
  - d. The officer should consider the issuance of an emergency protective order as described [elsewhere in] this protocol.
6. In both misdemeanor and felony arrests, the officer should consider preparing a declaration to increase bail above the schedule amount or to deny an O.R. release if it appears that the defendant may not appear in court or if the defendant's release from custody may pose a serious threat to the victim's well-being (Pen. Code §§ 1269, 1270, 1275).
7. An officer shall make no statements which would tend to discourage a victim from reporting an act of domestic violence or requesting a citizen's arrest.
8. Pursuant to Penal Code section 13700 et seq., an officer responding to an incident of domestic violence shall prepare a domestic violence incident report irrespective of the wishes of the victim or the presence or absence of the suspect.
- B. Investigation of Domestic Violence Cases.
1. Officers arriving at a domestic violence scene should conduct a thorough investigation and submit reports of all incidents of domestic violence and all crimes related to domestic violence.
  2. The following steps should be included in an officer's investigation and subsequent report:
    - a. ARRIVAL AT SCENE
      - [ ] Determine location and condition of victim.
      - [ ] Determine if suspect is still at scene.

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- Determine if any weapon is involved.
- Determine what, if any, crime has occurred.
- Summon ambulance if injuries require.
- Separate victim, suspect and witnesses.  
(NOTE: This includes removing victim from suspect's line of sight. If it is necessary to remove one party from inside the residence to the outside area, and officer safety permits, the suspect should be removed outside and the victim allowed to remain inside in a protected environment.)
- b. PRELIMINARY INVESTIGATION
  - Interview victim and witnesses separately.
  - Interview children (were they present when the violence occurred, did they hear it, how often has violence occurred in the home).
  - Determine suspect's and victim's activity. (Distinguish aggressor from victim especially if both are injured.)
  - Note and document victim's condition and demeanor.
  - Note torn clothing.
  - Note smeared makeup.
  - Note evidence of injury (diagram).
  - Referral to victim services agencies.
  - If victim has a restraining order against suspect, obtain a copy of the order and valid proof of service. If not, inform victim how to get an order.
  - Advise victim of right to arrest in misdemeanor cases.
  - Advise victim regarding an Emergency Protective Order (EPO).
  - If victim has a restraining order which has not yet been served on suspect, inform the suspect of the order and note in the report.
  - If victim has an extra copy of the order, serve on the suspect and fill out proof of service.
- c. IF SUSPECT TAKEN INTO CUSTODY
  - Record spontaneous statements.
  - Prevent communications between suspect and victim/witnesses.
  - Record alibi statements.
  - Advise suspect of rights.
  - Obtain waiver.
  - Get statements.
- d. EVIDENCE
  - Tape record statements.
  - Ensure that victim's/suspect's injuries are photographed.
  - Photograph crime scene, if possible.
  - Note condition of crime scene (disarray of physical surroundings).
  - Identify, impound and/or photograph weapons/firearms and other evidence (12028.5 PC).
- e. MEDICAL TREATMENT (MT)
  - Transport victim to hospital for M.T., if necessary.
  - Obtain copy of M.T. for report including doctor's name, address and phone number.
  - Document complaint of injuries.



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- Obtain names, addresses, and phone numbers of ambulance or paramedic personnel treating the victim.
  - Obtain a medical records release signed by the victim (Appendix 1 [not included]).
- f. COMPLETING CRIME REPORT**
- Maintain objectivity in reporting. Avoid personal opinions regarding comments from victim/suspect.
  - Ensure that elements of all involved crimes are included in the report.
  - Document any injuries that victim has sustained.
  - Was victim advised of citizen's arrest?
  - Was victim photographed?
  - Did officers give victim referrals (13701(i) PC)?
  - Document past history of violence.
  - If possible, record name, address, and phone number of two close friends or relatives of the victim who will know of her whereabouts 6-12 months from the time of the investigation.
  - When responding to a domestic disturbance where there is no actual violence or other violation of the law, the officer will ensure that the proper dispatch code indicating no domestic violence or other appropriate record of the incident is made.
  - Officer shall not advise victims of domestic violence that they can "press" charges or "drop" charges. The decision to prosecute is made by the district attorney. The victim and suspect will be advised that once a crime report is taken he/she has no control over the decision to prosecute.
  - When the victim is unwilling or unable to place the suspect under citizen's arrest for battery, and the investigating officer feels that the suspect should be removed to prevent further violence, a felony arrest pursuant to Penal Code section 273.5 may be made by the officer if the victim has sustained even minor injuries (such as bruising, cuts, or abrasions). Section 273.5 requires that the victim and suspect be married to each other, be cohabiting or have one or more mutual children together as a result of their relationship.

## **FOLLOW-UP INVESTIGATION**

- A. All domestic violence reports prepared by officers pursuant to Penal Code section 13700 et seq., shall be referred to investigations personnel for review and follow-up investigation as needed.
- "Investigations personnel" refers to a detective, investigative specialist, or other designated personnel.
- Investigations personnel receiving domestic violence-related crime and arrest reports shall process them in the same manner as all other criminal violations.
- Whenever possible, investigative personnel will be specifically designated to handle domestic violence cases based on an investigator's desire to handle such cases.
- B. Follow-up investigations should be geared to the requirements of the District Attorney's Family Protection Unit.
1. At a minimum, follow-up investigations submitted to the district attorney for consideration should include the following:

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- a. Verify the inclusion of all investigative steps described above regarding patrol officer response/investigation.
  - b. Obtain medical records, if available.
  - c. Obtain a copy of the 911 tape involving the original call for assistance.
  - d. Re-interview witnesses as necessary.
  - e. Contact the victim and witnesses to inform them of the status of the case and the intended referral to district attorney.
  - f. Where possible obtain subsequent photographs of injuries to the victim (particularly where there were no initial photos taken or the initial photos did not show injuries to the victim).
2. Follow-up investigation shall not consider the desire of the victim to “drop” charges in assessing whether the case should be submitted to the District Attorney’s Family Protection Unit.
  3. Investigative personnel handling domestic violence cases should analyze each domestic violence case by asking the following questions:
    - a. Can the elements of the offense be established without the testimony of the victim; *i.e.*, did the victim make a spontaneous statement? Are there any eye witnesses to the offense? Did the victim make a detailed statement of the offense to an officer (preferably tape-recorded) or to another person who can impeach the victim if they appear in court and testify falsely?
      - (1) If the answer is “yes” or if you are uncertain that the elements of the offense can be established without the victim’s cooperation, the case should be submitted to the District Attorney’s Office for review regardless of the victim’s wishes.
  4. Under no circumstances should a victim be asked if they wish to “press charges” or “drop charges.” Investigative personnel shall not ask a victim if they want to “prosecute” their partner. The focus of the investigative follow-up should be on the questions contained above in section 3 and the victim should be informed that the decision to proceed is out of her control.

## ENFORCEMENT OF RESTRAINING ORDERS

- A. Domestic violence restraining orders will be enforced by all law enforcement officers. Under Penal Code section 273.6(a), it is a misdemeanor to willfully and knowingly violate any of the protective orders issued pursuant to the Uniform Parentage Act, Family Law Act, or the Domestic Violence Prevention Act. Penal Code section 273.6(d) makes it a felony to violate a restraining order, with violence or threat of violence, after suffering a prior conviction for violation of Penal Code section 273.6.

Penal Code section 273.6 shall apply to the following orders:

  1. An order enjoining any party for molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, or disturbing the peace of the other party or other named family and household member.
  2. An order excluding one party from the family dwelling or the dwelling of the other party or other named family and household member.
- B. Orders issued in criminal cases under Penal Code section 136.2 which pertain to domestic violence and harassment orders punishable under Penal Code section 166.4 will be enforced by all law enforcement officers.

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- C. Officers will make arrests for any violations under the above sections that they observe. If the officer did not observe the offense, or if the existence and status of the order cannot be verified, the victim should make a citizen's arrest. If the officer arrives at the scene and observes the defendant in violation of the terms of the order, the officer shall make an arrest for a misdemeanor occurring in his/her presence.
- D. Law enforcement officers receiving copies of Protective Orders will forward them to the Records Division, who will enter appropriate information in the statewide computer system.
- E. If at the scene of a domestic disturbance a person shows or informs the officer of the existence of a Protective Order, it is crucial to establish the present status and terms of the order. Officers shall ask the following questions to determine the current status:
  - 1. Is there a Protective Order on file? It will be filed under the name of the person restrained. If the officer cannot verify the order, it must be enforced through a citizen's arrest procedure.
  - 2. What is the date of the order? Has it been signed by a Superior Court judge and filed by the court (a filed document has the court clerk's "filed" stamp and the date filed on the upper portion of the first page of the document - usually in the upper right hand corner)?
  - 3. What is the expiration date? If there is no expiration date stated on the face of the domestic violence restraining order, it is valid for three years (Code of Civ. Pro. § 548).
  - 4. What are the terms of the order?
  - 5. Is there a Declaration of Service on file, proof of notice in court, or has another officer given the needed notice to the person to be restrained?
- F. The existence of this information shows that the suspect has the needed knowledge to be in violation of the Order.
  - 1. The elements of the crime require willful disobedience of the terms of the order.
  - 2. If this information is not established, the suspect cannot be arrested at the time of the disturbance.
  - 3. If the Declaration of Service is not on file and notice by another officer has not been established, proceed to give a copy of the order, if available, to the suspect.
    - a. If the victim has an extra copy of the order, show and then serve the order on the suspect to keep.
  - 4. Advise the suspect that they are now subject to the terms of the order and can be arrested for any further violations.
  - 5. Report through your department procedure that you have served a copy of the order on the defendant.
  - 6. Release the Proof of Service to the victim for subsequent filing with the court or if pursuant to policy, file the Proof of Service as part of the report and the department will ensure that the original Proof of Service is filed with the appropriate court.
- G. If the victim does not have a copy, advise him/her to carry one in the future.
  - 1. Advise the suspect that there is an order in effect.
  - 2. The officer can have the terms of the order read over the phone and can then inform the suspect.
  - 3. An arrest may be made at this time if the suspect refuses to comply with the terms of the order.

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- H. If a physical arrest is made and the suspect is transported to the jail, the officer should pick up a copy of the order prior to booking.
  - 1. The copy is to be submitted with the work copies of the case and arrest reports.
- I. If the person is cited and released, the officer is to include the following information on the case and citation reports:
  - 1. The issuing Superior Court judge.
  - 2. The court.
  - 3. The expiration date.
  - 4. How the suspect was made aware of the order.
- J. If a Protective Order violation has occurred and the suspect is not present, the officer will submit a crime report of the appropriate misdemeanor violation.

**Under no circumstances** shall an officer fail to prepare a crime report on a restraining order violation simply because the suspect is no longer present.

- K. When responding to any domestic violence incident, an officer shall advise the victim of the availability of an Emergency Protective Order (EPO). The officer shall use the following procedure:
  - 1. Have available the **Application for Emergency Protective Order/Emergency Protective Order** blank. (See Appendix 2 [not included]) Complete lines 1 through 9 on the application.
  - 2. Pursuant to department policy, **contact the on-duty magistrate**, identify yourself and state your purpose. Record on line 9 of the application who you contacted and when. The magistrate will ask you a series of questions regarding the incident, based on the answers listed on lines 1 through 8. The officer should also be prepared to answer questions relating to the incident, such as past history or whether orders had been previously applied for or issued.
  - 3. Record whether the application was granted or denied on line 9, and sign the form. If one is approved, the Emergency Protective Order section must be completed.
  - 4. The approving magistrate will give specific instructions on what is to be recorded on lines 10 through 13 of the Emergency Protective Order section. The remainder of the lines may be completed after the phone call to the magistrate is finished.
  - 5. Call Police Records and obtain an incident or case number for the domestic violence incident. Inform records personnel that the number will also be used on an Emergency Protective Order, so that they may obtain additional information they require. Write this number in the Incident Case Number box in the upper right hand corner of the Application.
  - 6. Give the victim's (pink) copies of both forms to him or her. Admonish the victim to retain these papers until expiration of the order.
  - 7. Emergency Protective Order legislation requires an officer to **make a reasonable attempt to serve the restraining order**. If he or she is present or can be readily contacted, serve the order. Record whether and how the order has been served in the incident or crime report. Give the restrained person's "canary" copies to him or her.
  - 8. Submit the court (white) and agency (goldenrod) copies for routing to Records at the end of the shift in the normal manner. The agency copy will be stapled to the crime or incident report. **The court copy shall be submitted separately**. If the restrained party was not served, attach the restrained party's copies to the reports upon submission.

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## VICTIM ASSISTANCE

- A. When a party in a domestic violence incident requests police assistance in removing a reasonable amount of personal property (*e.g.*, a suitcase) to another location, officers shall stand by a reasonable amount of time until the party has safely done so.
- B. If a victim has injuries, whether visible or not, which require medical attention, officers shall administer first aid as appropriate and offer to arrange for proper medical treatment.
- C. In all domestic violence incidents, an officer should:
  - 1. Exercise reasonable care for the safety of the officers and parties involved.
  - 2. Assist in making arrangements to transport the victim to an alternative shelter if the victim expresses a concern for safety or the officer determines a need exists.
  - 3. Explain options available to the victim including the citizen's arrest process, temporary restraining orders, and in cases of arrest, the follow-up procedures and ensuing criminal proceedings.
  - 4. Advise the victim in written form of available community resources and the state victim assistance program.
  - 5. Verify and enforce court-issued protective orders pursuant to page 16 of this protocol.

## MILITARY SUSPECTS

- A. All domestic violence incidents involving military suspects shall be handled according to this law enforcement protocol.
- B. The intent of this policy is to eliminate all informal referrals, diversions, or report taking omissions in the handling of domestic violence incidents involving military personnel.
- C. No informal agreements with shore patrol or a suspect's commanding officer shall take precedence over a suspect's arrest and prosecution by the non-military authorities.

## TRAINING

- A. Each law enforcement agency shall establish a written schedule for annual or semiannual training for members of the agency on domestic violence.
- B. The goals of the training are to inform officers of:
  - 1. The domestic violence laws.
  - 2. The department's domestic violence policy and procedures.
  - 3. The dynamics of family violence.
  - 4. Police officer safety techniques.
  - 5. District Attorney Family Protection Unit policies.
- C. Training should include written bulletins, videotapes, verbal reminders, updates during daily briefings and presentations given periodically by the District Attorney's Domestic Violence Unit personnel.
- D. The chief of police, or his designee, shall ensure the review of his department's training policies annually and make any revisions deemed necessary.

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## **5. Standard Operating Procedures for Domestic Violence Unit**

Some law enforcement agencies have established special units to address domestic violence cases. The following set of Standard Operating Procedures from the Charlotte-Mecklenburg (North Carolina) Police Department lays out both the specific procedures and also the underlying goals and principles by which this Unit operates.

### DOMESTIC VIOLENCE UNIT [DVU] S.O.P.

#### UNIT GOALS

- 1) Protect the victim from further incidents of domestic violence.
- 2) Stop the cycle of domestic violence by continuing the intervention started by patrol.
- 3) Conduct thorough investigations of domestic violence incidents to ensure the successful prosecution of batterers.
- 4) Refer victims to appropriate community resources and assist them in improving the quality of their lives.

#### HOURS OF OPERATION

The unit will operate from Monday through Saturday during the following hours:

Monday through Friday	0700 - 2200
Saturday	0700 - 1600

Officers will be available to respond to severe domestic violence incidents during hours the unit is closed on an on-call basis at the discretion of the unit supervisor.

The DVU supervisor and/or his designee will respond to domestic violence incidents within Mecklenburg County involving employees of the Charlotte-Mecklenburg Police Department as suspects or victims. The purpose of this response will be to handle the criminal investigation of the incident. This should not be construed to mean that the DVU will be the primary responding unit. As always Patrol Units should be dispatched. Internal Affairs remains responsible for the investigation of any alleged violations of Departmental Policy in these incidents.

#### SPECIFIC RANGE OF CASES HANDLED BY THE UNIT

The DVU will deal with the following types of crimes when committed between persons involved in a domestic relationship:

- Felony Assaults.
- Stalking.
- All incidents of domestic violence involving Police employees.
- Misdemeanor cases with serious injury.
- Threat of injury involving a weapon.

Domestic violence will be defined for the purpose of this unit by the language used in G.S. 15a-401(b) to specify which cases officers are allowed to make warrantless misdemeanor arrests-offenses

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committed by the spouse, former spouse or person the victim has lived with as if married. We will expand this definition to include persons in dating relationships who have not lived together.

The unit may also handle cases which might be connected to the cycle of intimidation typical in domestic violence situations but are not directly assaultive in nature. An example of this sort of situation would be damage to property of the victim of a domestic assault currently under investigation by the suspect in that assault. The unit would handle this misdemeanor charge since it could be construed as an attempt to intimidate or manipulate the victim not to cooperate with the prosecution of the assault.

## BASIC INVESTIGATIVE PROCEDURES

Officers assigned to the DVU will conduct thorough and complete investigations of all cases assigned. This section of the S.O.P. is intended to serve only as a basic guide of what should be done in the course of an investigation. It is not a complete list of avenues of investigation to be pursued. Be aware that the course of a case investigation will be shaped somewhat by the incident and personalities being dealt with. Flexibility, ingenuity and teamwork will guide members of the unit through their investigations.

All investigations will be conducted with the goal of being so detailed that the case may be successfully prosecuted even if the victim refuses to testify in court.

Officers will make every effort to cover all of these basic steps en route to establishing that all the elements of a particular offense did or did not occur:

- A) Interview the victim
- B) Interview the suspect (alert the victim before you do this, he may be antagonized by our intervention and become assaultive).
- C) Interview any witnesses (including children).
- D) Document any evidence collected by patrol. Gather additional evidence as indicated by your investigation.
- E) Do follow up photos of injuries (or lack thereof) to the victim and suspect. Gather on-scene photos of victim, suspect and crime scene from C.S.S., property, or initial responding officers.
- F) Get medical reports on injuries to either party from hospital, medic, fire department and private physician.
- G) Document and collect any other evidence of violence, *i.e.*, torn clothing, items broken in the struggle, things used as weapons, blood stains, etc.
- H) Evidence of efforts by the batterer to get the victim to drop the charges or change her testimony, *i.e.*, answering machine tapes, letters written, statements of persons the batterer uses as a go-between, jail phone records.
- I) 911 tapes.

All investigations will be fully documented on supplement reports in such detail that one who is unfamiliar with the case can read through the supplements and understand the course of the investigation and the evidence gathered.

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The victim's stated wishes that she does not wish to prosecute shall not affect the course of the investigation nor the vigor with which it is pursued. If the officer perceives that the victim wants to drop the charges because of the suspect's influence or intimidation, it should be explained that the case is being pursued by the Police and the D.A.'s Office. If the victim insists the case be dropped, she will be provided a form signed by the officer indicating that she requested the case be dropped, but the case is being pursued in spite of her wishes. This is to protect those victims who try to drop the charges under duress from their batterer.

## **OTHER GENERAL PROCEDURES REGARDING UNIT OPERATIONS**

The job of the unit is not complete until the victim is living violence-free. Personnel should recognize that domestic violence victims often live under strict control by their batterers. They may not be able to free themselves from the situation after our first intervention. We will do all that we can as many times as needed to help the victim recover and become self-sufficient.

To realize our goal of helping the victim live a violence-free life, unit members will make referrals to appropriate community agencies and do all they can personally to help the victim break out of the cycle of violence they have been living in.

Members of the DVU will work together to serve victims. This may require some blurring of distinctions between the two job classifications. For instance, counselors may obtain and document evidence. Officers might find themselves advising victims on appropriate resources in the community to help them break free from their batterer. Both team members might work together to help the victim get a restraining order. All efforts to assist the victim should be documented.

Some suggested avenues of referral might be support groups, job training, shelter, counseling for child witnesses, individual counseling or legal aid. Again, individual circumstances and cases will dictate the referrals made and may necessitate some research to find the correct organization to refer to.

Victims should be encouraged to follow through on referrals. Unit staff should consider making the appointments for the victim while they are in direct contact to increase the chances that the victim will follow through. All referrals made will be documented in the case file.

The entire staff will meet at least once per week at a standard time to be set by staff. The meeting will allow for discussion of ongoing cases, investigative methods, new programs available to victims etc. . . From time to time, guest speakers will be invited to update the unit on issues related to our work or inform on referral services available.

All unit members will be expected to attend and be prepared to discuss the cases they are currently working on. Everyone should be prepared to give constructive criticism of how cases are handled and of unit operations in general. The goal of the meeting will be to improve the unit as a whole.

Unit members should make an effort to inform patrol officers about the progress of the cases they initiate. Letting officers know about the successful prosecution of a batterer will tell them their efforts in the initial investigation paid off.



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It is especially important that we recognize good work by officers in their initial response to an incident. A positive note or word of thanks for a good statement taken on scene will do a lot to motivate that officer to help us with quality initial investigations in the future. This will serve the victim better and make our task easier.

Cases should be papered promptly and presented to the D.A. If a case is accepted, warrants should be obtained and served as soon as possible. A prompt arrest shows the victim and the batterer that we will not tolerate violence.

Unit members should be prepared to see repeat victims, often with the same batterers. These victims deserve and should receive the same level of service as a first-time victim. The batterer will be pursued with more energy than the first incident.

Officers will be on call on a rotating basis to respond to the scene of severe domestic violence incidents and incidents involving department employees.

The DVU will ensure that patrol districts are made aware of newly-signed warrants and restraining orders. Districts will also be informed about locations the unit has reason to believe there is a heightened risk of domestic violence and/or constitute a higher risk of violence directed at responding officers.

## CASE ASSIGNMENT

Cases will be assigned by the unit supervisor as quickly as possible after being received in the unit. They will be assigned in such a manner as to give everyone a roughly equal caseload.

Where possible, cases involving repeat victims or suspects will be assigned to those unit members who have dealt with those parties in the past. This will be done on the assumption that the previous contact allowed some level of rapport to develop between us and that victim/suspect. If the previous contact between the officer and those parties was so antagonistic that it will hamper the new investigation, that problem should be brought to the attention of the unit supervisor. If the cases are re-assigned, the initially-assigned officer should be available for consultation.

## FOLLOW UP DEADLINES

Investigations will begin promptly after case assignment. Delay in starting and investigation may result in the loss of evidence - bruises may fade, victims less cooperative, etc.

The initial supplement on a case is due within 10 days of an officer's receiving the case. Submitting a supplement does not necessarily end the officer's responsibility to pursue the case. Officers will continue to be responsible for the case until all avenues of investigation and intervention are exhausted and the matter is either rejected or prosecuted by the D.A.

## COUNSELOR DUTIES

The counselors in the DVU will help fulfill the goal of reducing domestic violence by providing aid to the victims of domestic violence by providing aid to the victims of domestic violence while assisting

# **SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES**

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in the construction of a case leading to the successful prosecution of batterers.

## **VICTIM AID**

Counselors will contact the victims in cases assigned to the unit to offer brief crisis oriented counseling. The goal of this counseling will be to help the victim through the trauma of the battering event and move on to take action to protect herself and her children.

Counselors will, where appropriate, make referrals to outside agencies for long term counseling, vocational training, G.E.D., shelter, emergency financial aid, etc. They should also be prepared to work with the victim and the officer to obtain restraining orders and telephone services which may help stop harassment by the batterer. This will necessitate building and maintaining a network of contact persons in diverse organizations who might be of assistance.

Children are often unrecognized victims of domestic violence. Counselors will provide the same services to them as they do to the victim. When dealing with children, issues of parental consent will always be respected.

The victim contact made may be by phone or in person. In person meetings where there is a possibility of encountering the suspect should be done with an officer present. Consider going along with the investigators when they make their initial contact.

As needed, counselors may transport victims to court if they cannot find a way or seem reluctant to appear.

A number of cases which are assigned to patrol for investigation will be assigned to the counselors. The counselors will be responsible for forwarding a letter to the victim informing her of the counseling services available through the DVU, and of community resources she can avail herself of. This letter will also contain information regarding the cycle of domestic violence and encourage her to take action to break the cycle. The letter will close with an encouragement to appear in court if that is the direction her case is going and give the counselor's name and phone number as a contact person for assistance. Counselors will respond to requests for assistance from these clients. [Letters sent to the victim's home address should not have a return address that the batterer may recognize as a source of support for the victim.]

## **CASE DEVELOPMENT**

Counselors assigned to the DVU are part of the investigative team with the goal of bringing the batterer to justice.

Documentation of actions and observations by counselors is essential. Successful prosecution of a batterer may depend on the counselor's recollection of something, *i.e.*, things the batterer says to the victim while she is on the phone with the counselor or things seen in the victim's home.

When victims request to drop charges or refuse to cooperate with the investigation, the counselor should step in to help the victim realize that dropping the case will not make the problem go away.

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Some people will respond more readily to a civilian than a Police Officer. Counselors should recognize this and be prepared to take a victim or witness's statement on the incident.

If in a meeting with a victim the counselor is told of evidence or other matters which might affect the case the unit is dealing with, it should be brought to the attention of the investigating officer immediately. The counselor will document this new information on a supplement to the investigation.

Upon receiving information that the victim might be in further danger, the counselor will report that information directly to an investigator for action.

## PROCEDURE FOR RESPONSE TO DOMESTIC VIOLENCE SITUATIONS INVOLVING EMPLOYEES FOR THE CHARLOTTE-MECKLENBURG POLICE DEPARTMENT AS VICTIMS OR SUSPECTS

When a Police Department employee is alleged to be a suspect or a victim in a domestic violence incident, the DVU Supervisor and/or a member of the unit will respond to handle the criminal investigation and to provide the same services to the victim that we would provide the same services to the victim that we would provide under more typical circumstances.

During hours that the unit is operating, the DVU Supervisor should be notified by the Patrol Unit Supervisor as soon as it is determined a departmental employee is involved. After unit hours, the notification should be made via the Duty Captain's office.

The investigation will proceed in the same manner as any other criminal investigation. All evidence will be presented as rapidly as possible to the District Attorney to determine whether the case will be prosecuted.

If an arrest by warrant is necessary, the commanding officer of the effected employee and the Youth Services Bureau Captain will be notified before the arrest whenever possible. If the situation dictates an immediate warrantless arrest notifications will be made as soon as possible.

Copies of the investigation or a summary (depending on the officer's work hours) will be made available to the department's command staff before the investigating officer goes off duty.

All counseling services available to those in conventional D.V. situations will be made available to those in this situation.

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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## 6a. Protocol and checklists on initial death notification

This section contains two protocols on death notification. The first contains principles and practices of sensitive death notification. The second is an example more of procedures, including follow-up.

The following procedures were initially published by the Crime Victim Assistance Division, Iowa Department of Justice under the leadership of then-Attorney General Bonnie J. Campbell. It is followed by an intake form and a community resource pamphlet that accompanies the policy.

These are some of the cardinal principles of death notification. Some of the points overlap, and all will be refined by the notifier's experience and judgment.

### • General Death Notification

#### A. "In Person"

1. Always make death notification in person – not by telephone.

It is very important to provide the survivor with a human presence or "presence of compassion" during an extremely stressful time. Notifiers who are present can help if the survivor has a dangerous shock reaction – which is not at all uncommon – and they can help the survivor move through this most difficult moment.

2. Arrange notification in person even if the survivor lives far away.

Contact a medical examiner or law enforcement department in the survivor's home area to deliver the notification in person.

3. Never take death information over the police radio.

Get the information over the telephone, or it might leak out to family through the media or private parties listening to police radio. If radio dispatchers start to give information over the radio, stop them and call in.

#### B. "In Time" – and with certainty

1. Provide notification as soon as possible – but be absolutely sure, first, that there is positive identification of the victim. Notify next of kin and others who live in the same household, including roommates and unmarried partners.

Too many survivors are devastated by learning of the death of a loved one from the media. Mistaken death notifications also have caused enormous trauma.

2. Before the notification, move quickly to gather information.

Be sure of the victim's identity. Determine the deceased person's next of kin and gather critical information – obtain as much detail as possible about the circumstances of the death, about health considerations concerning the survivors to be notified, and whether other people are likely to be present at the notification.

#### C. "In Pairs"

1. Always try to have two people present to make the notification.

Ideally, the persons would be a law enforcement officer, in uniform, and the medical examiner or other civilian such as a chaplain, victim service counselor, family doctor, clergy person, or close friend. A female/male team often is advantageous.

It is important to have two notifiers. Survivors may experience severe emotional or physical reactions. (Some even strike out at notifiers.) There may be several

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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survivors present. Notifiers can also support one another before and after the notification.

2. Take separate vehicles if possible,

The team never knows what they will encounter at the location. One might need to take a survivor in shock to a hospital while the other remains with others. (*Shock is a medical emergency.*) One notifier may be able to stay longer to help contact other family or friends for support. Having two vehicles gives notifiers maximum flexibility.

3. Plan the notification procedure.

Before they arrive, the notifier team should decide who will speak, what will be said, how much can be said.

## D. "In Plain Language"

1. Notifiers should clearly identify themselves, present their credentials and ask to come in.

Do not make the notification at the doorstep. Ask to move inside, and get the survivor seated in the privacy of the home. Be sure you are speaking to the right person. You may offer to tell children separately if that is desired by adult survivors.

2. Relate the message directly and in plain language.

Survivors usually are served best by telling them directly what happened. The presence of the team already has alerted them of the problem.

3. Inform the survivor of the death, speaking slowly and carefully giving any details that are available. Then, calmly answer any questions the survivor may have.

Begin by saying, "I have some very bad news to tell you," or a similar statement. This gives the survivor an important moment to prepare for the shock.

Then, avoid vague expressions such as "Sally was lost" or "passed away." Examples of plain language include: "Your daughter was in a car crash and she was killed." "Your husband was shot today and he died." "Your father had a heart attack at his work place and he died."

Call the victim by name – rather than "the body."

Patiently answer any questions about the cause of death, the location of the deceased's body, how the deceased's body will be released and transported to a funeral home, and whether an autopsy will be performed. If you don't know the answer to a question, don't be afraid to say so. Offer to get back to the survivor when more information is available, and be sure to follow through.

There are few consoling words that survivors find helpful – but it is always appropriate to say, "I am sorry this happened."

## E. "With Compassion"

1. Remember: Your presence and compassion are the most important resources you bring to death notification.

Accept the survivor's emotions and your own. It is better to let a tear fall than to appear cold and unfeeling. Never try to "talk survivors out of their grief" or offer false hope. Be careful not to impose your own religious beliefs.

Many survivors have reported later that statements like these were not helpful to them: "It was God's will," "She led a full life," and "I understand what you are going through" [. . . deleted].

2. Plan to take time to provide information, support, and direction. Never simply notify and leave.

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3. Do not take a victim's personal items with you at the time of notification.

Survivors often need time, even days, before accepting the victim's belongings. Eventually, survivors will want all items, however. (A victim's belongings should *never* be delivered in a trash bag.) Tell survivors how to recover items if they are in the custody of law enforcement officials.
4. Give survivors helpful guidance and direction:

Survivors bear the burden of inevitable responsibilities. You can help them begin to move through the mourning and grieving process by providing immediate direction in dealing with the death.
5. Offer to call a friend or family member who will come to support the survivor – and stay until the support person arrives.
6. Offer to help contact others who must be notified (until a support person arrives to help with this duty.)

Survivors may have a hard time remembering what is done and said, so write down for them the names of all who are contacted.
7. Inform the survivor of any chance to view the deceased's body.

Be available to transport the survivor or representative for identification of the victim, if necessary. Explain the condition of the deceased's body and any restrictions on contact that may apply if there are forensic concerns. If appropriate, explain that an autopsy will be done.

Viewing the deceased's body should be the survivor's choice. Providing accurate information in advance will help a survivor make that decision. Some survivors will choose to see the body immediately, and this should be allowed if possible. (*Denying access to see the body is not an act of kindness.*)
8. Provide other specific information. Take a copy of the "Community Resource Information" form, fill it out, and leave it with the survivor. [See copy of the form at the end of the protocol.]
9. Fill out and keep the "Survivor Intake Form." [See copy of the form at the end of the protocol.]

This form records basic information about survivors and their wishes. Complete the form, sign it, and keep it with the report or investigation file.

## F. Follow up.

1. Always leave a name and phone number with survivors.
2. Plan to make a follow-up contact with the survivor the next day.

If the death occurred in another county or state, leave the name and phone number of a contact person at that location.

Most survivors are confused and some might feel abandoned after the initial notification. Many will want clarification or may need more direction on arrangements that are necessary.

Following up can be the last step in completing a "person-centered" and sensitive death notification that is truly helpful to survivors.
3. The notification team should be sure they are clear on any follow-up assignments they need to carry out.

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## • Death Notification in the Work Place

Survivors often must be notified at their work place. Here are several tips to help apply the basic principles described above to a work place notification.

1. Ask to speak to the manager or supervisor, and ask if the person to be notified is available.  
It is not necessary to divulge any details regarding the purpose of your visit.
2. Ask the manager or supervisor to arrange for a private room in which to make the notification.
3. Follow the basic notification procedures described in the accompanying protocol: *in person, in time, in pairs, in plain language, with compassion.*
4. Allow the survivor time to react and offer your support.
5. Transport the survivor to his or her home, or to identify the body, if necessary.
6. Let the survivor determine what he or she wishes to tell the manager or supervisor regarding the death. Offer to notify the supervisor, if that is what the survivor prefers.

## • Death Notification in a Hospital Setting

Law enforcement officers and medical examiners may be called on to do death notification at a hospital after an accident or a shooting, for example.

It is a very good idea for hospitals and other officials to determine general procedures and protocols in advance, so all parties are familiar with their duties and roles.

The principles of death notification described in the above protocol all apply in the hospital setting. Here are a few points to be sure to remember.

1. Find a quiet room for the notification and be sure survivors are seated. (Do not notify in a crowded hall or waiting room.)
2. Arrange for a doctor to be present or available shortly to answer medical questions.  
Doctors should be in *clean uniform*.
3. Inform simply and directly.
4. Provide assistance and guidance:  
Ask if survivors wish to spend time with the body of the deceased.  
Explain the procedure if identification of the deceased is necessary. Explain about autopsy or organ donation, if appropriate.  
Volunteer to help notify others. Make a list of any calls made.
5. If there are media calls, refer them to the investigating officer or (if available) a victim service advocate.
6. Do not leave survivors alone. Be sure someone is there to accompany them.
7. Fill out the "Survivor Intake Form" for your records, and give survivors the "Community Resource Information" form. Be sure the survivor has your name and number.
8. Contact the survivor the next day.





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## Community Resource Information

“What do I do now?” – Basic information for survivors

(This form should be completed by notifiers at the time of notification and left with the survivor.)

1. You may obtain copies of the *death certificate* from the funeral home.
2. You may obtain a copy of the *autopsy report* from the county medical examiner (name and phone):
3. You may obtain a copy of a *police report* from the agency investigating an accident or crime:  
Police case number, if any:
4. You may obtain medical records from the hospital or clinic where the deceased was taken:  
Note that it takes varying amounts of time to obtain death certificates, medical records and autopsy and police reports. Ask officials when you can expect them.
5. You may file for *social security benefits* by contacting the Social Security Administration at 1-800-772-1213.
6. If the person who died was a veteran, contact the Veterans Administration Regional Office, 210 Walnut, Des Moines, Iowa 50309. Phone 1-800-827-7683, or 515-284-0219.
7. Notify the *insurance agent* and the *bank* of the person who has died.
8. If the person who died was murdered, or was killed by a drunk or reckless driver or hit-and-run driver, you may be eligible for *Crime Victim Compensation* for medical, funeral and counseling bills and for loss of wages. Contact the Crime Victim Assistance Division, Attorney General's Office, Old Historical Building, Des Moines, Iowa 50319. Phone 1-800-373-5044 or 515 281-5044.
9. If there is a *criminal* case pending, contact the county attorney in the county where the crime occurred for more information:
10. Name of the person who notified you: \_\_\_\_\_ Phone \_\_\_\_\_

# **SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES**

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## **6b. Protocol and checklist on death notification follow-up**

The Charlotte-Mecklenburg Police Department in North Carolina created the following protocol and checklist.

### **PROTOCOL FOR VICTIM FAMILY CONTACTS IN DEATH CASES**

#### **PURPOSE**

One of the most traumatic events anyone can experience is the sudden unexpected death of a family member or loved one. Reactions to such an event are varied and affect some individuals for extended periods of time. In reviewing our past response it was discovered the investigators and officers interacted with victim families a wide variety of ways ranging from “compassionate and caring” to “callous and unconcerned.” This in part is due to the lack of a uniform policy for making family contacts.

In the case of open homicides, family members often feel as if nothing is being done on the case if they don't hear from the investigator after an extended period of time. The purpose of this directive is to require all investigators to keep family members updated on the status of the investigation. Regular contacts may also prove to be beneficial to the investigator by establishing a more amicable relationship more conducive to gaining needed victimology information.

#### **PROCEDURE**

In all cases of homicide, suicide, accidental or questionable death, the primary investigator shall be responsible for the notification of the closest next of kin that can be readily identified as soon as possible. Notification is to include general information of the circumstances of the death and whether or not an arrest has been made.

The primary investigator shall inform the relative notified of the grief counseling services provided by Victim Assistance along with their telephone number. In homicide cases, the relative notified shall also be informed of the services provided by M.O.M.O. [local agency] and given a contact telephone number.

Once the lead investigator is assigned, he/she shall determine the need to hold a briefing session with selected family members within 48 hours after the incident. A 48-hour briefing must be conducted unless there are extenuating circumstances which must be explained on the back of the notification checklist. The investigators' chain of command and a designee from Victim Assistance shall be notified of the time and location of the briefing. The purpose of this meeting is to inform family members of the status of the case, allow victim assistance representatives to advise family members of available services, and give investigations an opportunity to develop extensive victimology information if needed. Section supervisors and victim assistance representatives are encouraged to attend this briefing. Victimology information should normally be obtained by conducting interviews after the formal briefing session. Family members are to be given limited information and informed of the importance of the confidentiality of an investigation and why they will only be given limited information.

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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During the briefing session a family representative shall be identified as a contact person for the lead investigator is to supply the family members and contact person his/her name and telephone contact number as well as the names and telephone numbers of his/her chain of command up to and including the Captain of the Crime Against Persons Section.

The lead investigator has the responsibility of contacting the family contact person at each stage of the criminal justice process. This includes the arrest and the various court phases. At the conclusion of the court process and in the case of the defendant(s) being sentenced to active time, the family contact person shall be informed of the role of the parole accountability officer and given his/her telephone contact number.

In homicide cases whereas a suspect is not arrested within 30 days, the family contact person shall be contacted by the lead investigator and given the status of the case. The lead investigator shall inform the family contact person that he/she will be contacted to less than once every three months for a case status report for up to one year. If the case is still open at the end of one year, the investigator is to inform the family contact person to contact him/her or a section supervisor as needed. Investigators are encouraged to make family contacts until the case is closed.

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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## HOMICIDE/UNNATURAL DEATH NEXT OF KIN NOTIFICATION CHECKLIST

\_\_\_\_\_  
Interviewer

- ( ) Contact next of kin
  - A. Date/Time \_\_\_\_\_
  - B. Person Contacted \_\_\_\_\_
- ( ) Advise next of kin about Victim Assistance and supply contact telephone number.
  - A. If homicide, advise of M.O.M.O. contact number.
- ( ) Determine if on scene grief counselor is needed.
- ( ) Schedule 48-hour briefing session.
- ( ) Conduct 48-hour briefing session. Date: \_\_\_\_\_
  - A. Explain importance of case confidentiality.
  - B. Give status of case.
  - C. Identify family contact person.
  - D. Explain update contact schedule (Open homicides only)
- ( ) Record subsequent family contacts below.

<u>DATE</u>	<u>PERSON CONTACTED</u>	<u>OFFICER'S CODE #</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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## 7. Protocol on interviewing victims of child sexual abuse

The Everett, Washington, Police Department uses as a guide in interviewing child sexual abuse victims the outline of a 1993 training program given by Elaine Metz of the Everett Sexual Assault Center at the Providence Hospital in Tacoma. That outline follows.

### Elements of Interviewing Child Victims

#### I. Environment – Child Interview Room

1. Privacy – Low Noise Level – Carpeted Floor
2. Child-oriented room – this is a place for kids
3. Child-sized table/chairs
4. Appropriate quiet toys (limited number: puzzles, stuffed toys, dolls, rocks, shells, kaleidoscope, etc.)
5. Blank Paper – Coloring Books – Markers/Crayons/Pencils
6. Representations of other children's presence (i.e. drawings, photocopy of hands with child's first name and age.)

#### II. Entrance – Greeting Child and Parent/Primary Care Giver

1. Smile! Be Prompt.
2. Greet child first\*
3. Adjust your eye level to below or at least equal to child's\*
4. Introductions – Hi Suzi, my name is Elaine Metz. I am a woman whose job is talking to kids. I'd like to talk to you today. Who is this? (Point to parent/sibling) What's their name? I have a special room where I talk to kids. There are some things in my room I'd like to show you. I think you'll like them. Would you like to come with your Mom and Dad and me to see it?\*
5. Direct Mom/Dad where to sit. Give child choice of activity, freedom and time to explore room.\*
6. Direct child's attention to pictures/photocopied hands. How old are you? Can you find hands that are 5 years old? Tell child that you talk to lots of kids of all ages, boys and girls.\*
7. Encourage child to chose own chair at table.\* Do you like to color? Coloring Books or blank paper.\*

#### III. Explanation – Preparing Child for Interview

1. Explain what an interviewer's job is.
2. Tell child, "You are not in any trouble and you won't get in any trouble from me or Detective \_\_\_\_\_".
3. Explain documentation of interview (writing everything down so I can remember what you tell me) (Show child notebook, paper)
4. No right or wrong answers, I'll be asking you a lot of questions. I don't expect kids to know all the answers. It's okay to say I don't know, or I don't remember. If you're not sure but you think you know the answer, say, I'm not sure but I think. The most important thing is to tell the truth – What really happened. Don't guess or make up answers. Okay?

\*Indicates choices you can offer the child and/or empowerment of child.

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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5. If you need to go to the bathroom, get a drink, take a break or want to see your Mom/Dad say, "Stop Elaine". Can you say that now?
6. Ask Parent/Caregiver if they have any questions about the interviewing process.
7. Child is entitled by the RCW to have one person present during interview. I strongly prefer parent not to be present unless child specifically requests it. Example: Suzi, I usually like to talk to kids alone. Just you and me. Detective Gary would like to talk to your Mom/Dad and ask her/him questions, too. Is it okay if they go to another room while we talk?\*(Some children feel more comfortable if they are shown the room the parents will be in.)
8. If child requests parent remains, adjust seating so child doesn't have direct eye contact with parent. Explain carefully to parent and child that your Mom/Dad can only listen and not talk because you only want to hear the child's answers.
9. Ask child if they have any questions before interview begins.
10. Ask child how they feel about being here today. Validate that feeling.\*

## IV. Eliciting information

### General Format of Interview

NOTE: Child Hearsay Law – Statements made to others (including interviewers, medical personnel, etc.) by a child under 10 years of age, disclosing sexual abuse are admissible as evidence in court. The age of the child therefore determines the interviewing format.

- A. For children over 10 years of age, a written statement is generally utilized. This age group is given a choice by the interviewer to write out their own statement or have the interviewer assist them by recording the child's own words.\*
  1. Most children prefer and choose to have interviewer help them by recording the child's own words as they disclose the alleged incident(s).
  2. In order to encourage a child to provide necessary information needed for their statement, many of the same questions and techniques that are used in the question/answer format-type interviews for children under 10 years of age also can be adapted for older children.
- B. For a child under 10 years of age, question/answer format is used in the interview. This format is the primary focus of this presentation but can easily be adapted and modified for older children using the written statement format.

Q/A format consists of three phases:

  - 1) Rapport/General questions
  - 2) Competency
  - 3) Directed questions

### 1. Phase 1 – RAPPORT-GENERAL QUESTIONS

This phase demonstrates child's ability to communicate and recall past events, child's general style of communication and child's level of general knowledge. This part of the interview allows interviewer and child to interact and feel more comfortable with one another. During this beginning phase, it is important for the child to feel they he/she is capable and successful in answering questions. Interviewer may need to adjust questions to easier or more complex level to attempt to match child's developmental level. Interviewer may need to remind child that it's okay if they don't know an answer to a question.

### 2. Phase 2 – COMPETENCY

This phase attempts to establish if the child is competent. If the child understands the difference between telling the truth and telling a lie. What is the child's perception of consequences of telling a lie.

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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## 3. Phase 3 – DIRECTED QUESTIONS – What, Where, Who, Why, How, When

- A. Transition from competency phase.
- B. Child's perception of why they're here. Disclosure may spontaneously begin here.
- C. If child does not understand why they're here, my first question is (Example) Has anyone ever touched you in a way you didn't like? Disclosure may begin here.
- D. Sketch – Body Drawing – Used only if child discloses abuse.
  1. Child asked to identify body parts.
  2. Use child's terminology for remainder of interview.
  3. Child asked to circle places where they were touched.
  4. Body drawing then becomes tool for interviewer to work from to establish what happened.

**V. Elaboration** – Primary objectives: Obtain enough information to establish legal charging decisions, time and place of occurrence(s) and corroboration. Obtain authentication through detail, description and narration.

1. No leading questions! or keep to a **very low minimum**, depending on developmental capabilities.
2. Start **Globally** – e.g. What happened when Uncle Joe touched your peepee?  
Then what happened?  
Can you tell me what happened to you at the beginning, the middle and the end?  
The younger the child the more local or specific your questions will need to become.
3. **Use sensory questions** –  
sight, see, noises/sounds, hear, smells, feel, touch, taste
4. **Cognitive Interviewing** – (Saywitz, Geiselman, Bernstein 1990) Summary by Anne Graffam Walker  
Recalling events in backward order. What happened right before that?  
Suggesting child assume another person's/object's perspective Pictures self there. Tell me what you see, hear, smell, feel.  
Use of supportive comments to child.  
Cognitive Interviewing:  
Enhances completeness of reports, yielded 21% more detail in children and 35% in adults  
No significant effect in amount of incorrect information in report.  
Slightly reduces negative effects of leading questions on later recall of information.
5. Children are the experts in their world and environment. Learn their language. Avoid generalizing your definitions to a word a child uses. Follow up on words such as: have sex, hump, secret, french kiss, inside, outside, before, after, under, over, etc.
6. **Be redundant** – Try to use specific names and locations in your questions instead of he/she or that/there.
7. Time – **When** (day & time abuse occurred) is the most difficult to establish. Use the child's frame of reference – What's important to their lives – holidays, school, weekends, vacations, when Mom and Dad go to work, what grade were you in? What was your teacher's name, etc?

Establishing number of incidents and separation of occurrences is challenging. "Do you remember ABOUT when it happened the last time Uncle Joe touched you? Can you remember ABOUT the first time Uncle Joe touched you?" If child has disclosed multiple incidents, try asking, "did any different things happen the other times Uncle Joe touched you?" Try to

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get child to isolate incidences. Interviewer should try to establish as much detail as possible around separate incidents. "Did the touching happen in other places besides the bed in your bedroom?"

8. Try to obtain the child's emotional and physical reaction to the assault/abuse. How did it make your peepee feel when Uncle Joe touched it? What did you think when Uncle Joe touched your peepee?
9. Take every appropriate opportunity to encourage child to draw or illustrate objects, places, offender, body parts, etc.
10. Keep it simple. Avoid complicated or compound questions. Use appropriate language for the child's developmental level.
11. Be sensitive and supportive of victim but: **Establish** and **Keep** boundaries for investigative interviews. The interview itself is not an appropriate time for therapy, education, and/or advocacy.

## VI. Evaluation – Self Monitoring, Observation of Child

Are child's responses indicating they are understanding your questions? Adjust, rephrase, and simplify if necessary.

Note any significant non-verbal response/behavior demonstrated by child.

Note physical movement and activities of child during interview.

Try to describe affect rather than label it.

Example: Suzi appeared frightened -vs- Suzi sat very rigidly in her chair and she flinched several times when she heard external noises.

Is child repeatedly answering in the same response? This could signify that the child is becoming tired.

If your instinct tells you the interview is not working, give yourself permission to stop the interview. You may be hurting a case not helping. Don't pressure or push the child to talk.

Check your facial expressions and body language. Try to keep them relaxed and objective. Do not make any comments you would not want repeated in court.

If child makes any of the following statements, your time is almost up.

I'm hungry/tired of talking

When are we gonna be done?

How many more pages? etc.

Don't be reluctant to stop and review your notes to clear up any confusion or obtain clarification or additional information. Tell child what you are doing.

**Not a pleasant thought**, but, ask yourself frequently during the interview: How would this question sound if I were reading it in court right now?

## VII. Empathy – Victim Sensitivity

- Set a goal to learn more and increase your understanding of sexual abuse, victimology, offenders, child development, etc.
- Each child is an individual, Each family is different. Case may seem routine to us but to the family it is one of the most devastating events they will deal with.
- What we do here today is going to impact the child and the family for a long time. They won't forget.
- How would you answer a parent if they ask you this question: How do I know my child is telling the truth?



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- The first response from the “system” will have the strongest impact on the victim and the victim’s family in how they will perceive the system, cooperate with the system, and influences the beginning of their recovery process.

## VIII. Empowerment of Child/Parent –

Each choice you can offer a child gives them back a little more power.

Ask child if they have any questions about what’s going to happen. Be honest in your answer.

Explain to child it’s very important for parent to know what we talked about. The Detective or the interviewer will talk to parent. When we do talk to parent, would you like to be there in the room or would you rather not be in the room?

Detective and/or interviewer meet with parent to summarize content of interview with their child.

Explain services of Sexual Assault Center. Ask parent if they would like to be contacted by an advocate and/or receive packet of information about child sexual abuse. Encourage this contact.

Reconfirm the child is not at fault and the offender is totally responsible for his actions. Address any safety issues/concerns/questions.

Many children feel a sense of relief and freedom after their disclosure. Enjoy this feeling with them. Tell them how much you appreciate them coming to talk to you.

## IX. Exit – Closure of Interview

### Closing questions:

Is there anything else you think I should know?

Did anything else happen that you want to tell me about?

What would you like to see happen to Uncle Joe?

How do you feel about Uncle Joe?

Did I forget to ask you any important questions?

Did you tell me the truth today?

If you remember anything else would you come back and talk to me again?

**Thank you for talking to me today.**

Praise child for doing a good job.

Visit the Teddy Bear Corner and allow child to select a friend to take home.\*

If child desires, photocopy hands. Let child choose where to put picture of hands on interview room walls. Give one copy to child.\*

Walk child/parent to elevator/exit. Thank them again. Let them know you are accessible for further questions and/or concerns.

Documentation.

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## 8. Protocol on child sexual abuse by another juvenile

While most law enforcement agencies have adopted protocols dealing with sexual assaults, that is less true of the special considerations often warranted when juveniles are the suspects and the victims. The following S.O.P. adopted by the Milwaukee Police Department addresses that latter types of cases.

ORDER NO. 10880

March 18, 1994

RE: STANDARD OPERATING PROCEDURES RELATING TO SEXUAL ASSAULTS  
(INTENTIONAL TOUCHING) INVOLVING JUVENILE SUSPECTS AND JUVENILE VICTIMS

Memo No. 88-38, dated April 27, 1988 regarding School Sexual Assaults is hereby rescinded in its entirety.

In all cases when officers are summoned to a sexual assault (intentional touching) involving a juvenile suspect and juvenile victim the following procedure must be followed:

### I. OFFICER'S RESPONSIBILITY

A. INTERVIEW the VICTIM to determine:

1. If in fact a crime occurred and if so, what crime was committed.
2. When the assault occurred.
3. Where the assault occurred.
4. Who committed the assault.
5. How the assault occurred.

The interview with the victim should center on **whether** or not **FORCE** was involved, more than one perpetrator involved, and the type of sexual contact involved.

- B. INTERVIEW SUSPECT, if possible, only "Mirandize" if in custody, and then obtain his/her version of the offense. Do not take the suspect into custody at this point unless necessary, *i.e.*, wants to leave, becomes violent, etc.
- C. Contact the IDENTIFICATION DIVISION and the SENSITIVE CRIMES DIVISION to determine suspect's prior record and probation/parole status.
- D. Contact the VICTIM'S PARENTS to determine if they want to prosecute, *i.e.*, explain that the victim may be needed to testify in court and report to the Milwaukee County Children's Center if necessary. If parents cannot be contacted, officer should presume that prosecution is desired.
- E. Contact DISTRICT SHIFT COMMANDER and advise him/her of the facts involved.

### II. SHIFT COMMANDER'S RESPONSIBILITY

THE DISTRICT SHIFT COMMANDER is to contact the SENSITIVE CRIMES DIVISION/SEXUAL ASSAULT UNIT and forward the information received from the officer to the SEXUAL ASSAULT UNIT.

### III. SEXUAL ASSAULT UNIT RESPONSIBILITY

- A. SENSITIVE CRIMES DIVISION/SEXUAL ASSAULT UNIT detective will then advise or contact the officer at his/her location and will need the following information:
1. NAME, ADDRESS, and DOB of both the **victim and suspect**.

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2. **LOCATION** of the offense and the facts involved.
  3. Suspect's **PRIOR RECORD** and **PROBATION/PAROLE STATUS**.
- B. The **SEXUAL ASSAULT UNIT** detective is to then determine if the case in question meets the following criteria:
1. **NO FORCE** involved in the sexual assault.
  2. **NO WEAPONS** involved in the sexual assault.
  3. Only **ONE SUSPECT** is involved and the **SUSPECT IS 11 YEARS OF AGE OR YOUNGER**.
  4. **NO PRIOR RECORD** of sexual assaults by the suspect.
  5. **NO OTHER SEXUAL CONTACT** other than **INTENTIONAL TOUCHING** of the intimate body parts of the victim.
  6. **WILLINGNESS TO PROSECUTE** by the victim's parents (see item 9 below).
- C. If the aforementioned criteria is met, the **SEXUAL ASSAULT UNIT** detective will advise the investigating officer to:
1. File a PO-13 (offense report).
  2. File a PO-14 (clearance report with investigative narrative).
  3. File a PA-45 (arrest/juvenile report) and follow provisions of Order No. 9821, dated March 22, 1988, if applicable.
- The aforementioned reports should be filed with the **DEGREE OF SEXUAL ASSAULT** under SS.948.02, which addresses the age of the victim.
- Said reports should then be forwarded to the **SENSITIVE CRIMES DIVISION**.
- The **SENSITIVE CRIMES DIVISION** will forward the arrest report to the **PRISONER PROCESSING SECTION (PPS)** for "BATCH ENTRY.
4. Officer will be advised **NOT** to take the juvenile (11 years of age or younger) into custody if **ALL** the criteria are met under section III (B). Parents and suspect should then be referred to the Milwaukee County Children's Center District Attorney within 15 working days.
  5. All suspects **12 years of age and older**, (the statutory age of delinquency) should be taken into custody and processed through the Prisoner Processing Section.
- NOTE: Only under highly unusual circumstances may a suspect 12 years of age or older forego custody and PPS processing; and then only upon the personal case by case authorization of the Commanding Officer on duty in the **SENSITIVE CRIMES DIVISION**.
6. The officer will be instructed to contact the Department of Social Services (DSS), 289-6444, and advise DSS of all the pertinent information. Officer is to document **DATE, TIME AND DSS WORKER'S NAME**. This should be recorded on the face of the **OFFENSE REPORT** and **ARREST REPORT**.
- D. If parents of the victim **DO NOT WISH TO PROSECUTE** the detective will advise the officer to:
1. File PO-13 (offense report).
  2. File PO-14 (clearance report with investigative narrative).
  3. File PA-45 (arrest/juvenile report and follow provisions under Order 9821, dated March 22, 1988, if applicable).
  4. Call or contact suspect's parents and advise them of the facts involved.
- E. **TOUCHING INCIDENTS**
- Sexual assault investigations (touching incidents) involving suspects between the ages of 12 years and 17 years of age, which would constitute **FOURTH DEGREE SEXUAL ASSAULT**

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under SS.940.225, were it not for the age factor of the victim, may be addressed according to procedures set forth in this memorandum under the DIRECTION and RESPONSIBILITY of a SEXUAL ASSAULT UNIT detective. Discretion exercised in this regard does not diminish that detective's responsibility in any investigation.

**F. SUSPECTS WITH PAST HISTORY**

The SEXUAL ASSAULT UNIT detective will advise the police officer to take into custody any suspect **12 years of age or older, any suspect** on probation/parole for **any violation**, or **anyone** who has a history of prior sexual assaults based on Department records, or that of Department of Social Services.

**G. FOLLOW-UP**

The SEXUAL ASSAULT UNIT detective will then check with the Central Records Division and the SENSITIVE CRIMES DIVISION after 48 hours to ascertain if all reports have been filed. If said reports **have not** been filed, the SEXUAL ASSAULT UNIT detective is to notify the Detective Lieutenant of the SEXUAL ASSAULT UNIT who will in turn contact the officer's Commanding Officer and notify him/her of such failure to file reports.

This order shall take effect immediately.

PHILIP ARREOLA  
CHIEF OF POLICE

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## 9. Protocol on bias crime

The “Model Protocol for Law Enforcement Officers: Bias Crime Policy and Procedure,” was prepared by the Educational Development Center in Newton, Massachusetts, under a grant from the Office for Victims of Crime in the United States Justice Department’s Office of Justice Programs. That protocol follows.

### I. General Considerations and Guidelines

This policy is designed to assist officers in identifying crimes motivated by bias toward an individual's [citizenship, race, religion, ethnicity/national origin, handicap, sexual orientation or gender] and to define appropriate steps for assisting victims and apprehending suspects.

The key to a successful law enforcement response to bias crime is building a partnership with victimized communities. There needs to be a relationship of trust and cooperation between the police and these communities. People need to be encouraged to come forward whenever a bias crime occurs and to have confidence that the police will handle these matters with the seriousness and concern they deserve. People need to look at the police as allies in the fight against hate violence.

Bias crimes are viewed very seriously by this Department and will be given high priority. The Department will use every necessary resource rapidly and decisively to identify the offenders when appropriate, arrest and prosecute them, and take vigorous enforcement action.

Also, recognizing the particular fears and distress typically suffered by victims of these crimes, the potential for reprisal and escalation of violence, and the possible far-reaching negative consequences of these acts on the community and the Department, particular attention shall be given to addressing the security and related concerns of the immediate victims as well as their families and others affected by the crime.

### II. Policy

It is the policy of this Department to safeguard the state and federal civil rights of an individual or group who may have been or may be targeted for a crime irrespective of their [citizenship, race, religion, ethnicity/national origin, handicap, sexual orientation or gender] and to treat seriously any acts or threats of violence, property damage, harassment, intimidation, or other crimes that are designed to infringe upon these rights.

### III. Definitions

The following phrases shall have the following meanings:

**Advocacy Organization:** Any nonprofit group which represents or serves constituencies targeted to the prevention of bias crimes and/or serving bias crime victims and/or gathering information relating to the incidence, circumstances, patterns, causes, or nature of bias crimes or incidents or any specific type(s) of bias crime or incident.

**Bias Crimes:** Any criminal act to which a bias motive is evident as a contributing factor, or any act which constitutes a violation of federal or state law.

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***Bias Indicators:*** Objective facts, circumstances, or patterns attending a criminal act which, standing alone or in conjunction with other facts or circumstances, suggest that the offender's actions were motivated, in whole or in part, by any form of bias.

***Bias Motive:*** Hatred, hostility, or negative attitudes towards, or prejudice against any group or individual on account of [citizenship, race, religion, ethnicity/national origin, handicap, or sexual orientation or gender group] which is a contributing factor, in whole or in part, in the commission of a criminal act. A bias motive can be inferred from the presence of one or more bias indicators. A bias motive may also be inferred from an intent to interfere with, disrupt, or deprive another person(s) of his/her civil or constitutional rights by threats, intimidation, harassment, or coercion. The specific forms of bias covered by the Bias Crimes Reporting Act are:

***Racial/Ethnic/National Bias:*** Anti-Black, Anti-White, Anti-Asian, Anti-Hispanic, Anti-Arab, Anti-Other Racial/Ethnic/National Group

***Religious Bias:*** Anti-Jewish, Anti-Catholic, Anti-Protestant, Anti-Islamic (Moslem), Anti-Other Religion

***Sexual Orientation Bias:*** Anti-Gay (Male), Anti-Lesbian (Female), Anti-Other Sexual Orientation

***Handicap Bias:*** Anti-Person with AIDS, Anti-Physically Disabled, Anti-Mentally Disabled (*i.e.*, mental illness, mental retardation)

***Gender Bias:*** Anti-Male, Anti-Female

***Hate Incident:*** Any act, whether consisting of conduct, speech or expression, to which a bias motive is evident as a contributing factor, without regard for whether the act constitutes a crime.

***Hate Group:*** An organization, formal or informal, which promotes bias, animosity, hostility, or malice against persons belonging to a [citizenship, race, religion, ethnic/national origin, handicap, sexual orientation or gender group] (*e.g.*, the Ku Klux Klan, American Nazi Party, etc.).

***Hate Crime Report:*** An account of a bias crime from a law enforcement source received or collected by the Crime Reporting Unit.

***Hate Incident Report:*** An account of a hate incident from a civil rights agency or advocacy organization received or collected by the Crime Reporting Unit.

## IV. Bias Indicators

The following criteria can assist law enforcement professionals in determining whether a particu-

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lar crime should be classified as a bias crime. These criteria are not all-inclusive, and each case must be examined on its own facts and circumstances. Common sense judgment should also be applied in making the determination whether a crime should be classified as a bias crime.

## **Racial, Ethnic, Gender, and Cultural Differences**

- Racial, religious, ethnic/national origin, handicap, or sexual orientation group of victim differs from that of offender.
  - Victim is a member of a group which is overwhelmingly outnumbered by members of another group in the area where the incident occurred.
  - Victim was engaged in activities promoting his/her group.
- Incident coincided with a holiday or date of particular significance to the victim's group.
- Victim, although not a member of the targeted group, is a member of an advocacy group that supports the victim group, or the victim was in the company of a member of the targeted group.
  - Historically, animosity exists between the victim's group and the suspect's group.

## **Comments, Written Statements, Gestures**

- Bias-related comments, written statements, or gestures were made by the offender.

## **Drawings, Markings, Symbols, and Graffiti**

- Bias-related drawings, markings, symbols, or graffiti were left at the scene of the incident.
- Bias indicators need not establish that the predominant purpose of an offender's actions was motivated by hatred or bias. It is sufficient for classification of an incident as a bias crime that an offender was acting out of hatred or bias, together with other motives, or that a bias motive was a contributing factor, in whole or in part, in the commission of a criminal act.

## **Organized Hate Groups**

- Objects or items that represent the work of organized hate groups were left (*e.g.*, white hoods, burning crosses), or an organized hate group claimed responsibility for the incident.
- There were indications that a hate group was involved. For example, a hate group claimed responsibility for the crime or was active in the neighborhood.

## **Previous Existence of Bias Crime/Incidents**

- Victim was visiting a location where previous bias crimes had been committed against members of the victim's group.
- Several incidents occurred in the same area, and the victims were members of the same group.
- Victim has received previous harassing mail or phone calls or has been the victim of verbal abuse based on his/her affiliation with a targeted group.

## **Victim/Witness Perception**

- Victims or witnesses perceive that the incident was motivated by bias.

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## **Motive of Suspect**

- Suspect was previously involved in a similar incident or is a member of, or associates with members of, an organized hate group.
- The victim was in the company of, or married to, a member of a targeted group.
- The victim was perceived by the offender as violating or breaking from traditional conventions or working in nontraditional employment.
- The offender has a history of previous crimes with a similar modus operandi and there has been multiple victims of the same [citizenship, race, religion, ethnic/national origin, handicap, sexual orientation, or gender].
- The victim was in or near an area or place commonly associated with or frequented by a particular [citizenship, race, religion, ethnic/national origin, handicap, sexual orientation, or gender] (*e.g.*, a gay bar).

## **Lack of Other Motives**

- No clear economic or other motive for the incident exists.

(Source: Holmes, W. 1992. Hate Crime Reporting: Obstacles, Facilitators, and Strategies. Boston: Statistical Analysis Center, Massachusetts Committee on Criminal Justice, 6768.)

For a crime to be classifiable as a bias crime, it is sufficient that bias indicator(s) would in the exercise of professional law enforcement judgment, directly or circumstantially support a finding of a bias motive. Bias indicators need not conclusively demonstrate that a criminal act was motivated by bias or bigotry. In some instances, one bias indicator may be sufficient to support an inference that a crime was motivated by bias or bigotry (*e.g.*, bias-related epithets or markings). In other cases, more than one bias indicator may be necessary to warrant such an inference. In each instance a law enforcement judgment is necessary to assess whether a given crime was hate motivated.

Even if the offender was mistaken in his/her belief that the victim was a member of a [citizenship, racial, religious, ethnic/national origin, handicap, or sexual orientation, gender group], the offense is still a bias crime as long as the offender was motivated by bias against that group. For example, a non-gay man walking by a bar frequented by gays was attacked by six teenagers mistakenly believing the victim to be gay. Although the offenders were mistaken, the offense is a bias crime because it was motivated by the offenders anti-gay bias.

## **V. Patrol Officer's Responsibilities**

When an officer at the scene of an incident believes that it may have been motivated by [citizenship, race, religion, ethnic/national origin, handicap, sexual orientation, or gender] bias, the officer shall take any preliminary actions necessary, such as;

- A. Determining whether any offenders are present and, if so, taking appropriate enforcement measures;
- B. Restoring order to the crime scene and taking any necessary actions to gain control of the situation;
- C. Responding in a courteous, respectful, and professional manner to the feelings and needs of the victim. A police officer's calm and helpful attitude is critical to controlling the scene and the emotions of those present;
- D. Identifying any injured parties and taking steps to provide medical assistance;



# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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- E. Identifying any witnesses or others who have knowledge of the crime;
- F. Protecting the crime scene; determining if police photographs of the scene or victims are required and taking steps to obtain if needed;
- G. Summoning a patrol supervisor to the scene; and
- H. Assure victim of careful review and investigation including forwarding to the next level of responsibility.
- I. Conducting the preliminary investigation of the incident and filing a complete and detailed report noting special language used by offender including special markings or graffiti according to departmental procedures. Note specifically in the title of the report that the incident appears to be a possible bias crime.
- J. At the earliest time identify needed additional resources (*i.e.*, translators).
- K. Notify victim advocate of crime.

## VI. Patrol Supervisor's Responsibilities

The patrol supervisor shall respond immediately to the scene of the incident and shall:

- A. Confer with the initial responding officer
- B. Take measures to ensure that all necessary preliminary actions have been taken and inform his immediate supervisor of the incident.
- C. Request any appropriate additional personnel necessary to complete the preliminary investigation and begin the follow-up investigation.
- D. Provide immediate assistance to the crime victim; allow the victim a period in which to ventilate immediate concerns and express their feelings; reassure the victim that the department will take appropriate action.
- E. Assist the victim in identifying or contacting individuals or agencies that may provide support and/or assistance: family members, friends, clergy, and/or community service agencies.
- F. Provide security and precautionary advice to the victim and refer to the Department of Civil Rights Office as the official contact person for assistance.
- G. Supervise the preliminary investigation to include preliminary interviews of the victim and any witnesses to the incident.
- H. Ensure that all relevant facts are documented on the incident and/or arrest report and make an initial determination as to whether the incident should be classified as a bias crime.

## VII. Investigation's Responsibility

When responding to the scene of an alleged bias crime and/or incident, investigators shall assume control of the follow-up investigation and shall:

1. Assure that the scene is properly protected, preserved, and processed and that all physical evidence of the incident is photographed, collected, labeled, and submitted according to current departmental procedures. If evidence of an inflammatory nature cannot be physically removed (*e.g.*, painted words or signs on a wall) the owner of the property shall be contacted to remove such material as soon as possible once it has been photographed.
2. Conduct a comprehensive interview with all victims and witnesses at the scene, or as soon as possible thereafter, and canvass the neighborhood for additional personal sources of information;

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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3. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense, and its potential inflammatory and related impact on the community.
4. Work closely with the prosecutor's office to ensure that a legally adequate case is developed for prosecution;
5. Coordinate the investigation with other appropriate law enforcement agencies in an effort to obtain an analysis of any discernible patterns, organized groups, and/or suspects potentially involved in the offense;
6. Make the final determination as to whether the incident should be classified as a bias crime or incident; or
7. Complete any reports necessary to comply with statistical reporting requirements for bias crimes.
8. Investigative officers shall also take the lead role in providing ongoing assistance to the crime victim to include:
9. Providing ongoing information to the victim about the status of the criminal investigation; and
10. Contacting the victim periodically to determine whether he is receiving adequate and appropriate assistance.
11. State determination to victim.

## VIII. Community Relations/Crime Prevention

Bias crimes and incidents are viewed in the community not only as crimes against the targeted victim, but also as a crime against the victim's [citizenship, racial, religious, ethnic/national origin, handicap, sexual orientation or gender group] as a whole. Working constructively with segments of this larger audience after such incidents is essential to help reduce fears, stem possible retaliation, help prevent additional bias crimes and/or incidents, and encourage any other previously victimized individuals to step forward and report those crimes. Towards this end, the Department's community relations function, or officers so assigned, shall:

1. Meet with neighborhood groups, residents in target communities, and other identified groups to allay fears, relay the Department's concerns over and response to this and related incidents, research the potential for counterviolence and provide safety, security, and crime prevention information;
2. Provide direct and referral assistance to the victim and his family;
3. Conduct public meetings on [citizenship, racial, religious, ethnic/national origin, sexual orientation and gender] threats and violence in general, and as it relates to specific incident;
4. Establish liaison with formal organizations and leaders; and
5. Expand, where appropriate, existing preventive programs such as anti-hate seminars for school children.
6. Create MOUs (Memoranda of Understanding) with community civil rights organizations and advocacy groups.

## IX. Records Section

It shall be the responsibility of the Department's Records Section or officer assigned by the Chief

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of Police to ensure that all bias crimes are properly reported to strengthen the Crime Reporting Unit. If additional information becomes valuable, an amended report or additional data or information shall be submitted to the State Uniform Crime Reporting Unit.

Names of victims and offenders of bias crimes should not be reported to the State Crime Reporting Unit on the prescribed form. Crimes shall be referenced and identified by the case number assigned by the police department, the time and date of the incident, and other particularized information deemed relevant by the Crime Reporting Unit.

1. What sections of the protocol, if any, are unclear? What questions do you have?
2. Does your department have a bias/hate crimes/community disorders unit? If so, how does the protocol need to be modified to incorporate their specific role? If not, who will handle those responsibilities?
3. Examine sections V, VI, and VII. How do these need to be modified to fit with your department's structure and available resources?
4. Does your department currently have a policy statement/protocol regarding response to bias crimes? If so, where does this fit in with that? If not, what would be the procedure to get one into place, and what degree of approval/ support is your department likely to provide regarding a bias crime policy/protocol?
5. Do you have other thoughts, considerations, anticipated challenges or ideas relative to implementing a model protocol in your department?
6. What type of MOUs might be most effective and with which organizations?
7. What suggestions do you have for us to modify the current model protocol to strengthen it, while ensuring it will still be relevant to the wide range of law enforcement organizational models nationally?

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## 10. Protocol on Crisis Response Teams

Increasingly, law enforcement agencies are teaming up, on an ad-hoc basis, with "Crisis Response Teams" or "Critical Incident Stress Debriefing" teams after their officers and other segments of the community have been exposed (or overexposed) to disaster or widespread trauma. The St. Louis Police Department has opted to make use of such teams in a planned fashion. Its protocol follows.

### **Metropolitan Police Department – City of St. Louis**

Office of the Chief of Police

Special Order

To All Bureaus, Districts and Divisions

The St. Louis Metro Crime Victims Crisis Response Team has been established to effectively mobilize existing victim services to enable communities in crisis to regain control after criminal victimizations.

Occasionally, because of the nature of the crime or because of the persons victimized, an entire community can be deeply traumatized. Whole communities, like individuals -- regardless of socio-economic status -- can and do suffer long-term trauma in the aftermath of violent crimes. In these situations, there is a need for victim service professionals to respond immediately, not just to individuals victimized by crime, but in certain instances, to whole communities in crisis.

A community-wide traumatic event is one that causes life-threatening injury or death. A community may be "natural" as in a neighborhood or school, or "artificial" as in the passengers on a train.

Criteria to consider when determining whether or not the event may cause widespread trauma include the following:

1. Incidents that occur within communities in which people are strongly affiliated with each other.
2. Incidents in which there are multiple eye witnesses.
3. Incidents in which the direct victim(s) have special significance to the community affected as may happen with the assassination of a public figure or the killing of a child in a daycare center.
4. Incidents in which a community is subjected to exposure to carnage or misery.
5. Incidents which attract a great deal of media attention and, thus add to the community's trauma.

The district watch commander will have the responsibility for determining when an incident may cause community-wide trauma and require the services of the Crisis Response Team.

When it is determined that an incident may require the services of the Crisis Response Team, the district watch commander will contact the Command Post of the Chief's Office and request that the Police Officer on duty notify the Crisis Response Team of the incident.

The Command Post Officer will contact the Executive Director, Victim Services, Office of the Circuit Attorney by pager at 490-5127. If there is no response from Victim Services, Office of the Circuit Attorney, the Command Post may contact the Executive Director, Aid for Victim Services by pager at 879-7788 or by telephone at [home phone number deleted].

When the Executive Director, Victim Services answers the page, the Command Post will advise her of the incident and the name of the watch commander who made the request.

The Crisis Response Team will make the assessment as to whether the request is eligible and determine the type of response.

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The Crisis Response Team will coordinate response activities with the district watch commander who made the initial request.

A Department member, who is also a Crisis Response Team participant, will officially escort the Crisis Response Team to the crime scene, prior to the Team beginning work with the community.

A Department member will be appointed as liaison with the Crisis Response Team for any procedural and administrative matters.

By Order of:  
Clarence Harmon  
Colonel  
Chief of Police

# **SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES**

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## **11. Protocol on elder abuse victims**

The “Model Policy for the Law Enforcement Response to Victims of Domestic Elder Abuse” and its companion document, “Procedures for the Law Enforcement Response to Cases of Domestic Elder Abuse” were both prepared by the Police Executive Research Forum, under a grant from the Office for Victims of Crime in the United States Justice Department’s Office of Justice Programs. Those policy and procedures statements follow:

### **Model Policy for the Law Enforcement Response to Victims of Domestic Elder Abuse General Commitment**

#### **I. Introduction**

Abuse of older persons by their friends, family members, caregivers or other trusted persons is not a new phenomenon. Nor is it a new expectation of the public that police officers and sheriff’s deputies will sometimes respond to and handle these complaints. More recently it has been recognized that domestic elder abuse is a very complex problem, requiring a multidisciplinary response tailored to specific circumstances and the individual needs of the elderly victim.

Every department should recognize that elder abuse is often the result of problems that officers alone cannot redress. In order for law enforcement officers to play an effective part in any comprehensive strategy to prevent, identify, detect and react to instances of elder abuse, they must fully understand their role and be trained to act in concert with other protective, investigative, regulatory, enforcement and social service agencies.

Written directives should be in place to provide all law enforcement personnel with the guidance necessary to properly respond to complaints of suspected elder abuse. Directives should focus on the need to coordinate the efforts of the many agencies that can contribute to positive solutions. The role of each such agency must be clearly stated.

#### **II. Purpose**

The purpose of the following policy is to provide direction to the members of the department in order to prevent and intervene in incidents of domestic elder abuse.

#### **III. Policy**

##### **A. Introduction**

It is estimated that over 1.5 million elderly persons are abused by family members or other caregivers in domestic settings every year. Even more disturbing is the fact that only one in 14 cases may be reported. As the problem gains recognition, the police must also realize their role in identifying, detecting, reacting to and, when possible, preventing domestic elder abuse. The staggering prevalence of abuse and the devastating effect it has on elderly victims demands that the police establish clear and thorough directives to guide call-takers, dispatchers, officers, supervisors and investigators through the complex tasks for which they are responsible. Police are in the unique position of being responsible for the criminal investigation of such cases, while working jointly with Adult Protective Services (APS) and other social service organizations to ensure the provision of a network of services.

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## B. Policy Statement

It shall be the policy of the \_\_\_\_\_ Department to treat reports of violence against elderly persons as high priority criminal activity which is to be fully investigated regardless of the relationship between the victim and the suspect(s). It is further the policy of the department to identify and assume law enforcement's role in preventing, identifying, detecting and reacting to the incidence of elder abuse, neglect and exploitation and to ensure that calltakers, dispatchers, responding officers (or deputies), investigators and supervisory personnel understand their individual roles, duties and responsibilities. The department's commitment to respond to reports of suspected elder abuse will include, but is not limited to, the following:

1. recognition of the signs, symptoms and indications of violence, other abuse, neglect or exploitation perpetrated against elderly persons
2. participation in a multidisciplinary response and coordinated investigation with APS and a network of other agencies aimed at breaking down the barriers older persons face when seeking to report and eliminate abuse. This should include regularly updated agreements defining the role of each participating agency
3. expedient and full reporting to appropriate agencies on any case of confirmed or suspected abuse, neglect or exploitation against an elderly person, including cases of noncriminal neglect;
4. implementation of solutions that do not result in increased risk to the older person and do not exacerbate the situation
5. commitment to treat all persons with dignity and respect;
6. recognition and respect for the older person's right to self-determination, that is, a competent person's right to make his or her own decisions, including the right to privacy and to refuse well-intended intervention
7. provision of rapid access to information about and referral to support systems or agencies, including translators, that provide services useful to victims of elder abuse;
8. promotion of education and periodic retraining of personnel as to specific roles, duties, responsibilities and how each individual contribution can lead to an effective solution; and
9. in order to ensure a continued effective response strategy, an annual review of the department's overall response to the problem of domestic elder abuse, an examination of the handling of individual incidents and an evaluation of the policy, procedure and protocol to identify areas that may need revision. Reviews of this type should include input from APS and/or other agencies participating in the multidisciplinary approach

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## **Procedures for the Law Enforcement Response to Cases of Domestic Elder Abuse**

### **Law Enforcement Agency Responsibility**

Calls for service related to domestic elder abuse are generally received at the department's telecommunications center. However, reports of elder abuse (usually nonemergency calls) could be directed to other personnel.

Personnel who are recipients of information regarding possible elder abuse should attempt to determine if conditions exist that constitute a police or medical emergency. Before suspected emergencies are transferred to the telecommunications center, personnel taking the call should attempt to obtain and record the following information

- the caller's name;
- the caller's telephone number;
- the nature of the abuse;
- the location of the abuse;
- the current location of the victim; and
- the victim's name.

The caller should be informed that the purpose for obtaining his or her name and telephone number is strictly to permit a call-back if the call is lost when transferred to telecommunications or if responding officers cannot locate the victim. The call taker should then place a follow-up call to the telecommunications center to ensure the transferred call was received.

Nonemergency reports of elder abuse or calls to check on the welfare of an elderly person also warrant immediate, though not emergency, response. Reports of elder abuse should be given the same priority as reports of assault, sexual assault, child abandonment or other serious matters that justify prompt police response.

Persons calling to report nonemergency situations that may involve elder abuse are often directed to the unit responsible for investigating cases of elder abuse. If an investigator cannot respond immediately, the information should be redirected and acted upon by patrol officers without delay.

### **I. Telecommunications Personnel Responsibilities**

#### **A. Receipt of Suspected Elder Abuse Call.**

1. Solicit Information to Determine if Priority Police Response and/or Emergency Medical Service (EMS) Is Warranted



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## B. Arrange for Appropriate Police/EMS Response.

1. Dispatch Police Response.
2. Ensure Dispatch of EMS.

## C. Explain the Police Response and Needs

## D. Provide Referral Information.

## II. Patrol Officer's Responsibility

### A. Initial Response.

When calls are identified as in-progress emergencies, response should be consistent with other priority calls. The emotional distress often related even to nonemergency calls is so significant to the elderly victim that all calls should be handled without delay.

Either as the first responder to arrive or when called to assist APS, EMT personnel, or others already on the scene, officers may be called upon to effect forced entry. Entry should be immediate when required to save a life or property or when authorized by court order.

### B. Provide Emergency Care.

### C. Defuse and Stabilize the Immediate Situation.

1. Identify Victim, Suspects and Witnesses.
2. Preserve the Crime Scene.
3. Obtain Preliminary Statements from the Victim and Witnesses.

### D. Assess and Define the Nature of the Problem.

#### 1. Types of Abuse.

- a. Physical Abuse - nonaccidental use of force that results in bodily injury, pain or impairment (*e.g.*, slapped, burned, cut, bruised, improperly physically restrained).
- b. Sexual Abuse - nonconsensual sexual contact of any kind (*e.g.*, forcing sexual contact or forcing sex with a third party).
- c. Emotional or Psychological Abuse - willful infliction of mental or emotional anguish by threat, humiliation, intimidation or other abusive conduct (*e.g.*, name-calling, treating as a child, frightening, isolating).

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- d. Active Neglect - willful failure by the caregiver to fulfill the caretaking obligation or duty (*e.g.*, abandonment, willful deprivation of food, water, heating, clean clothing and bedding, eyeglasses or dentures, or health-related services).
- e. Passive Neglect - nonwillful failure to fulfill caregiving obligations. Abandonment or denial of food or health-related services because of inadequate caregiver knowledge, infirmity or disputing the value of prescribed services (*e.g.*, rashes and bedsores, malnutrition, dehydration, unsanitary or unsafe living conditions).
- f. Self-Neglect - the result of an older adult's inability, due to physical and/or mental impairments or diminished capacity, to perform essential self-care tasks (*e.g.*, providing essential food, clothing, shelter and medical care; obtaining goods and services necessary to maintain physical health, mental health, emotional well-being and general safety; and/or managing financial affairs).
- g. Fiduciary (Financial or Material) Exploitation - illegal or improper use of an older person's funds, property or resources (*e.g.*, theft, fraud, false pretenses, embezzlement, conspiracy, forgery, falsifying records, coerced property [house, car] transfers or denial of access to assets).

## 2. Identify Specific Violation(s). Consult with Adult Protective Services (APS).

### a. State Laws and Local Ordinances.

- **Adult Protective Service Laws** - Legislation providing specific protection to elderly or other dependent adults
- **Elder Abuse Laws** - Specific legislation that defines what acts constitute criminal abuse, neglect, exploitation and apply only to the elderly. The age of applicability should be included. Some elder abuse legislation is sensitive to the extraordinary impact of crime perpetrated against the elderly and therefore prescribes more severe penalties for violators.
- **Mandatory Reporting Laws** - State requirements for the reporting of incidents involving the abuse, neglect and exploitation of elderly persons. Requirements include what is to be reported, to whom and by whom.
- **Domestic Violence Laws** - Laws that apply to domestic situations regardless of victim's age may be applicable depending on the relationship between the victim and the suspect. These laws may stipulate mandatory arrest or permit arrest not initiated by the victim. Some have been expanded to include violence, neglect or exploitation perpetrated by a caregiver against an elderly person.
- **Regular Penal Code** (assault, battery, rape, murder, theft, fraud, embezzlement, etc.) - Despite the victim's age and the victim-suspect relationship, elder abuse may constitute the commission of numerous felonies and misdemeanors. Their

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application should not be overlooked. Serious crimes are no less serious because they are committed against the elderly. A rape may constitute elder abuse, but it is still (and should be treated as) a felony. These decisions should be made in consultation with prosecutors. Input from the victim and APS personnel should be considered.

- **Protection Orders** - Officers should inquire as to any restraining orders, ex parte orders, etc., that may have been filed. These orders may be used to remove the abuser or victim from the home, to mandate counseling, reimbursement or other remedial measures. In some rare instances, threats and harassment against elderly persons may constitute a violation of Anti-Stalking laws.
- **Mental Health Laws** - Mental commitments and emergency mental commitments should be considered when the suspect or the victim exhibits certain behavior that constitutes a danger to self or others. APS personnel should be instrumental in these decisions when related to alleged elder abuse.
- **Noncriminal Acts** - Issues might be resolved by referral to a mediator, family counseling, a caregiver support group, the local area agency on aging or possibly through licensing action, etc. Any such proposal should be reached in consultation with APS.

E. Assess Impact of Potential Actions and formulate an Action Plan.

1. Make On-Scene Arrest(s) When Appropriate.

F. Determine "Immediate Need" Service Providers When Abuse Is Suspected.

1. Patrol Supervisor.
2. Investigative Personnel. Investigations should be conducted jointly or coordinated with APS.
3. Evidence Collection Personnel.
4. Protective Service Agencies. Response should be requested whenever abuse is suspected or when removal of the elderly person is a consideration.

G. Report Incident.

Every allegation of elder abuse should be documented.

1. Written Departmental Report of Incident.
2. Formal, Written Cross-Report to Investigative Personnel and Protective Service Agencies.

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## III. Supervisory Responsibilities

- A. Ensure the Provision of Resources Identified by the Responding Officer(s).
  - 1. Internal Needs - investigators, evidence collection, victim services, etc.
  - 2. External Agencies - APS should be requested to respond.
- B. Determine Need for "Emergency" Removal of the Victim or Abuser.

When circumstances require the police to effect an emergency, temporary removal (emergency hospitalization, arrest of caregiver, severe health or safety hazard) prior to APS response, APS and the victim's family or physician or other responsible interested person should be notified. Unless conditions dictate immediate removal, the following factors should be considered:

- 1. Level of Threat in Current Environment.
- 2. Impact of Removing the Victim or the Abusive Caregiver.
- 3. Effects of Removal From Familiar Surroundings.
- 4. The Victim's Ability to Exercise Self-Determination. The age of a person does not render that person incapable of making informed decisions.
- 5. Disabilities, Mental Impairments, etc.
- 6. Maintain Sensitivity to Victim's Needs. Nonverbal or non-English speaking persons may require the assistance of a translator. Officers should make every effort to preserve the dignity and self-respect of the elderly victim.

## IV. Investigator's Responsibility

- A. Assume Investigative Responsibility.

The investigator is responsible for the overall investigation and should consider the following:

- 1. Physical Evidence. When a crime scene exists, it should be photographed and processed as any major crime.
- 2. Typical Signs and Symptoms. There are no definitive profiles of victims or abusers. There are, however, factors that officers should look for in abuse cases.
- 3. Indications of Elder Abuse. These include physical and behavioral indicators that may be exhibited by victims and/or abusers.

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4. Detailed Interviews of the Victim and Witnesses. Every effort should be made by police and APS or other social service investigators to coordinate investigations, thereby eliminating multiple stressful and embarrassing interviews. Investigators should respect the victim's dignity and keep the number of persons present during sensitive interviews to a minimum.
5. Statements of Suspects.
6. Corroborating Information
7. Arrests - Evaluate Propriety and Likely Effects. When the cause for abuse is determined to result from a correctable shortcoming of the caregiver, the preferred resolution may include education, counseling or supplemental support or resources.

## B. Case Presentation for Court.

1. Assistance to Prosecutors.
2. Privacy and Confidentiality. The dignity of elderly victims should be respected at all times. Unnecessary publicity should be avoided.

## C. Victim/Witness Assistance.

1. Maintain Open Lines of Communications With Victims and Witnesses.
2. Ensure Appropriate Protective Custody. Victims who have been removed from an abusive environment should be secure from retaliation. Appropriate measures (protection orders or confidential relocation) should be taken when there is reason to believe the victim is in danger.
3. Provide Mentally Capable Victims and Witnesses (or Appropriate Guardians) With Information About Applicable Immediate and Long-Term Referral Services.

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**NOTE:** *Local referral information (agency names, locations and telephone numbers) should be included here for the following and other appropriate services within the local jurisdiction.*

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- Counseling
- Medical attention
- Compensation programs
- Emergency financial assistance
- Victim advocacy

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- APS and other human or social service departments
- Legal assistance
- Translators
- Ombudsman services

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## Relevant Policies and Papers of the IACP National Law Enforcement Policy Center

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## Model Policy: Police Victim Assistance

*Effective Date:* October 31, 1991

*Reference*

*Special Instructions*

*Distribution*

*Reevaluation Date:* November 1, 1992

*No. Pages*

### PURPOSE

The purpose of this policy to emphasize the needs of victims of crime and noncriminal incidents and the responsibilities of officers to provide support, information and guidance for these individuals.

### POLICY

Law enforcement officers are often in a unique position to provide assistance to victims of crime and other traumatic incidents that may have both immediate and long-term impact on their emotional recovery. Also, victims who feel that they were treated with understanding and concern for their hardship and suffering more frequently become enthusiastic about cooperating with the investigation and assisting in the prosecution. Therefore, it is the policy of this department to enhance the treatment of victims and survivors of crime and noncriminal crisis situations by providing the assistance and services necessary to speed their physical and emotional recovery, and to support and aid them as they continue to interact with the criminal justice system.

### PROCEDURES

#### Safety and Security

- Officers are responsible for securing the crime or incident scene to protect lives and ensure safety.
- Officers shall render emergency aid to individuals who have suffered physical injuries, and shall as soon as possible, summon any necessary medical assistance.
- Where physical injuries are not apparent, victims shall be asked if they are injured and whether medical attention is required.
- In order to reduce fright and promote victim communication, victims should be informed as soon as appropriate that they are no longer in immediate danger.
- Recognizing that victims often suffer physical and/or emotional shock, officers shall assist them in making decisions and keep them informed of police actions and requirements.
- Whenever possible, police officers should not leave a distraught victim alone. Arrangements should be made to have a relative, friend, or family or departmental clergyman join the victim for emotional support and comfort, or arrange for transportation of the victim to a friend, family member or other appropriate service



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provider.

## Providing Emotional Support

In order to calm and assist the victim in regaining composure, officers shall allow the victim a reasonable period of time in which to express feelings and emotions while describing what happened during the incident, express empathy for the victim and recognition and understanding for emotional reactions; provide reassurance that the victim's feelings are normal and understandable; not be overtly judgmental of the victim's feelings and emotions or the apparent lack thereof, or of victim judgments or actions related to the incident; help redirect any self blame and responsibility for the criminal act from the victim to the perpetrator, and emphasize your commitment and that of the department to assist and work with the victim.

## Information and Referral

Before leaving the scene it is important that officers take the steps necessary to meet victims' needs for support and information. These include providing a brief overview of what actions will be taken shortly thereafter, and answering such questions as, "Will a criminal investigator contact the victim?," "Will evidence technicians be used at the scene?," "Will lineups or showups be held?" and "What other law enforcement actions will be taken?"; providing information on victim service agencies available in the community; and leaving names and telephone numbers where the victim can reach the officer or the criminal investigator at the department, and encouraging the victim to use the number to report additional information about the incident or to request information or assistance.

## Follow-up

Lack of information about case status is one of the greatest sources of dissatisfaction among victims of crime and victims' survivors. Therefore, officers assigned to criminal investigations shall make routine victim callbacks in order to determine whether the victim has new information concerning the case, to ascertain whether the victim is in need of assistance from outside sources or the department, and to relay information relating to such matters as the status of stolen, recovered or removed property; the arrest and detention of suspects, and their pretrial release status, the victim's possible eligibility for victim compensation; court restraining orders; court proceedings and schedules; and the operations of the department and the criminal justice system.

This project was supported by Grant No. 87-SN-CX-K077 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: the Bureau of Justice Assistance, the Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice or the International Association of Chiefs of Police.

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## IACP National Law Enforcement Policy Center Police Victim Assistance Concepts and Issues Paper February 1992

### INTRODUCTION

#### **Purpose of the Document**

This paper was designed to accompany the Model Policy on Police Victim Assistance established by the IACP National Law Enforcement Policy Center. This paper presents essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their community and their law enforcement agency.

#### **Background**

In the past 15 years, crime victims have made organized efforts to improve the way their cases are handled by the criminal justice system. At the same time that the system provides defendants with many protections, it often overlooks victims' needs, denies them opportunities to participate in the justice process or even blames them for what happened.

However, many victim advocates have stopped treating the criminal justice system as the "bad guy." They have learned two important lessons over the years.

First, the tendency to blame the victim or to distance oneself from the victim is a common human instinct found not only in criminal justice officials, but also among the victim's family and friends—in fact, many victims blame themselves.

And second, the tendency to unfairly blame the victim can be overcome, but never more successfully than when the criminal justice agencies lead the way in giving support, not future problems, to people in distress.

But when that support is not found, many victims conclude that cooperation is simply not worth the effort, and pass the negative word along to others in the community. More than half the violent crimes committed in this country are not reported, yet we depend on the aid of victims to hold criminals accountable.

Many studies of victims' experiences show that responding officers receive higher marks for their treatment of victims than other criminal justice professionals. But instances of mistreatment or insensitivity do occur, usually inadvertently rather than intentionally. Police agencies throughout the country are addressing this problem in several ways.

More than one-third of large departments (those serving 250,000 or more residents) now operate their own victim assistance programs, and many have cooperative agreements with other community agencies for victim services. Often, these programs provide in-service training for department members on "psychological first aid" techniques that can be used to help victims gain control in crisis situations.

### ISSUES

#### **The Crime as a Crisis**

People often have different reactions to criminal victimization than they do to other stressful

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experiences. Part of the difference relates to the unexpected nature of the crime. A person who has several months' notice of a job layoff, for example, has time to keep this stressful situation from turning into a crisis. But a crime—a disruptive, threatening event committed without a warning—often creates a crisis for the victim.

Dr. Morton Bard, a psychologist, and Dr. Martin Symonds, a police psychiatrist, are both former police officers and were among the first to describe victims' crisis reactions as occurring in several stages. Of course, there will be exceptions to this "stage model" but it does present a framework for understanding reactions that are common to many victims.

During the first stage, the victim feels the initial impact of the crime as a crisis. This stage may last from a few hours to several days after the event. Typically, victims are in shock and disoriented. They feel a sense of helplessness, fear and disbelief.

How often have responding officers heard victims say, "I don't believe that this has happened?" Often, they are expressing the literal truth. Victims in this initial state may also seem detached and unable to focus their thoughts, and they may have trouble making simple decisions. All of these responses are normal reactions to crisis events.

In the second stage, victims experience a wide range of emotions as they begin to recover and try to understand what has happened. It is not unusual for this stage to last several months, even years, in the aftermath of a major catastrophe such as the murder of a loved one. Some victims may show confidence and exceptional coping skills, while others may blame themselves, express self-pity, act depressed or lose the ability to concentrate for any length of time. Many victims are consumed with an intense anger that becomes a rage, or fear that becomes stark terror. Family relations often become strained.

Victims may also have physical reactions during the second stage. Insomnia and headaches are common, and preexisting medical problems may worsen.

The third stage is sometimes called "reorganization." In many cases, victims learn to accept the event and view it as part of their overall life experiences. The memories of the crime become less horrible and intrusive, and victims feel less out of control. They may take positive steps to secure their home or business, and may even become active in community crime prevention programs.

Unfortunately, there are victims who are so devastated by the crime that it may take them years to achieve stability. Some victims of rape and other extreme acts of violence have been diagnosed as suffering from post-traumatic stress disorder (PTSD). This disorder has also afflicted combat veterans, police officers and others who have lived through traumatic events that are beyond the normal range of human experience. Symptoms include flashbacks, terror reactions to sights and sounds associated with the past trauma, sleep disturbances, impaired memory and difficulty concentrating.

## **The Crime as a Personal Violation**

The severity of victims' reactions depends in part on the degree of violation they experience. It is reasonable to expect that most victims of rape, beatings and other personal violence will have more severe reactions than victims of petty larceny. But it is also important to realize that a victim's sense of violation cannot always be associated with Crime Index classifications. The meaning of the crime to each individual must be considered.

For example, public disturbances, vandalism, juvenile pranks and other "minor crimes" may cause so much distress for some elderly victims that they become prisoners in their own homes.

Burglaries are another example. Although classified as property crimes, they also leave victims with a sense of personal violation. By invading a person's home at will, a burglar shatters the victim's sense of privacy and security. To the burglar, stolen objects are nothing more than a way to get quick

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cash. To the victim, however, these possessions may represent years of hard work or the memory of a loved one. Burglary victims may not be physically injured, but they feel threatened and afraid because of the potential for violence that existed.

Victim assistance professionals also emphasize the importance of extending more consideration to homicide survivors—the friends and family members of homicide victims, as well as witnesses to the crime. These people have been called “forgotten” victims because many programs that help victims of other crimes do not offer services to homicide survivors.

In addition to the victim’s sense of violation, other factors will have an impact on his emotional reactions. A study sponsored by the National Institute of Justice pointed to the strong influence of victims’ prior life experiences on their ability to recover. Previous victimizations, physical and mental health problems, the recent death of a friend or relative, financial problems, divorce or separation, loss of employment and other stressful events can make coping with a crime especially difficult.

Victims who live alone without close family ties or friends may not recover as easily as victims with strong support systems. Non-English-speaking victims may have an unusually difficult time communicating their needs and dealing with the criminal justice system.

The victim’s relationship to the perpetrator is another important factor. This is particularly evident in cases of rape, domestic assault, child abuse and child sexual assault. These crimes are often committed by loved ones, which adds a severe sense of betrayal to all the other distress the victim feels.

## **Victim Needs**

Victims’ needs can be grouped into three major categories: support, information and participation. Support needs during the crisis may include protection, medical attention, reassurance, companionship, emergency funds, transportation and—in some situations—professional counseling.

Victims also want information from the responding officer about what to expect from the department, and how to obtain protection and further help if they need it. Later, they may need general information about how the justice system works, and specific information about the status of their cases. If an arrest is made, they will need to be notified about lineups, court dates, victim impact statements, sentencing outcomes, parole decisions and many other details.

The need for participation means access to all of the processes the criminal justice system provides for taking the victim’s viewpoint into consideration. Many victims feel as though they never have a chance to tell their side of the story, particularly with regard to the impact the crime has had on their lives. Victims who testify in court may not be adequately prepared for their roles as witnesses. Sentences are often handed down without giving the victim an opportunity to tell of the physical, emotional and financial hardships inflicted by the crime. In fact, for many victims, the need to participate, be heard and receive fair treatment outweighs the need to see the perpetrator severely punished.

Obviously, the police department cannot fulfill all of a victim’s needs. Yet the department and each member, can make an important difference in the victim’s ability to cope. Victims who are treated with consideration will in turn be more willing and better able to cooperate, report crimes in the future and encourage others to do so.

## **Telephone Response to Victims**

The role of police call takers is often overlooked in victim assistance training programs, yet victim satisfaction with police service starts with the response that is received from telecommunicators.

The amount and accuracy of the information call takers are able to obtain affects the safety of both the victim and the responding officer. In addition, the call taker’s ability to express concern and reassurance to the victim can have a direct impact on the his emotional state when an officer arrives.

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Call takers must also be careful not to create false expectations by promising "an officer will be there right away" when this is unlikely.

Some important information about the role of call takers and telephone report units has resulted from field tests of differential police response conducted in departments that use telephone reporting units, delayed responses and other alternatives to immediate mobile response. These studies have shown that for non-emergency calls, expressing concern and providing accurate information are more important to citizen satisfaction than promising an immediate patrol response.

## **Crisis Intervention and Psychological First Aid**

Police officers are usually well prepared to handle situations where there is obvious physical injury to the victim. But in dealing with a victim's psychological crisis, officers are sometimes armed with little more than instincts. Recognizing this, the President's Task Force on Victim Assistance in 1982 strongly recommended that the law enforcement agencies provide recruit and in-service training in "psychological first aid."

This recommendation does not mean that officers are expected to take on extra duties as counselors. Training in psychological first aid generally involves (1) learning more about victims' needs and psychological responses, (2) practicing phrases and actions that can help victims gain control, and (3) becoming more familiar with victim services available in the community.

Many crisis counselors organize their help to victims in three phases. Police officers can borrow from these to perform emotional first aid even as they conduct the interview.

1. *Safety and Security.* Victims report that, all too often, no one who helped them after the crime thought to ask one very basic question: "Are you all right?" Asking "How do you feel?" and "Are you all right?" may lead the victim to tell of an injury or illness that is not obvious. It is also an easy way to demonstrate concern and to encourage the victim to talk, as well as to observe how frightened he is.

It is sometimes difficult to imagine how frightened a victim feels. Though victims naturally should feel safe with a police officer present, the terror that they have just gone through may last a long time, and may interfere with the victim's memory of what just happened. So say the obvious, "You're safe now," to the frightened victim. At the end of the interview, suggest that they have a friend or a relative over, if that would make them feel more secure.

2. *Ventilation and Validation.* Almost all victims will be upset, but will show it in different ways. Some may shake or cry, while others seem numb and confused. Just by expressing concern, it may be possible to calm the victim down. Often, what is needed are simple statements, expressed in a way that feels natural to the individual officer. "I'm sorry this happened," "I'm glad you're all right" or "It's only normal to feel that way."

Dealing with angry victims is sometimes a test of patience. Outraged about the criminal, the justice system or the police department, they may direct their anger at the responding officer as soon as he arrives. It is important to try not to take the anger personally, but to see it as a necessary release for the victim. Crisis specialists suggest letting the person "blow off steam," and acknowledging that anger is a natural reaction by assuring the victim that "most people would be angry in the same circumstances."

If the victim's anger is directed at the police department because of the amount of time it took an officer to respond, it is usually wiser to say, "I'm sorry we let you down." Explanations ("Five minutes is really a pretty fast response time") or excuses ("We're short-handed and I had to take a robbery case before yours") can all come later, when the

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victim is calmer.

Patrol officers do not have time to hear victims ventilate at length; that is the responsibility of family, friends and crisis counselors in helping the victim recover. However, the officer should be ready to guide the victim through a short ventilation—letting the victim say how he feels—while the victim is also talking about what happened.

There is an important reason for this: people in a high state of stress are often unable to recall even vivid details of the event that caused their distress. Therefore, it is not surprising that a victim can give a far better description of the suspect after calming down than he gave initially.

Perhaps the best and fastest calming technique is “validation,” letting the victim know that it is normal to be scared, angry or upset after a crime. It is normal—it is just that the victim may never have felt so intensely before.

3. *Prediction and Preparation.* Throughout the entire process of adaptation, perhaps the most disturbing part is the victims’ sense of having lost control of their lives. Because of this realization, their behavior may become childlike or dependent. Although some victims will need to be told what to do, it is best if they can begin to take responsibility for their own actions as soon as possible. The officer can help in this process by encouraging victims to make small decisions for themselves. Crisis counselors suggest asking the victim simple questions such as, “Is it all right if we sit here?” or “Would like to get a jacket”—these small decisions help restore a sense of control.

Victims want to find logical explanations for what happened, and often come up empty-handed. They may ask, ‘Why me?’, ‘Why was I singled out?’ or “Did I deserve this somehow?” They sometimes blame themselves and feel guilty or humiliated: “I should have defended myself,” “I should have checked that window” or “I was so stupid.”

The officer should be careful not to add to these negative feelings by blaming the victim and thereby passing judgment. Accusations (“What were you doing out at that hour, anyway?”) and the benefits of 20/20 hindsight (“This wouldn’t have happened if you had kept the doors locked”) only add to the victim’s distress. Instead, help the victim focus the blame on the criminal: “It wasn’t your fault,” “He had no right to attack you” or “It could have happened to anybody.”

Helping the victims focus on the offender is one way to put some order back into the victims’ lives. Another way is to give them a clear road map about what will happen next. Let them know whether an investigator will be coming, providing a name and an expected time, if possible. Patrol officers should be especially careful to tell the truth in these situations. Victims are almost always grateful to the officer who “got the bad news out up front,” and are often bitter about the officer who “sugar-coated” an unpleasant truth.

Some examples of the unpleasant truth are: “A detective probably won’t get back to you until tomorrow afternoon,” “The medical rape examination is really uncomfortable, especially if you haven’t had one of those exams before” and “This department, like every department in the country, makes arrests in less than 5 percent of the ‘cold burglaries’ that we investigate.”

Other ways to “predict and prepare” will not be so uncomfortable. If there has been an arrest, explain the lineup procedures, the case filing or the bail procedures as best as you can—if you’re not sure, say so.

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## **Resource Mobilization and Information**

Before leaving the scene, officers may take several additional steps to address victims' needs for support and information.

Many victims have deep fears of being victimized again after the police leave. Whether or not the officer believes revictimization is a possibility, a distraught victim should not be left alone. The officer needs to see that arrangements are made for safe shelter and companionship.

Of course, some victims will prefer to be left alone. Although they are in control during the initial crisis stage, they may need assistance later on. Some departments provide officers with brochures for distribution to all victims that list victim service agencies, police contact numbers, hot line numbers and other information. Other departments list these on the back of a copy of the complaint form, which is then torn off and given to the victim.

Most officers leave a card or write down the correct police number for reporting new information. It is important to give the victim extra encouragement to use that number. It is believed that many victims do not report crimes because they feel that the police do not have time to be bothered with "minor" incidents, or they do not believe the information they have is significant. Victims who do report crimes initially may withhold details they recalled after the responding officer has left.

It is also important to remember that most victims do not understand how police departments work. Consider the victim's point of view. One department member talks to the victim when the call is reported; a different member responds to the call and takes a report; another officer conducts a follow-up investigation; while still another dusts for prints and collects evidence. If the victim calls back to report new information, an officer with no direct knowledge of the case may handle the call. All officers involved may be doing exactly what they are assigned to do, but the victim may feel shuffled around.

In a somewhat different scenario, the victim calls, the responding officer takes the report and the victim never hears from the department again. Even though all departmental personnel may have fulfilled their responsibilities, the victim often does not know about solvability factors and case-screening processes. As a result, he may have unrealistic expectations about what the department intends to do.

Victims do not need lengthy explanations but they do need to know what to expect. The responding officer can help by assuring the victim of the department's concern about the case, then explaining what will happen next, and why.

## **Follow-up**

Lack of information about case status can be one of the greatest sources of dissatisfaction among victims who report crimes. In some departments, officers are assigned to make routine victim call backs. Usually, the objective is to gain information useful to the investigation.

Even when no further information is forthcoming, these calls can achieve a second objective—assuring victims that the department is concerned. Officers who make these calls can listen for signs of depression or distress, ask the victims about their needs and make referrals to sources of assistance. If home or business security is a problem, referrals can be made to the crime prevention unit. State victim compensation programs (described in the next section) may be a source of financial relief for some victims.

When a case goes to trial, victims' needs for information, notice and consideration increase. Court schedules and postponements are a frequent source of aggravation for police. They can be even more frustrating and confusing for victims, who may not be as familiar as the police are with court processes. Victims who testify may lose time and money by taking leave from work, and may have to pay

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for child care and transportation, only to find out that the case is continued. Other problems emerge both before and after the trial. Victims and other witnesses may fear recrimination, yet be required to wait in the same room at court with the perpetrator. Victims are not only denied an opportunity to influence probation and parole decisions, but may never even be informed about what those decisions were. Of course, individual officers cannot alleviate all of these frustrations for the victim. But when officers understand what victims need, they can go the extra step to deal with some of these concerns, rather than assume that someone else is taking care of them. The investigating officer in particular may be the most familiar and the most reassuring person the victim will see during the whole court process.

## FEDERAL, STATE AND LOCAL VICTIM INITIATIVES

### Federal Efforts to Address Victim Needs

Victim assistance issues have gained momentum in the 1980s, resulting in new information, legislation and services. The National Organization for Victim Assistance (NOVA) and other advocates of fair treatment for victims have worked hard to keep these issues before the public. NOVA and affiliated organizations on the state level offer practical help, printed materials and training assistance to police departments interested in improving services to victims of crime.

In 1982 the President's Task Force on Victims of Crime published a report with 68 recommendations for improving the way in which police and other criminal justice agencies deal with victims. A second report on responding to victims of domestic violence and child abuse was published in 1984 by the Attorney General's Task Force on Family Violence.

The Federal Victim and Witness Protection Act of 1982 includes "fair treatment standards" for handling federal witnesses and crime victims, and has served as a model for "victims' bills of rights" in many states. The Justice Assistance Act of 1984 established within the U.S. Department of Justice an Office for Victims of Crime, which has awarded grants for training to several national police associations. Also in 1984, Congress passed the Victims of Crime Act (VOCA), which created the Crime Victim Fund. That fund, made up of federal criminal fines and penalty assessments, channels monies to the states for support of local victim services and state victim compensation programs.

### State Initiatives

Legislation has been enacted in many states with the goal of improving victims' treatment and increasing their opportunities to participate in the criminal justice process. Some states have adopted victims' bills of rights, setting standards of fair treatment. Many police departments print a summary of these rights on cards and distribute them to victims. Approximately 20 states mandate the use of written victim impact statements in sentencing, and a few states have a "right of allocution," allowing victims to express their opinions orally at sentencing hearings. Other state laws deal with restitution payments to victims, participation in plea bargaining and many other issues.

In addition, more than 40 states have established victim compensation programs. Police departments may be required to inform victims about compensation and distribute the forms. Officers should be aware that most compensation programs have eligibility restrictions because of limited funding. Often, compensation is limited to reimbursement for medical and funeral expenses. Few states offer reimbursement for property losses, and a number of states require the victim to demonstrate financial hardship. Victims who are related to the offender may also be excluded from receiving compensation.



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## **Police and Other Local Victim Assistance Programs**

More than a third of police departments in large jurisdictions (those with 250,000 or more residents) operate their own victim assistance programs, according to the 1986 National Assessment Survey conducted by Research Management Associates, Inc, for the National Institute of Justice.

About two-thirds of these police programs serve victims of violent crimes including rape, domestic violence and child abuse. Approximately one-third provide special services to victims of burglary and robbery. The services most frequently offered by police programs are printed materials, referrals to service agencies, information on case status, short-term counseling and in-service training for line officers.

Some departments, however, work even more closely with victim assistance professionals. For example, some programs administered by police include on-scene counseling where crisis intervention specialists on 24-hour call are available to meet the officer at the scene or the hospital and work with victims of violence. Some departments have agreements with child protective service agencies, in which a counselor rides with the responding officer on certain child sexual abuse calls.

Sheriff's departments, prosecutors, mental health agencies, units of local government and independent nonprofit organizations may also be sponsors of victim services. Prosecutors are particularly active, with many large jurisdictions operating victim/witness programs. In many areas, prosecutors' services offer counseling and referrals as well as witness notification, and are available to all crime victims, whether or not their cases go to trial.

## **Working with Victim Assistance Programs**

Victim assistance programs, whether sponsored by the police department or other organizations, can provide many benefits to the officers as well as victims. They can help victims recover emotionally, aiding the investigative process; allow officers to return to service quickly without compromising victims' needs; and encourage victims to file charges, cooperate and learn to be better witnesses. When victims are satisfied with these services, the programs also achieve public relations benefits for the whole department.

## ***Acknowledgement***

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## Model Policy: Domestic Violence

*Effective Date:* October 1, 1996

*Reference*

*Special Instructions*

*Distribution*

*Reevaluation Date:* October 1, 1997

*No. Pages* 2

### **PURPOSE**

It is the purpose of this policy to prescribe preliminary courses of action police officers should take in response to domestic violence incidents.

### **POLICY**

This agency maintains that the nature and seriousness of crimes committed between family/household members are not mitigated solely because of the relationships or living arrangements of those involved. It is the policy of this agency that domestic violence be treated with the same consideration as violence in other enforcement contexts and, consistent with this policy, that officers combine the use of appropriate community services with enforcement of the law to (1) break the cycle of domestic violence by preventing future incidents or reducing the frequency and/or seriousness of such incidents, (2) protect victims of domestic violence and provide them with support, and (3) promote officer safety when dealing with domestic abuse situations.

### **DEFINITIONS**

Family/household member: persons who fit into one of the following categories:

- Are legally married to one another;
- Were formerly married to one another;
- Are related by blood;
- Are related by marriage;
- Have a child in common;
- Are living together, who have lived together, or who have a dating relationship; or
- Are specified as such by state law.

Domestic violence: where a family or household member commits or attempts to commit the following types of offenses against another:

- Bodily injury or threat of imminent bodily injury;
- Sexual battery;
- Physical restraint;
- A property crime directed at the victim;
- Violation of a court protection order or similar court injunction; or
- Death.

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## DISPATCHER'S PROCEDURES

The dispatcher who receives a domestic violence call can provide the responding officers with vital information that could save the victim's and the officer's lives. The dispatcher will give a domestic violence call the same priority as any other life-threatening call and will, whenever possible, dispatch at least two officers to every incident.

In addition to information normally gathered, an effort should be made to determine and relay the following to responding officers:

1. Whether the suspect is present and, if not, the suspect's description and possible whereabouts;
2. Whether weapons are involved;
3. Whether anyone has been injured;
4. Whether the offender is under the influence of drugs or alcohol;
5. Whether there are children present;
6. Whether the victim has a current protective or restraining order; and
7. Whether there is a history of domestic violence complaints at that location.

Dispatchers shall not cancel police response to a domestic violence complaint based solely on a follow-up call from the residence requesting such cancellation. However, the dispatcher shall advise the officers of the complainant's request.

## RESPONDING OFFICER PROCEDURES

### On-Scene Investigation

When responding to a family violence call, the officers shall

1. Physically separate parties involved in domestic violence.
2. Restore order by gaining control of the situation.
3. Take control of all weapons used or threatened to be used in the crime.
4. Assess the need for medical attention and call for medical assistance if indicated.
5. Interview all parties.
6. Collect and record evidence and, where appropriate, take color photographs of injuries and property damage.
7. Complete appropriate crime or incident reports necessary to fully document the officer's response, whether or not a crime was committed or an arrest made.
8. Give the victim a copy of the incident report number.
9. If the offender has left the scene and a crime has been committed, the officers will do the following:
  - a. Search the immediate area if potentially worthwhile,
  - b. Obtain information from victims and witnesses as to where the offender might be,
  - c. Seek an arrest warrant, and
  - d. Refer the matter to the investigative unit.

### Arrest

1. Officers should make an arrest when probable cause and legal authority exist to do so. Field release and issuance of a citation are not permitted in domestic violence cases when grounds for an arrest are present.
2. If an arrest is not made where probable cause exists, officers shall fully explain the basis for their non-arrest decision.

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3. The officers should emphasize to the victim and the offender that the criminal action is being initiated by the state and not the victim.

## **Victim Assistance/Crime Prevention**

Many victims of domestic violence feel trapped in violent relationships because they are unaware that domestic violence is a crime or that resources are available to help them. Also, the offenders may have threatened further violence if the victim attempts to leave or seek assistance. Therefore, officers are required to provide the following assistance to victims, batterers, and, where appropriate, the children of these individuals:

1. Advise all parties about the criminal nature of family violence, its potential for escalation, and that help is available.
2. Secure medical treatment for victims.
3. Ensure the safety of the children.
4. Remain on the scene until satisfied that there is no threat to the victim.
5. Remain on the scene to preserve the peace if one person needs to remove personal (not joint) property.
6. Provide the victim with a referral information packet for legal or social assistance and support.
7. Where necessary, transport the victim to an available shelter or suitable alternative safe haven.
8. If children need to be removed from the home, contact a supervisor.

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Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors.

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## IACP National Law Enforcement Policy Center

### Domestic Violence

#### Concepts and Issues Paper

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## INTRODUCTION

### Purpose of Document

This paper was designed to accompany the Model Policy on Domestic Violence established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their community and their law enforcement agency.

### Definitions

The legal definitions of family or household members differ somewhat from state to state. The model policy includes in its definition persons who are or were married; are related by blood or marriage; have a child in common; are living together or have lived together; or have a dating relationship, whether that be heterosexual or homosexual in nature.

The term family violence generally includes violent behaviors against children, spouses, parents, or other current or former household members. The term domestic violence in this paper is used interchangeably with the terms wife beating, battering, and spouse abuse, but these terms also apply to other than legally married couples. Violence between ex-spouses or others with present or past intimate relationships can be considered in the same category. It is widely recognized that while some husbands are abused, the vast majority of domestic violence victims are women.

The model policy states that domestic violence "occurs where a family or household member commits or attempts to commit the following types of offenses against another:

- Bodily injury or fear of imminent bodily injury;
- Sexual assault;
- Interference with freedom of movement;
- A property crime directed at the victim;
- Violation of a court order; or
- Criminal trespass."

Thus, domestic violence cases may include but are not limited to the crimes of homicide, rape, assault, battery, reckless endangerment, burglary, criminal trespass, malicious mischief, kidnapping, unlawful imprisonment, and others.

## BACKGROUND

### From Private Matter to Crime

By the turn of the 20th century, most states had outlawed wife beating.<sup>1</sup> Nevertheless, Americans have been reluctant to give up the view that family matters—including violence—should be resolved by family members, not public agencies. Many victims<sup>2</sup> as well as police have shared this view. In the past, law enforcement dispatchers have ignored domestic calls or assigned them low priority.<sup>3</sup> Officers

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have failed to make arrests even when serious injuries were inflicted,<sup>4</sup> and have treated as misdemeanors many assaults involving extensive physical harm and weapons.<sup>5</sup>

With greater public understanding of domestic violence in the 1970s came increased pressure on law enforcement to intervene. Policies changed, and officer responsibilities became more extensive. However, policies were still not focused on arresting lawbreakers. Rather, officers were instructed to restore order, separate and calm down the involved parties, and sometimes send the suspect away to “cool off.” Some officers also attempted to mediate the situation and made referrals to social service agencies.<sup>6</sup> But batterers were seldom arrested and tried in criminal court for assault or other crimes.

Only in the past decade has there been widespread public insistence that violent incidents in the home be treated as crimes. The model policy reflects this view in the first sentence:

The nature and seriousness of crimes committed between family or household members are not mitigated because of the relationships or living arrangements of those involved.

In short, domestic violence can no longer hide behind soft language. It is not a “quarrel,” “spat,” or “dispute.” It involves crimes that demand a law enforcement response, including arrest where probable cause and legal authority exist.

## Factors Influencing Policy Changes

Four main factors have caused law enforcement agencies throughout the country to change their policies and require arrests in domestic violence cases: persistent lobbying and information campaigns by battered women and their advocates; changes in state laws; research conducted in cooperation with law enforcement agencies; and court decisions determining police liability for failure to protect domestic violence victims.

In the mid-1970s, battered women collaborated with researchers and other professionals to expose the extent and nature of domestic violence.<sup>7</sup> It became evident there was a critical need to protect and develop services for battered women. Many communities established emergency shelters or networks of safe houses, along with programs to provide counseling, legal advice, financial planning services, and in some jurisdictions, counseling for batterers.

Until recently, officers in most states did not have the legal authority to make misdemeanor arrests in domestic situations unless they witnessed the crime. Since many initial acts of domestic violence are misdemeanor assaults, opportunities to prevent future, and probably more violent, incidents were limited. Coalitions of service providers and former victims began to press hard for changes in the criminal justice system’s response to spouse abuse. They insisted that state laws and police policies emphasize the need to arrest suspects in domestic violence cases. Now, the majority of states permit police to make arrests for simple assault in domestic cases based on probable cause, without having to witness the incident.

In the early 1980s, the results of research in the Minneapolis, Minnesota, Police Department also supported the adoption of policies requiring or encouraging arrests. The research design of the Minneapolis Domestic Violence Experiment applied only to misdemeanor domestic assaults. The police had been recently empowered by state law to make arrests in these cases, although they were not required to do so. For the experiment, a lottery selection determined which of three responses police officers would use for each incident: arrest the suspect; send the suspect from the scene for eight hours; or provide some form of advice, which could include mediation.

The study found that, according to the victims, only 19 percent of the suspects who were arrested repeated the violence within the next six months, compared to 37 percent of those who received advice, and 33 percent of those who were separated.<sup>8</sup>

The researchers also reported a number of flaws in the experimental design and its implementa-

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tions and encouraged replication of the experiment in other cities.<sup>9</sup> However, they were confident enough in the results to state that “the preponderance of evidence in the Minneapolis study strongly suggests that the police should use arrest in most domestic violence cases.”<sup>10</sup> By 1986, nearly half of police departments in cities with more than 100,000 residents had policies prescribing the arrest of domestic violence suspects, compared to only 10 percent in 1984.<sup>11</sup>

In the late 1980s, replications of the Minneapolis experiment were undertaken in six cities.<sup>12</sup> While the full data from one site was never made public, the findings from these replication experiments differ from those in Minneapolis. The Omaha researchers concluded that arresting suspects had no more effect on deterring future conflict than did separating or counseling them.<sup>13</sup>

Differences in various conditions in Minneapolis and Omaha (and the other replication sites) will need further consideration. For example, all arrested suspects in Minneapolis spent at least eight hours in jail. In Omaha, some suspects spent less than eight hours from booking to the posting of bond.

It is also important to note that in Omaha, although arrest by itself did not deter continued conflict, neither were the victims whose spouses were arrested in any greater danger of continued violence.<sup>14</sup> This finding supports the concept that laws and policies favoring arrest are not likely to encourage further victim harm, and at the same time make a strong public statement about society’s unwillingness to tolerate domestic crimes.

However, since arrest alone may not deter continued domestic violence, researchers and policy makers must consider which additional strategies are most effective. As discussed later, the model policy includes procedures for providing victims with protection, referral sources, and information.

Several significant court cases have also influenced law enforcement to adopt arrest policies. In 1985, a federal jury awarded Tracy Thurman \$2.3 million and found that the city of Torrington, Connecticut, and 24 of its police officers violated Mrs. Thurman’s 14th Amendment right to equal protection.<sup>15</sup> For eight months, Mrs. Thurman had notified the police repeatedly of her husband’s threats on her life. She attempted unsuccessfully to file complaints against him. After one assault, he was convicted of a breach of the peace, and she obtained a protective order. Still, the police failed to arrest him after promising several times to do so. Finally, Mr. Thurman brutally stabbed her.

The court held that the police based a policy of not arresting abusive men on an impermissible stereotype that husbands may beat their wives. The court stated that

*[a] man is not allowed to physically abuse or endanger a woman merely because he is her husband. Concomitantly, a police officer may not knowingly refrain from interference in such violence, and may not automatically decline to make an arrest simply because the assault and his victim are married to each other. Such inaction on the part of the officer is a denial of the equal protection of the laws.*<sup>16</sup>

Other courts have ruled that the police may be held liable for failure to protect if a “special relationship” has been taken on by the police department or imposed by statute. Josephine Sorichetti was separated from her husband, Frank, and had obtained a protective order forbidding him to assault, menace, or endanger her. When she brought their daughter to him for a weekend visit, he made threats on both their lives, which Mrs. Sorichetti reported to the police. When he failed to return their daughter, Mrs. Sorichetti called the police, but was told to wait. Meanwhile, Mr. Sorichetti stabbed his daughter with a screwdriver, fork, and knife, and tried to saw off her leg. He was later convicted of attempted murder.

The New York Court of Appeals in *Sorichetti v. New York*<sup>17</sup> said a municipality cannot be held

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liable for failure to provide adequate protection absent a special relationship, but that such a special relationship existed in this case because of (1) the order of protection, (2) the police department's knowledge of Frank Sorichetti's violent history, gained through and verified both by its actual dealings with him, the existence of the order of protection and its knowledge of the specific situation in which the infant had been placed; (3) its response to Josephine Sorichetti's pleas for assistance on the day of the assault, and (4) Mrs. Sorichetti's reasonable expectation of police protection.<sup>18</sup>

In *Bruno v. Codd*,<sup>19</sup> 12 battered women brought an action against the New York City Police Department for failure to respond to requests for protection, "presumably because of reluctance on the part of the police to intervene in what they reflexively characterized as 'domestic disputes' rather than criminal offenses."<sup>20</sup> A consent judgment was negotiated, resulting in major revisions in the department's policy. The police agreed thereafter to arrest the husband whenever there was reasonable cause to believe a felony had been committed against the wife or a protective order had been violated; remain at the scene to prevent other offenses; and provide the wife other assistance. Further, police supervisors revised their disciplinary and other regulations to ensure these policies were carried out.

## Dispelling Myths and Stereotypes

There should no longer be any doubt that spouse abuse occurs frequently in our society. Further, the injuries sustained are serious. According to National Crime Survey (NCS) data for 1978 to 1982, each year about 2.1 million women were victims of domestic violence. On average, the women were victimized three times each. Nearly half of these estimated 3.4 million incidents were not brought to the attention of the police.<sup>21</sup> According to the Bureau of Justice Statistics, about a third of the incidents in the NCS survey would be classified as felonies (aggravated assault, rape, robbery). The remaining two-thirds would be considered "simple assaults." However, the data suggest that about half of the simple-assault victims sustain injuries that are far more serious than commonly believed.<sup>22</sup>

Further, the severity of the violence in a family is likely to escalate over time. One study found that in Kansas City, in 85 percent of the domestic homicides, the police had been to the home at least once before the murder. In 50 percent of the cases, they had been there at least five times.<sup>23</sup>

One common misconception has been that domestic violence is predominantly a problem among the poor. Poor victims do account for more reported domestic violence. However, many experts believe this is simply because they cannot afford private counseling and other resources available to middle- and upper-income persons.<sup>24</sup> Nor is domestic violence a "blue-collar" problem. Batterers include doctors, lawyers, business executives, government officials, police officers, and clergymen—all occupations. Similarly, no assumptions about battering should be based on racial or ethnic stereotypes.

In fact, it is not possible to construct a profile of a batterer that would be of any immediate value to a responding officer. Some, but certainly not all, abusers have alcohol or drug problems, but treatment for addiction alone is no guarantee that the abusiveness will stop.<sup>25</sup> Very few batterers are psychotic. Some suspects may appear angry and disheveled when the officer arrives, but in other situations, the man behaves calmly while the woman seems hysterical, leading officers to assume incorrectly that the reported abuse or possibility of future danger have been exaggerated.

Nevertheless, batterers do have common characteristics that are important to understand if we are to stop blaming the victim for the violence. Batterers are likely to deny or minimize their behaviors. They often blame others for their problems or abusiveness ("she drove me to it"). They tend to be jealous and possessive; in the extreme, they may constantly follow their spouses around and closely monitor their activities. In addition to inflicting repeated physical harm on their spouses, they exhibit



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“a cohesive pattern of coercive controls that include verbal abuse, threats, psychological manipulation, sexual coercion and control over economic resources.”<sup>26</sup> This pattern also includes periods of remorse and loving behavior, giving some victims hope that the abuser will change.

Law enforcement training on spouse abuse often includes descriptions of this “cycle of violence,” in which relatively calm periods are followed by still more, and often more devastating, assaults. It is also important to stress that financial dependence on the abuser, religious beliefs, and cultural pressures to keep the family intact are all factors that influence the victim to stay. She may also be unaware of the social support systems and legal remedies available to her.

The result for the victim can be an immobilizing fear. Police often express frustration about the victim’s reluctance to press charges against the abuser. Yet, in many ways the victim’s experience can be compared to that of a hostage or prisoner of war.<sup>27</sup> She is attacked verbally, beaten, isolated from friends and family, and threatened with more severe beatings should she try to escape or call for help. To help reduce the possibility of the suspect’s retaliating against the victim, the model policy requires the arresting officer to emphasize that the criminal action is being initiated by the state and not the victim.

## III. POLICY AND MANAGEMENT ISSUES

### Officer Compliance and Training

Historically, officers have valued the freedom to use their discretion on duty. Although some jurisdictions report high officer compliance once domestic violence arrest policies are in place, some resistance to a mandatory policy should be anticipated. Even the Minneapolis experiment ran into difficulties because of officers’ reluctance to use the proscribed responses. Early indications are that the departments with greatest compliance are those operating in an arena where system-wide support is in place (prosecutors, courts, treatment services, and others). Law enforcement administrators must determine how they will get officers to arrest all or most suspects, and provide for the training and support needed to make quality arrests that succeed in accomplishing overall goals.<sup>28</sup>

A “preferred” rather than “mandatory” arrest policy may pose a lesser threat to officer discretion. However, since arresting suspects calls for using traditional tactics, officers may more readily accept a mandatory arrest policy than an experimental approach.<sup>29</sup> Further, it may provide the specific guidance that officers appear to be seeking for handling domestic calls.<sup>30</sup>

Also arguing in favor of a mandatory policy are increasing community expectations that police will treat spouse abuse as seriously as any stranger-to-stranger crime. Failure to do so risks not only court action but a more general loss of agency credibility in the community. Domestic violence victims clearly have high expectations of the police. On the National Crime Survey, the most common reasons given for reporting a domestic crime were to keep it from happening again (37 percent) and to “prevent this incident from happening” (24 percent).<sup>31</sup>

In general, the department must assess and deal with existing officer skills and attitudes when it designs training to support domestic violence policies. Do officers still view wife beating as a private matter? Have they been exposed to crisis intervention training? Will they have reasonable assurance that the rest of the criminal justice system will back them up after an arrest is made?

Many experts note that how arrests are made may be as important as whether they are made. In the Minneapolis experiment, victims’ feelings that the police listened to them were more closely associated with reducing rearrest than the offender’s background and many other variables.<sup>32</sup> Officers need to be aware of the subtle ways their language can affect outcomes.<sup>33</sup> Does the officer imply to the victim or suspect that these cases seldom go anywhere? Or are victims and suspects, as the

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model policy requires, being fully informed of the criminal nature of the act and the legal remedies available?

The fact that law enforcement officers may have personal experience in domestic violence, either as an abuser or the victim of domestic abuse, should not be overlooked. Such experience will almost certainly affect their views regarding domestic violence enforcement. Law enforcement agencies should be cognizant of this fact and be prepared to offer intervention strategies for affected employees, or disciplinary or criminal sanctions where appropriate.

## **Officer Safety**

One of the three main elements of the model policy relates to promoting officer safety. Officers should be “fully prepared to respond to and effectively deal with domestic violence calls for service.”

In the past, the risk of officer death in responding to domestic calls has been overstated. This is largely because of the way the FBI grouped the “disturbance calls” data in its annual report on officers killed and assaulted. Until 1982, the “disturbance” category included bar fights, general disturbances, and citizens brandishing firearms, in addition to domestic situations. When domestic calls were separated from other disturbances, the data on officer deaths from 1973 through 1984 revealed 69 deaths associated with domestic disturbances, compared to 151 for other disturbances. During the same period, 210 deaths were associated with robberies, 162 with traffic situations, and 75 with burglaries; and 65 officers died accidentally because of their own actions or the actions of other officers.<sup>34</sup>

Of course, this does not mean that domestic calls are not dangerous, since assaults and injuries are always a possibility. But training in handling domestic calls should put the risks in proper perspective. The model policy states that dispatchers should give domestic violence calls the same priority as other life-threatening calls, and recommends sending at least two officers to every incident.

## **Victim Assistance and Crime Prevention**

Preventing future violent incidents is clearly one of the goals of victims who report domestic crimes, and is one of the main purposes of the model policy. The policy combines its recommendations on arrest with several specific “victim assistance/crime prevention” measures. These include steps to meet safety and medical needs and to preserve the peace. In addition, the policy calls for advising the parties of the criminal nature of domestic violence and its potential for escalation, and requires provision of legal and social service referrals. Many departments rely primarily on the responding officers to provide these initial advisory and referral services. The officers’ training, expertise, and attitudes will be important factors in providing effective responses.

Some departments have teamed with social service and mental health providers to take an outreach approach. For example, the Bellevue, Washington, Police Department notes that it “is not sufficient to merely refer (domestic violence victims) to make a self-initiated call; most often, they simply will not do it.” The department requires officers to report every case, regardless of whether there is cause for arrest, and code it “DV.” The report is sent to a local social service agency for prompt follow-up, which includes contacting the victim about available services and safe houses.<sup>35</sup>

Similarly, in New York City the police department works with the Victim Services Agency to provide telephone follow-up on domestic incidents. Where multiple incidents have been reported, unannounced home visits are made. In Phoenix, mental health professionals and trained volunteers form two-person family stress teams to assist officers. The teams use a radio-equipped, unmarked car during the busiest weekend hours and provide on-site crisis intervention and counseling at the officer’s request.<sup>36</sup>

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## Reporting Requirements

The model policy includes the requirement that officers “complete appropriate crime or incident reports . . . whether or not a crime was committed or an arrest made.” Clearly, outreach efforts like those noted above would not be possible without conscientious reporting.

There are other benefits to recording all incidents and identifying them properly as domestic cases. Accurate statistics can enable the police to describe the extent of the problem and help gain support for needed resources. These records can also improve officer preparation and safety. For example, in Albuquerque, information on civil and criminal domestic violations are available to field units through the department’s computer-aided dispatch system. Officers can obtain information on past problems at a specific address as they proceed to answer a call.

## CONCLUSIONS

In 1984, the Attorney General’s Task Force on Family Violence concluded that the “legal response to family violence must be guided by the nature of the abusive act, not the relationship between the victim and the abuser.”<sup>37</sup> The model policy supports this view. Acts of domestic violence are crimes. Law enforcement officers should make arrests whenever probable cause and legal authority exist. Support for this view is widespread, based on the experience of advocates for battered women, current social science research, changes in state laws, and the courts.

Nevertheless, the model policy also recognizes that arrests alone may not deter future acts of violence. It recommends additional measures to provide victims with information and protection and encourages referrals for needed services. Arrest is viewed as only one tool in an officer’s “tool bag” of possible responses to instances of domestic violence.

Among those who advocate a comprehensive approach to addressing domestic violence is Dr. Lawrence Sherman, lead researcher for the original domestic violence experiments in Minneapolis and a recognized expert on the subject. In an exhaustive assessment of the research to date,<sup>38</sup> including the available findings of the six replication experiments previously mentioned, Dr. Sherman draws several conclusions and recommendations that deserve attention here.

First, of the six cities in the replication study, only Omaha issued warrants to offenders who were not present when officers arrived, and this was the only effective innovation among the cities involved in the experiment. Those served with warrants had less than half the repeat violence of those who did not. This finding is largely the basis for the model policy’s recommendation that arrest warrants be issued for offenders who have fled the scene of actionable domestic violence prior to police arrival.

Notwithstanding the foregoing, the results of domestic violence research generally and the replication experiments in particular show that the impact of arrest varies by jurisdiction due primarily to differences in population composition. For example, analysis of the data suggests that unemployed suspects become more violent if arrested, but that employed suspects do not. According to Sherman, this consistent pattern found among the cities in the replication experiments supports the position that criminal punishment depends largely upon a suspect’s “stake in conformity” that is, how much he has to lose from the social consequences of his arrest. Unemployed and unmarried individuals experience the greatest escalation in violence after arrest, a pattern that was the most consistent finding among the domestic violence replication experiments, while those with jobs and families may be more responsive to arrest or the threat of arrest. Arrest is also only a deterrent in cases where it is perceived as “legitimate.” The values of a subculture of the community and the neighborhood social context (e.g. saving face in front of peers by defying authority and the arrest) are factors that mitigate the perceived legitimacy of arrests for domestic violence. In fact, subcultural values may in some cases even support or condone the use of violence within the family as an acceptable means of dealing with

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problems. As such, the capacity of arrest to change the behavior of domestic violence perpetrators is substantially diminished or even counterproductive.

Unfortunately, these findings create a dilemma for police and their governing jurisdictions that mandate arrest in all domestic violence cases. On the one hand, mandatory arrest policies and laws may help protect working-class women, but on the other hand they may also cause greater harm than would otherwise be the case for many of the poor and disenfranchised within those same jurisdictions. In many cases, those individuals who are the most frequent offenders (and the most deserving of arrest in the minds of many) are the individuals who are often least responsive to arrest as a punishment or deterrent.

The impact of arrest is also uncertain in other ways. Three-hour arrests in Milwaukee reduced the immediate danger to spouses, but over the course of a year, violence increased among the same suspects who were arrested. The question becomes in many situations whether to risk additional violence in the short run by not making an arrest or to risk more danger of violence later if an arrest is made.

In the wake of these and other dilemmas and unsure outcomes, Sherman makes several salient points. First, he recommends that states repeal mandatory arrest laws and replace them with arrest as an option for police officers. Arrest is not appropriate for all persons and may even be counterproductive in many cases, as has been noted. Arrest should be regarded as only one tactic that is available to police in dealing with domestic violence. A policy that encourages arrest where probable cause exists is probably more appropriate, and officers should be given reasonable discretion in these situations to use other remedies. At the same time, for purposes of supervision, officers should also be required to justify their decisions if they do not arrest in situations where probable cause to arrest exists.

Second, instead of mandatory arrest, Sherman recommends that each police agency develop its own list of approved options that officers may use at their discretion in accordance with policy and training. The IACP National Law Enforcement Policy Center has long maintained that policy must meet the particular circumstances of police agencies and their communities. The highly diverse nature of communities within states and regions makes it essential that police agencies tailor their domestic violence and other policies to match the needs and capabilities of their jurisdictions. Along with this discretion, however, agencies must provide training for officers that examines the nature and causes of domestic violence and the various options and community resources that may be brought to bear on such problems along with the potential impact of those options.

Third, special units and policies should focus on chronically violent couples. A limited number of couples and addresses produce the vast majority of domestic violence complaints. In Minneapolis, for example, over half of the domestic violence calls for service originated from just 3 percent of locations in the city. Identifying and targeting both offenders and locations are important steps in managing the police response to domestic violence. The use of specially trained personnel may be one approach to dealing with targeted locations and offenders.

Finally, until recently most police agencies have responded to domestic violence as individual incidents rather than identifying, analyzing, and systematically addressing problem patterns in targeted locations. The implications for managing police resources and developing response options and prevention strategies through overall problem solving and community-oriented policing styles appear obvious, but is beyond the scope of this document to explore. Given the immense law enforcement and social problem created by domestic violence and our seeming inability to make meaningful progress toward its control, police agencies should be encouraged to pursue controlled experimentation rather than become entrenched in a single-minded focus on arrest as the only useful response.

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IACP National Law Enforcement Policy Center  
Sexual Assaults  
Concepts and Issues Paper  
February 1995

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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## Model Policy: Investigating Sexual Assault

*Effective Date:* October 1, 1993

*Reference*

*Special Instructions*

*Distribution*

*Reevaluation Date:* September 30, 1994

*No. Pages* 2

### **PURPOSE**

The purpose of this policy is to provide officers with guidelines for responding to complaints of sexual assault, for dealing with victims, interfacing with local health and welfare agencies, and conducting interviews with victims and witnesses.

### **POLICY**

Sexual assault victims are typically traumatized and many, because of the extremely personal nature of the crime, are too embarrassed to report the offense to police. Often the fear of investigative, medical and prosecutorial procedures adds to a victim's reluctance to report, or unwillingness or psychological inability to assist in the investigation. Officers and criminal investigators play a significant role in the victim's willingness to cooperate in the investigation and her ability to cope with the emotional and psychological aftereffects of the crime. Therefore, it is this law enforcement agency's policy to provide victims of sexual assault with compassion and consideration, and with the necessary information and assistance to make their interaction with the criminal justice system easier.

### **DEFINITION**

**Sexual Assault:** Sexual assault, as referenced in this policy, includes rape and other forcible, non-consensual sex acts as defined by law, in relation to adult female—and infrequently male—victims. Investigating sexual assaults against juveniles should also incorporate procedures set forth in this agency's policy on child abuse and neglect.

### **PROCEDURES**

#### **Emergency Communications Center (ECC):**

ECC personnel play a critical role in focusing the initial police response by compiling necessary information concerning the victim and offender and providing initial aid and comfort to the victim. This includes 1. ascertaining the medical condition, needs and location of the victim, time of the incident, description of the suspect and direction/mode of travel; 2. advising the victim not to change clothing, shower or touch anything in the immediate area; and 3. staying on the telephone with the victim to provide assistance and comfort until a patrol unit arrives on the scene.



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## **Initial Response**

Initial responding officers should be primarily concerned with the well-being of the victim and, where circumstances allow, should initiate investigative procedures that will facilitate the identification and arrest of suspects.

1. With regard to victim assistance, the officer shall
  - a. render necessary first aid and request emergency medical assistance if required; and
  - b. attempt to gain the victim's trust and confidence by showing understanding, patience and respect for personal dignity; using language appropriate to the age, intelligence and emotional condition of the victim; informing the victim that an officer of the same sex will be provided if desired and available; and helping the victim to locate family or friends for emotional support or to obtain outside assistance from victim advocates.
2. With regard to initial investigation and enforcement actions, the officer should
  - a. limit investigative questioning to those matters necessary to identify the victim and to describe and locate the suspect;
  - b. relay pertinent information to ECC personnel;
  - c. determine the victim's emotional and physical ability to answer questions concerning the assault and limit questioning accordingly;
  - d. conduct questioning in private and only by one officer;
  - e. generally, avoid asking detailed, intimate questions regarding the assault;
  - f. protect the crime scene to include bedding, clothing, and related materials and areas, and ask the victim not to wash until a medical examination has been performed;
  - g. request the victim's consent to undergo a medical examination, emphasizing its importance to investigative and apprehension efforts;
  - h. accompany the victim to the hospital and relay pertinent information concerning the assault to the examining physician;
  - i. remain on hand at the hospital (but not witness the examination) until family members, support service personnel or criminal investigators arrive;
  - j. ensure that the medical examination includes collecting blood and saliva samples, pubic hair and head hair samples and combings, fingernail scrapings, vaginal smears, oral swabs and photographs, where appropriate, and ensure that evidence is properly stored and identified;
  - and k. arrange for the victim to provide a statement to investigative officers whether or not a medical examination was conducted.

## **Follow-up Interview**

An investigative officer will be assigned to the follow-up investigation as soon as possible after the initial complaint and will remain responsible for the case until it is closed or removed from his responsibility. This officer shall

1. compile the basic investigative information contained in the initial interview, criminal complaint and medical examination;
2. conduct an initial interview that will allow the victim to describe the incident without interruption;
3. determine the victim's emotional and physical ability to submit to an in-depth interview and schedule the interview as soon as these factors will allow following the incident, during which the investigator shall
  - a. employ a comfortable setting that affords privacy and freedom from distractions, attempting to obtain all necessary information at this time;

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- b. explain the need for obtaining detailed information concerning the crime to include details of the sex act, the suspect's modus operandi, clothing, means of restraining the victim and the use or availability of weapons; any words used or instructions given to the victim; marks, scars, tattoos, deformities or other unusual physical features or body odors of the suspect; and any witnesses, participants or accomplices that may be described or identified by the victim;
  - c. document the victim's actions in response to the attack to include the type and degree of any resistance offered, the nature of any acquaintance with the suspect to include any prior intimate relationships and the state of mind of the victim during the attack;
  - d. determine the degree to which the victim has received support services from family, friends and victim advocacy groups and encourage/facilitate these interactions where necessary;
4. determine whether the victim has filed any sexual assault complaints in the past or has a criminal record;
  5. review the victim's account of the event in order to clarify any discrepancies with earlier accounts and to elaborate on issues of significance to the prosecution;
  6. encourage the victim to prosecute the case should she hesitate to do so, emphasizing the importance of prosecution for public safety;
  7. solicit the victim's continued support in the investigation, apprising the victim of future investigative and prosecutorial activities that will or may require involvement and cooperation;
  8. work with the prosecutor's office to develop the case, to familiarize the victim with the types of inquiries that may be faced during cross-examination and to ensure that requests for victim protection orders are made where indicated; and
  9. maintain continued contact with the victim to ensure that appropriate mental health and other support services are readily available.

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## INTRODUCTION

### **Purpose of Document**

This document is designed to accompany the Model Policy on Investigating Sexual Assault established by the IACP National Law Enforcement Policy Center. This paper presents essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

This discussion paper reviews components of the model policy with emphasis on field investigative procedures and the interview process. This document is designed to provide a broad overview of the components of a sexual assault investigation in order to explain the primary directives of the model policy. It is in no way designed to represent an exhaustive study of this sometimes complex and extensive subject.

### **Background**

Law enforcement authorities agree that, for a number of reasons, rape is the most under-reported crime in the United States. Because of the highly personal nature of rape, many victims are too embarrassed to report the crime. They would rather forget the incident than discuss it. In some instances, the rapist may be a relative or family friend; therefore, the victim is reluctant to file a complaint. Of particular significance to law enforcement is the fact that some victims do not contact the police because they fear that the investigative, medical and prosecutorial procedures followed in a rape case are as psychologically traumatic as the crime itself.

The legal process that rape victims encounter is generally unfamiliar and, under the circumstances, can be emotionally threatening to victims. The police and prosecutorial interviews, in which the victim recounts and re-experiences the crime by relating details of the rape and answering intimate questions is followed by the courtroom trial where she can be subjected to an intimidating cross-examination by defense counsel. The legal process may take years to complete, constantly reminding the victim of the experience and making her relive it each time.

Victims may also be unwilling to report a sexual assault due to factors that she fears may discredit her and/or her claim. For example, these factors may include cases in which the victim engaged in heavy alcohol use or prescription or illegal drug abuse at the time of the assault; did not take sufficient care to guard against the offense or placed herself at risk (such as entering a stranger's automobile or apartment); has a "reputation" among peers and associates for sexual promiscuity; has an arrest record or was engaged in illegal activity at the time of the offense; was related to or closely acquainted with the assailant; or was intimidated or blackmailed by the assailant's position, power or social status. Not only do these and other factors sometimes inhibit victims from reporting sexual assaults, but they have been demonstrated to be factors that influence police and prosecutors' complaint filing and charging decisions.<sup>1</sup> The challenge to investigating officers in this latter regard is to impartially segregate such factors from the pertinent details of the sexual assault.

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Statutory law may also interfere with a victim's reporting of sexual assault and may influence prosecutorial charging decisions and judicial decision making. For example, some state laws do not recognize rape of a spouse, while others may require overt resistance to the assault by the victim in order to demonstrate force and lack of consent. Still other jurisdictions may require physical proof that penetration of the victim took place in order to prove rape. Nevertheless, many states have modified their laws on these and other points in consideration of the trauma of rape victims and to help prosecute offenders. For example, so-called "rape shield laws" have been introduced to limit the introduction of a victim's personal sex life during a rape trial. Many states permit the introduction of expert testimony concerning rape trauma, while others have eased some evidentiary requirements supporting a rape conviction.

Therefore, the police investigative inquiry should be more than a simple fact-finding mission surrounding the physical act of rape or molestation. At an appropriate point investigators need to acquaint the victim with the sometimes complicated legal and medical system that she will undoubtedly encounter. An important component of a successful investigation is the officer's understanding of the emotional condition of a rape victim. When interviewing a victim, the officer should not regard rape as solely a physical sexual assault but should consider the psychological effects rape has on its victims. Often the lasting scar of rape is an emotional one, leading to marital problems, mental illness—even suicide.

## LEGAL BASIS FOR SEXUAL ASSAULT

For purposes of the model policy and this discussion paper, the term sexual assault refers particularly to the crime of rape. However, the term "sexual assault" may incorporate a broader range of sex-related crimes. While this document focuses principally upon rape investigation, many of the procedures discussed here may also apply to the investigation of this broader range of sexual molestation or assault investigations.

### Legal Elements of Rape

According to common law, there are three elements to the crime of rape when the female is over the age of consent: carnal knowledge (penetration), forcible submission and lack of consent. Penetration, as an essential element of rape, means generally that the sexual organ of the male entered the sexual organ of the female. Court opinions have held that penetration, however slight, is sufficient to sustain a charge of rape. There need not be an entering of the vagina or rupturing of the hymen; entering of the vulva or labia is usually all that is required. During the interview, where required by law, an officer must clearly establish that penetration occurred with the penis. Penetration of a finger is not rape, although it is, of course, another form of assault.

In many states, the victim must have resisted the assault and her resistance must have been overcome by force. The amount of resistance that the victim is expected to have displayed depends on the specific circumstances of the case. The power and strength of the aggressor and the physical and mental ability of the victim to resist vary in each case. The amount of resistance expected in one case will not necessarily be expected in another situation. It can be expected that one woman would be paralyzed by fear and rendered mute and helpless by circumstances that would inspire another to fierce resistance. There must be real, not token or feigned, resistance on the part of the woman before there can be a foundation for a rape charge in many cases.

The kind of fear that would render resistance by a woman unnecessary to support a case of rape includes a fear of death or serious bodily harm, a fear so extreme as to preclude resistance, or a fear that would render her incapable of continuing to resist. On the other hand, consent prior to

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penetration may remove the criminal character of rape from the subsequent intercourse. Of course, it is problematic in some cases whether the consent was voluntary or coerced or whether resistance was possible or even prudent on the part of the victim. As one state ruled, "there is no definite standard fixed for the amount of resistance required in rape cases. Resistance is not necessary where it would endanger the complainant's safety or when she is overcome by superior strength or paralyzed with fear."<sup>22</sup> This ruling may reflect the position of some state courts although other states require more demonstrable evidence of resistance to rape. In any event, most would recognize that there is a wide difference between consent and submission by force or threat of force: consent may involve submission, but submission does not necessarily imply consent.

## **Corroboration**

In the absence of a statute requiring corroboration, common law generally holds that the unsupported testimony of the victim, if not contradictory or incredible, is sufficient to sustain a conviction of rape. Some states, in order to provide safeguards against unfounded accusations of rape, have laws that require corroborative evidence. Corroboration is supportive evidence that tends to prove that a crime was committed. It lends credence to the allegation that the crime occurred and need not be proved beyond doubt.

Police officers should pay close attention to corroborative evidence even if it is not required by statute. Corroboration of a rape offense can take physical forms such as semen stains on clothing, bruises, cuts and medical evidence of sexual intercourse. Collection of such evidence will be discussed further in this paper. Corroborating evidence can also be circumstantial, such as statements and observations of witnesses. Although in some jurisdictions rape can be proved by the sole testimony of the victim, it is not common. Medical and scientific evidence are of prime importance and will often directly influence the successful prosecution of a case.

## **PSYCHOLOGICAL REACTIONS OF RAPE VICTIMS**

### **Issues Related to the Victim's Self-concept**

Rape is a crime of physical violence, but the fact that it is more than this is apparent to those who have witnessed the reactions of rape victims. In many cases, these victims have sustained more psychological damage than physical injury.

Except for homicide, rape is the most serious violation of a person's body because it deprives the victim of both physical and emotional privacy and autonomy. When rape occurs, the victim's ego or sense of self as well as her body is penetrated and used without consent. She has lost the most basic human need and right: control of physical and emotional self.

Perhaps most damaging to her self-concept is the intrusion of her inner space. Psychologically, it does not matter which orifice has been violated. Symbolically, violation of any one represents to the victim a forced entry into her ego.

Police officers should be aware that the rape victim has been forced to experience an event that is emotionally asexual. The victim's psychological response to rape primarily reflects her reaction to violation of self. As such, it is extremely important that police officers view rape as an emotional as well as a physical assault. This is true regardless of the moral reputation of the victim. Even prostitutes, who regularly sell their bodies, will experience the psychological violation of self when raped.

### **Response to Interview**

The way in which rape victims respond to the interview situation is varied, depending on their

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physical condition, individual psychological makeup and emotional reaction to the sexual assault. The verbal styles of victims can range from quiet and guarded to talkative. Some victims find it extremely difficult to talk about the rape, perhaps because of the personal nature of the subject or because they are uncommunicative while under pressure. Others find relief in discussing the details of the rape. Often a victim will exhibit both patterns during the full course of an interview.

The two verbal patterns frequently displayed by rape victims during an interview are indicative of general emotional states that are commonly associated with the psychological effects of rape. The victim may respond to the crime in an expressed manner; that is, she verbally and physically exhibits fear, anger and anxiety. Or, the victim may respond in a controlled behavior pattern in which she hides her feelings and outwardly appears to be calm, composed or subdued.

Some rape victims show their feelings through physical manifestations such as crying, shaking, restlessness or tenseness—all of which are means of expression that accompany discussion of the crime, especially the more painful details. Some women may react by smiling or laughing. They do so to avoid their true feelings. Comments such as “really, nothing is wrong with me” combined with laughter generally serve as substitutes for the distressing memory of the attack.

Rape victims who are composed and able to calmly discuss the rape are usually controlling their true feelings. Presenting a strong controlled appearance during a personal crisis may be the way they cope with stress. In some cases, however, the victim’s state of calmness may result from physical exhaustion rather than a conscious effort to remain composed. Because many rapes occur at night, victims are frequently exhausted, not having slept since the previous night.

A silent reaction on the part of the victim may also be encountered. The officer needs to realize that silence does not necessarily mean that the victim is hiding facts. It may mean that she is having a difficult time organizing her thoughts and initiating conversation about the incident.

Another emotional reaction of rape victims is to express shock that the incident occurred. Statements such as “I can’t believe it happened,” “It doesn’t seem real” or “I just want to forget it” are common psychological responses to the trauma of rape.

Although there is no doubt that general emotional reactions to rape vary among individuals, there seems to be one common psychological denominator: fear. Law enforcement officers often observe that the victim has feared for her life during the rape, having viewed the rapist as a potential murderer. In most cases, the emotional reaction to this fear does not dissipate by the time of the interview.

Regardless of the victim’s emotional reaction and its observable manifestations, the interview itself creates additional anxiety. In many cases, the victim is totally ignorant of police procedures. Perhaps she has never before talked with a police officer, much less discussed the details of probably the most traumatic experience of her life. This produces a conflict within the victim: She knows that to make an investigation possible, the details of the rape must be discussed, but she feels apprehensive about describing the experience.

The character of the emotional stress that the victim experiences when she describes the rape is perhaps frequently misunderstood. To recount the details of the rape, the victim must mentally relive the incident. In most cases, the victim’s psychological defenses will interfere with her ability and desire to remember what occurred. The victim may not be able to recall certain parts of the attack, or she may consciously change certain facts or omit them. The officer must exercise great patience and understanding in eliciting from the victim the necessary details of an experience she does not want to relive. Officers need to realize that this “reliving” of the experience, if not handled cautiously, can compound the psychological trauma of the victim.

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## INVESTIGATIVE PROCEDURES

### Crime Scene Investigation

An officer's first duty at the scene of a rape is to aid the victim and obtain medical attention at once if required. If the attack is brutal and the victim is suffering from wounds, briefly question the victim about the attack if she is able to speak. Questions relating to what happened, where the attack took place, and a description of or information about the assailant are pertinent basic facts. This initial attempt to secure information should be made whenever possible while awaiting the arrival of an ambulance or during transport to medical facilities. In turn, the dispatcher should be contacted immediately with this information.

Usually upon arriving at a rape scene, officers will find the victim of a sexual assault under severe emotional stress ranging from hysteria to deep depression. She may be sobbing uncontrollably, excited to the point of incoherence or be in a state of shock. When encountering any of these situations, officers must comfort the victim, reassure her that she will be all right and that she has nothing more to fear. A victim in this mental state may best be comforted by another woman: a female officer, a family member or a friend. Such individuals should be summoned as quickly as possible if not objectionable to the victim.

The crime scene should be secured, and a search for physical evidence begun as soon as possible. Quite often, the victim will pull hair or tear the assailant's clothes or scratch his face and accumulate skin tissue or blood stains under her fingernails. The victim's clothing can also provide valuable information. This should be collected and forwarded to the crime laboratory with other trace evidence for analysis.

*Clothing.* When a rape occurs in the home, the victim should be requested by the complaint taker not to change her clothing, shower or touch anything in the area until officers arrive at the scene to give her instructions. Responding officers should assume custody of all the clothing worn at the time of the attack, so they may be examined for blood or seminal stains, hair fibers or other physical trace evidence that may lead to the identification, apprehension and conviction of a suspect. If the location of the crime makes the immediate recovery of the clothing impractical, the victim should be informed that an officer will collect her garments at the hospital for transfer to the crime laboratory. In these situations, arrangements should be made with a friend or a relative to bring a change of clothing for the victim to the hospital. The number of persons handling the victim's clothing must be restricted. Concerted efforts to protect the integrity of the specimens and to guard the chain of possession also require that evidence be properly marked, packaged and labeled to facilitate future identification.<sup>3</sup>

The clothing of a rape victim, especially the undergarments, as well as the clothes of a suspect, should be analyzed by crime laboratory technicians for semen stains, blood stains, hair and other physical traces, such as soil, grass stains and the like. Scientific analysis of the evidence may link a suspect to the crime, or it may indicate that a suspect is not the person who should be sought.

Recovered clothing should be carefully handled to protect the evidentiary value of the stains it may contain. Seminal traces and blood stains are highly brittle when dry and may be brushed off the clothing. Clothing should be covered with paper before folding, and each item individually placed in an evidence bag.

*Semen.* Seminal traces may be located by ultraviolet radiation because of their fluorescent qualities. Semen is highly proteinaceous serum normally containing a great number of spermatozoa. These traces are usually found on underclothing of the victim and/or the suspect, and may also be located on bedding, mattresses, towels, automobile cushions and similar types of materials found at or near the crime scene or in the possession of a suspect. Ultraviolet light and/or an acid phosphatase

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color test are helpful in identifying semen on these and other surfaces. Vaginal secretions and some other material will react to the latter test but not at the same speed as semen. A positive test requires that the material be subjected to microscopic examination for confirmation.

Blood stains may also be found in similar locations. Both semen and blood samples can be subjected to DNA analysis.

*Hair.* It is fairly common to find a reciprocal transfer of evidence in crimes involving bodily contact. As such, it is not unusual to find hair of the offender transferred to the body or clothing of the victim and, in turn, to discover some of the victim's hair on the suspect.

Recovered hair is usually subjected to microanalysis at the crime laboratory. The results of this examination can generally narrow the search for a suspect. A single strand of hair may identify the race, sex, approximate age and the true color of the hair of its host. The analysis can also determine the portion of the body that it is from scalp, chest, arm or pubic region.

Although the crime laboratory examination leads to general identification characteristics of a suspect, a positive finding may suggest the implication of an individual while a negative finding may disprove an erroneous theory. By the same token, hair found on a suspect's clothes can be examined and identified as being similar to that of the victim.

## **Medical Examination**

Rape victim should receive medical attention and undergo an examination as soon as possible after the incident. This examination and treatment is not only needed for therapeutic and prophylactic reasons, but is also necessary to develop evidence showing penetration and the possibility of rape.

The victim has the right to be examined by a physician of her choice. However, for practical reasons, this should be generally discouraged. A private practitioner or a hospital staff physician is often reluctant to be specific in officially reporting findings or to take time from a busy work schedule to testify in court. Gentle persuasion and tact will usually influence an unwilling victim or her parents to allow a physician from a public institution to conduct the examination. A written statement or report should be obtained from the attending physician after the victim has been examined. This record is extremely important at the trial to sustain the victim's allegation that she was raped.

The medical examination conducted by a licensed physician is necessary to establish proof of penetration. It usually consists of a visual examination of the vaginal area to determine if there is evidence of tissue damage (lacerations, abrasions, contusions) or other indication of physical trauma that are logically connected with the assault. Smears should be obtained from the vaginal passage to determine the presence or the absence of sperm. However, the presence of sperm merely corroborates that the victim had sexual intercourse, not necessarily that she had been raped.

If the victim dies before the physical examination, she should not be examined by the attending physician. Instead, the body should be examined by the posting physician or the medical examiner. This procedure is followed to reduce the number of persons examining the body. Also, an examination prior to the posting process may destroy or remove important evidence.

The medical examination of a deceased victim should include other body cavities such as the anus, mouth and ears. Scrapings should also be taken from under the fingernails. A thorough examination is necessary to determine the kind of sexual assault suffered by the victim and to obtain specimens of blood that could possibly be the assailant's. In some instances, assailants insert foreign objects into body cavities before or after the death of the victim. In instances of death, officers should provide the medical examiner with all information surrounding the assault and death of the victim.



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## The Interview

While the victim interview is one of the key components of a rape investigation, it can also be one of the more difficult functions for a criminal investigator. The difficult and, in many ways, specialized nature of these interviews has been a major reason for the introduction and use of rape crisis specialists to assist in these cases. Most agencies do not have such specialized personnel resources. But many agencies have found it helpful to utilize female officers individually or in conjunction with a male officer for such interviews. Female officers, even without specialized training, are generally effective in mitigating some of the anxiety and apprehension that rape victims have concerning the interview process and related investigatory activities. Significant additional benefits can be realized, both for the victim and the criminal investigation, where the same female officer can be assigned to assist the victim throughout the investigation and prosecution of the case.

Most rape investigations should incorporate a preliminary and subsequent in-depth interview with the victim. As outlined in the model policy, the initial interview conducted at the crime scene should be limited to gathering basic facts about the crime sufficient to identify the victim and to describe and locate the offender on a timely basis. The ability of the responding officer or investigator to gather this information will depend greatly upon the emotional and physical condition of the victim and the professional and interpersonal skills of the interviewer. However, it is ill-advised to attempt to fully explore the events and circumstances surrounding the crime at the scene of the incident. The emotional condition of rape victims generally precludes their ability to clearly focus and to articulate accurate and complete details of the incident. Even in cases where a victim appears to be under control, officers should retain some skepticism about the clarity and factual basis of statements and should attempt to validate such information at a later time during an in-depth interview session.

By gathering complete information during the in-depth interview, officers avoid the need to repeatedly question the victim at later dates. Repeated interviews require the victim to relive the experience again and again. A structured interview that will cover all pertinent areas is one of the better means of avoiding such repetitive questioning.

The investigative goal of the police officer in interviewing a rape victim is to determine if and how the crime occurred. It is from the statements made by the victim to the officer that the essential elements of the offense and the direction of the investigation are established. The prosecutor and eventually the court must be given a well-balanced account of the offense describing the actions of the offender, any accomplices and the victim. It is the investigator's responsibility to provide the court with the explanation and clarification it seeks. Part of the story may be obtained from the analysis of physical evidence, but the eyewitness account of the victim or other persons fill in the missing portions of the picture presented to the court.

Because the interview process may be considered as a routine operation, the police officer may, if not careful, project a feeling of lack of concern for the victim as a person. The danger is that the victim may be left with the impression that she is being treated as an object of physical evidence rather than as a human being. This eventuality must be avoided for its own sake as well as for the good of the investigation. It is by the personal and sensitive communication of the interview that the victim's cooperation is gained and her emotional well-being maintained. If the officer treats the victim impersonally, her confidence will be shattered, the interview will be unsuccessful and the victim may suffer further emotional stress. The following points should be kept in mind when conducting the in-depth interview.

1. **Officer Attitude.** When interviewing a rape victim, the officer must realize that, from the victim's viewpoint, what has occurred is a violent and perverted invasion of her "self." Further, the officer must be constantly aware of personal sexual attitudes and prejudices

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as well as the subtle and not-so-subtle ways in which they emerge. Special care should be exercised so that the rape victim is not placed in the position of perceiving herself as being guilty because of the personal nature of the crime and the social stigma attached to it. Professional bearing throughout the interview will help the officer obtain an accurate report of the crime without causing the victim to experience unnecessary anxiety.

The interviewer's approach should be informal and natural in order to put the victim at ease. Words should be used that are appropriate to the victim's age, intelligence and social class. Slang or colloquialisms may be appropriate in alluding to matters indirectly related to the offense, but medical terms should be used to refer to the various sexual organs and parts of the body (penis, vagina, vulva, etc.). In some instances, an officer may have to define terms to the victim before the interview. This adds a degree of dignity to the confidential relationship one should establish, indicates respect for the private parts of the body and helps allay doubt or misgiving about the officer's sincerity and interest.

- 2. *Physical Setting.*** It is unreasonable to expect a rape victim to respond to detailed questioning while she is uncomfortable or in physical pain. The victim may have been beaten as well as raped. If the rape has occurred outdoors, the victim and her clothing will probably be soiled. Sometimes the victim has been urinated on or has been forced to commit oral sodomy. Under conditions such as these, the preliminary interview should be brief, and the in-depth follow-up interview should be conducted after the victim has been medically examined and treated, and her personal needs such as washing and changing clothes have been met.

Officers often interview a rape victim at the hospital or other medical facility where the victim is being treated. Most hospitals meet the basic requirements of appropriate physical setting for an interview. The physical surroundings of most hospitals provide desired privacy and a professional care environment that can restore confidence in the victim.

Outside the hospital, the interview should take place in a comfortable setting where there is privacy and freedom from distraction. A crowded office or similar location where the interview is subject to interruption is inappropriate. The reluctance of a rape victim to discuss intimate details of the crime will generally increase if there are other people present. This may include persons who would be close to the victim under otherwise normal conditions, such as a husband or boyfriend.

- 3. *Opening Remarks.*** Opening remarks represent a critical point at which an officer must gain the victim's confidence and let her know that a major part of the officer's function is to help and to protect her. The officer should make clear his/her sympathy for and interest in the victim. By doing this, the officer contributes to the immediate and long-term emotional health of the victim and lays the foundation of mutual cooperation and respect upon which the effective interview is built.
- 4. *Ventilation Period.*** Following the opening remarks, the officer should allow the victim to direct the conversation into any area of concern to her. This "ventilation" period gives the victim an opportunity to relieve emotional tension. During this time, the officer should listen carefully to the victim, provide answers to questions as appropriate and reassurance where necessary.
- 5. *Investigative Questioning.*** After a ventilation period, the victim should be allowed to describe what occurred in her own words and without interruption. As the victim provides details about the rape, she will also relate a great deal about herself. Her mood and

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general reaction, her choice of words and her comments on unrelated matters can be useful in evaluating the facts of the case. It is important in such an interview that the police officer be humane, sympathetic and patient. He/she should also be alert to inconsistencies in the victim's statement. If the victim's story differs from the originally reported facts, the officer should point out the discrepancies and ask her to explain them in greater detail. The officer should phrase questions in simple language, making sure that he is understood. It is best if the questions are presented in a manner that encourages conversation rather than implies interrogation.

Often a rape victim will omit embarrassing details from her description of the crime. Officers should expect a certain amount of reluctance on the part of the victim to describe unpleasant facts. The officer should explain that certain information must be discussed to satisfy the legal aspects of rape and pursue the investigation. He may add that the same questions will be asked in court if the case results in a trial.

In a majority of cases, the attack is premeditated, and in about half the cases, the rapist has known or has seen the victim before the assault. Because of this, certain types of questions should be asked. The victim should be asked if, and how long, she has been acquainted with the offender. The circumstances of their meeting and the extent of any previous relationship, including any prior sexual relations, should be explored. Although previous sexual acts with the accused will not absolve the offender at this point in the investigation, knowledge of them helps to establish the validity of the complaint. Along these same lines, the officer should determine if the victim has ever made a charge of this nature in the past; review of previous records, if any, will provide insight on this point. Where it is determined that the victim had known the rapist prior to the incident, he should be identified and interviewed. If the offender is unknown, the officer must get a detailed description of him including clothing, speech mannerisms and related identifying characteristics. The officer should determine whether the offender revealed any personal facts such as area of residence or places he frequented. Questions should be asked related to the presence of any accomplices, use of weapons, and make and model of any vehicle involved, among other pertinent factors.

6. **Concluding the Interview.** As a result of having been raped, some victims suffer long-term emotional problems. Because of this, it is appropriate for the officer conducting the interview to determine whether the victim has sought assistance for any such problems. It is generally advisable to inform the victim that emotional reactions to rape are common and that counseling is advisable. Victims who are not familiar with available community resources to assist in these matters should be provided with information on referral agencies.

## **A Crime or A False Complaint?**

Law enforcement investigators must proceed on the assumption that a reported rape is bona fide, but one must be aware that on infrequent occasions a false accusation may be encountered. Cases arise in which false rape charges are lodged against a boy friend, casual acquaintance or even a stranger. In some of these cases, the accuser may have consented to an act of intercourse with the person she is accusing or with someone else. Then, in an attempt to conceal her indiscretion or prompted by the fear of pregnancy, guilt, revenge or a similar motive, she charges that she has been raped. On less frequent occasions, one may encounter a false accusation directed against an innocent person by one who is mentally ill.

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Separating truth from falsehood in such uncommon situations is often a difficult task. In doing so, officers should carefully consider the appearance and behavior of the alleged victim. Generally, the actions and the appearance of a legitimate rape victim leave little doubt that a crime has been committed. Under such circumstances, the victim is highly agitated, emotionally distraught, often in a state of hysteria and may have sustained injuries, cuts, bruises or wounds. The victim's clothing is often ripped or torn off as evidence that it was forcibly removed and, if the rape occurred outdoors, the victim is generally thrown to the ground, and her outer garments stained or soiled.

Questions may reasonably be raised concerning the validity of rape charges in which none or only a few of the above manifestations exist. During the investigative interview, officers may also note the attitude and unusual hesitancy or anxiety of the victim to a suggestion that she undergo a medical examination. Similar doubt is warranted in those instances in which there is a substantial delay between the alleged offense and report of the crime. Victims usually report rapes as quickly as possible. However, one should not discredit a complaint registered a number of hours or even a day or two later without a serious investigation. Some victims, through a misdirected sense of shame or fear, or because of emotional trauma or other reasons, may delay notifying the police. Officers should question in a tactful yet thorough manner the reasons for any extended delay between the report and alleged attack.

## *Endnotes*

1. Kerstetter, Wayne A., "Gateway to Justice: Police and Prosecutor Response to Sexual Assaults Against Women," *Criminal Law Journal of and Criminology*, Summer 1990
2. *People v. McCann*, 76 Ill. App. 3rd 184, 186, 394 N.E.2d 1055, 1056 (2d Dist. 1979)
3. See, for example, "Model Policy on Evidence Control," IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, VA 1992

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## Model Policy: Investigating Child Abuse

*Effective Date:* October 1, 1993

*Reference*

*Special Instructions*

*Distribution*

*Reevaluation Date:* September 30, 1994

*No. Pages* 3

### **PURPOSE**

The purpose of this policy is to provide officers with guidelines for recognizing instances and accepting reports of child abuse and neglect and coordinating the investigation of such cases with appropriate child protective service agencies, and prosecuting attorney's offices.

### **POLICY**

Child abuse and neglect has been traditionally regarded as the principle responsibility of child protective services and social welfare agencies. However, research has demonstrated that a large percentage of repeat offenses, many of which involve serious injury or death, involve known offenders. It is the position and policy of this law enforcement agency that effective response to child maltreatment requires cooperative and coordinated efforts between social welfare and law enforcement agencies, and further, that under certain circumstances, arrest and criminal prosecution is an appropriate and preferred approach to the problem from a preventive standpoint. Therefore, all reports of child abuse and neglect shall be thoroughly investigated in accordance with this policy and appropriate measures taken consistent with state law that will best protect the interests of the child.

### **DEFINITION**

Officers should be aware of state statutes that define instances of child abuse, neglect and abandonment. However, for purposes of this policy, operational definitions are as follows:

*Child Abuse:* Any situation in which parents, guardians or other responsible adults have inflicted physical assaults upon a child, to include sexual abuse; when the child has been exploited for sexual purposes such as through prostitution or pornography; has been subjected to reckless endangerment that has or would likely cause physical harm; or, has been subjected to emotional assault such as close, sustained confinement.

*Child Neglect:* Any situation in which parents, guardians, or other responsible adults have failed to provide for the essential physical needs of the child to include food, clothing and shelter and that caused or would likely cause serious physical injury, sickness or disability; failure to provide essential medical care necessary to treat or prevent serious physical injury, illness or emotional disability; or failure to provide needed emotional nurturing and stimulation that has or could likely

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cause emotional injury over time.

*Abandonment:* Leaving a child alone or in the care of another under circumstances that demonstrate an intentional abdication of parental responsibility.

## PROCEDURES

### Reporting/Initial Complaint Response

State law requires that instances or suspected instances of child abuse or neglect be reported by public and private officials such as physicians, dentists, school employees, clergymen and others. Officers shall record and respond to all reports of child abuse, neglect and abandonment irrespective of the source or method of reporting.

1. A preliminary interview will be conducted with the reporting individual, when known, to determine the basis for the report, to include determination of such factors as:
  - a. the physical condition of the child;
  - b. a description of the abusive or neglectful behavior;
  - c. evidence of parental disabilities such as alcoholism, drug abuse, mental illness or other factors that demonstrate or suggest their inability to care for the child;
  - d. description of suspicious injuries or conditions;
  - e. the nature of any statements made by the child concerning parental maltreatment; and
  - f. any evidence of parental indifference or inattention to the child's physical or emotional needs.
2. When the source of the report cannot be identified and/or time is not of the essence, a report of the complaint shall be made to the state child protective authority as prescribed by law. Where reasonable suspicion exists for further investigation, a coordinated investigative effort should be undertaken with the child protection authority.
3. Immediate action shall be taken by officers when
  - a. the complaint warrants arrest or criminal prosecution;
  - b. child protective personnel are not available and time is of the essence;
  - c. the child is in danger and child protective personnel cannot enter the home;
  - d. the suspected perpetrator may flee;
  - e. police presence is required to maintain order or to protect the safety of child protection officers; or
  - f. when the child must be taken into protective custody against parental wishes.
4. The preferred means of removing a child from the home is by court order. However, in cases of abandonment, severe abuse or neglect where the child is in imminent danger of death or serious bodily harm and time is of the essence, an officer shall, in compliance with state law, remove the child from the home for purposes of protective custody. The assistance of child welfare authority officers should be sought if available in a timely manner. Parental permission should also be sought but is not required in order to remove the child under emergency circumstances.
5. In cases where protective custody is warranted and time permits, the state child protection agency shall be notified and a court order for protective custody shall be sought prior to the child's removal.

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## Background Investigation

Investigating complaints of child abuse generally requires contact with several sources of information depending upon the nature of the complaint and the scope of abuse. In all but emergency situations, the following sources of information should normally be contacted prior to interviewing the family and/or the child.

1. An inquiry should be made to determine whether a court protective order is in force with regard to the child or other members of the family. A criminal records check should also be performed on the suspect.
2. Medical personnel, including family practitioners, emergency room staff and medical examiners, often acquire information that confirms or suggests abuse. Certain types of injuries are particularly characteristic of physical abuse and are most incriminating when they do not correlate with parental explanations of how they occurred. They include
  - a. "pattern" injuries that may be linked to specific objects used in an attack such as hot irons, coat hangers, fingertip marks caused by tight gripping; straight, curved or curvilinear or jagged lesions indicating whipping; bite marks; and scald or peculiar burn marks;
  - b. injuries to specific body parts such as the genitals, buttocks or rectum as well as trauma to the torso, upper arms and thighs in the absence of other common injuries commonly suffered by children in play accidents such as skinned knees, elbows, and forehead;
  - c. signs of old injuries to various parts of the body in different stages of healing, particularly those that are not common to childhood;
  - d. bone fractures of small children and related injuries that are inconsistent with the child's level of maturity and risk of injury, such as spiral fractures (suggesting vigorous shaking), fractures to the rear and upper skull (suggesting blows to the head), subdural hematomas without scalp contusions (suggesting violent shaking with resultant head whiplash), and fractures of long bones and joints that are suggestive of violent pulling, twisting or jerking of the extremities;
  - e. a history, pattern or extent of injury that does not correlate with the alleged cause of death or means of injury;
  - f. inordinate delay in seeking medical attention, evidence of administration of home remedies for relatively serious injuries, history of prior visits to different emergency rooms, frequent changes of physicians and prior diagnosis of "failure to thrive", and
  - g. at autopsy, the presence of old injuries or other internal injuries that were not detectable through external examination.
2. Social welfare officers may also provide considerable insight into situations of suspected child abuse as many abusive families have had prior contact with local support agencies. These agencies may provide information on family background, employment, economic and domestic stability and previous contacts with child protective service agencies.
3. School teachers may also provide some insight into cases of suspected child abuse through records of the child's attendance, grades, demeanor, socialization, motivation and perceived emotional stability. Several behavioral indicators are suggestive of child abuse, including
  - a. recurrent injuries or complaints of parental physical mistreatment;
  - b. marked changes in the child's behavior or level of achievement;
  - c. strong antagonism toward authority;

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- d. exaggerated reactions to being touched;
  - e. withdrawal from peers, or assaultive or confrontational behavior;
  - f. delinquent acts, running away from home or truancy; and
  - g. refusal to dress for physical education or dressing inappropriately.
4. The foregoing indicators may also be used when interviewing neighbors or any other individuals who may have personal knowledge of the family situation.

## **Family Interview**

Based on information generated in the background investigation, reasonable suspicion may exist to conduct an interview with the family and the child.

1. If there is reason to believe that charges may be filed against the parents or others, interviews should be conducted at the law enforcement agency and prior contact, when appropriate, should have been made with the prosecutor's office.
2. A child protective service officer should participate with the investigator in the interview.
3. The interview should be conducted in a non-accusatory, informal, fact-finding manner, and questions should be presented in an open-ended format to allow parents or others complete latitude in responding.
4. In determining whether to accept a parent's explanation, officers should consider the following questions. Findings consistent with those in parentheses may indicate a greater likelihood of abuse.
  - a. Is it reasonable to believe that the child's injuries were self-inflicted or accidental given the child's maturity, manual dexterity and ability to walk or stand? (No)
  - b. Was the parent's story consistent with other evidence? (No)
  - c. Do parents claim ignorance of critical details of the incident? (Yes)
  - d. Does the home appear to be clean and well maintained? (No)
  - e. Does the family live in a socially isolated environment without the support of neighbors, friends or family? (Yes)
  - f. Do the parents appear to support one another in a positive home environment? (No)
  - g. Does there appear to be frequent or ongoing crises in the family? (Yes)
  - h. Does the child in question appear to be regarded by the parent(s) in a negative light? (Yes)
5. Some parents may explain or excuse the incident as a legitimate attempt to discipline the child. However, in order to be reasonable and acceptable, the discipline should
  - a. be appropriate to the misbehavior involved but never involve serious bodily injury;
  - b. be consistent with the child's ability to understand its relevance to acts in question; and
  - c. be administered with prudence and caution rather than recklessly, brutally or without sufficient regard for the child's power of endurance.

## **Interviewing Children**

Officers conducting interviews with children in suspected child abuse cases should be familiar with and follow this agency's policy on interviewing children. In addition, they should be familiar with the following special issues that arise when conducting these interviews in cases of suspected child abuse:

1. Children should be interviewed separately from their parents.
2. Repeated interviews with the child should be avoided whenever possible. Joint interviews with the child protective worker or prosecutor, for example, may help minimize the trauma of these sessions.



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3. Avoid questions that can be answered with a “yes” or “no” response. Use open-ended questions whenever possible.
4. Anatomically correct dolls should be used whenever available to trained investigators.
5. Sit with the child rather than across a table. Conduct the interview in a casual and non-threatening manner.
6. Do not lead the child or suggest answers, probe or pressure the child for answers, or express concern, shock or disbelief in response to answers.
7. Reassure the child that he/she is not to blame and is not in trouble for what happened or for being asked questions.

## **Physical Evidence**

Collecting physical evidence to document abuse is very important for prosecuting these cases. In this regard, officers should be aware of the following:

1. Color photographs of injuries should be taken and preserved for evidentiary purposes. They may be taken by medical personnel or by a same-sex officer of this agency. All injuries should be described in writing and diagrammed.
2. X-rays should be taken if appropriate, and any that have been taken should be collected and preserved.
3. Photographs of home conditions bearing on the child’s maltreatment should be taken.
4. Any instruments that were used in the physical attack should be identified and preserved as well as any clothing that bears evidence such as blood or semen stains.
5. Any other items that have bearing on the abuse or neglect, such as guns, knives, drugs, poisons or related items in possession of the suspected perpetrator, should be identified and collected.

## **Training**

This agency’s training function shall be responsible for ensuring that officers and investigators receive necessary training to effectively implement this policy.

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Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors.

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## IACP National Law Enforcement Policy Center Investigating Child Abuse Concepts and Issues Paper February 1995

### INTRODUCTION

#### A. Purpose of Document

This paper is designed to accompany the Model Policy on Investigating Child Abuse established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements of the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

#### B. Background

Nearly three million cases of child abuse and neglect were reported in 1993 according to the National Committee on the Prevention of Child Abuse (NCPA), a 23-percent increase in only five years. Of these cases, about 1,300 resulted in death. However, these reported cases represent only a portion of all actual instances of child abuse. In addition, the escalation of drug abuse in the United States has added another tragic dimension to the child abuse problem.

It has long been recognized that there is a high incidence of substance abuse among abusing parents and other adults. Historically, substance abuse has been involved in between 30 and 40 percent of all child abuse cases. However, now a greater number of more violent and drug-dependent addicts are contributing to child abuse statistics. Child abuse, in all its varied forms, is a symptom of a pathologic social environment in general and, in particular, is a signal of a family in distress. However, the greater availability of highly addictive and generally more affordable drugs, such as "crack" cocaine, has an added impact on families with children who are already at risk, as well as creating additional cases of drug dependency and family crisis. The debilitating and all-consuming nature of these drugs directly fuels the environment which fosters child abuse and neglect.

One of the traditional problems in dealing effectively with child abuse has been the inability of the two lead investigative authorities—social welfare and law enforcement agencies—to work together in a strategic manner. These agencies often work along parallel lines with one another, each addressing its respective component of the same individual or family problem. Obvious reasons for this are based on differences in philosophy and training of personnel as well as the administrative and statutory demands under which they must work. While the duties and responsibilities of these two components cannot and should not join, there are points at which they do intersect.

The model policy on child abuse investigations takes the position that often child abuse can best be addressed by law enforcement if it is viewed from a preventive standpoint. Once a situation of abuse or neglect has been reported to law enforcement authorities, it has often reached a point where permanent or irreparable damage has been enacted upon the child. Law enforcement and social welfare agencies share a responsibility in seeing that children do not become the targets of adult violence and parental neglect. Routine sharing of information by these agencies in a strategic manner, where permissible and appropriate, can often prevent child abuse or neglect from taking place. The point at which social welfare problems start to become law enforcement matters often represents a critical juncture for the welfare of children involved. The key is often to determine the appropriate

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point for law enforcement intervention. This is generally best performed by pooling the interests and capabilities of welfare officers, law enforcement prosecutors and relevant others in a team approach to meet the needs of specific cases.

## **The Nature of Child Abuse**

Child abuse is a generic term that incorporates a variety of purposeful acts resulting in child injuries. Probably the most dramatic of these and the most often reported to the police is physical child abuse that results in death or serious injury. However, child abuse is far more pervasive and often more subtle.

The scope of child abuse is incorporated in the definitions offered by the model policy. These are offered as operational definitions for the model policy and this discussion paper, recognizing that these definitions are often subject to state law. From these definitions, one can see that abuse and neglect are multifaceted.

For example, physical battering may be the result of a parent's momentary fit of anger, or it may be part of an ongoing abusive situation. In the case of sexual abuse situations within families, offenses are more frequently calculated and may form a long-term pattern of sexual abuse. Physical neglect of a child's needs for nourishment or medical care, reckless disregard for his safety, or failure to provide food or medical care are all elements of the child abuse and neglect problem.

The physical effects of child abuse are only part of a child's injuries. The psychological and emotional impact of abuse frequently have long-term consequences for the child. Many children blame themselves for the abuse, adopting the feeling that they are bad and deserve the abusive treatment. Others may adopt the long-lasting perception that violence is a natural, even acceptable, component of family life and interpersonal relationships. As a consequence, many abused children carry to the next generation the same type of treatment that they endured. Other children translate physical abuse into later criminal violence. The fact that so many violent offenders have histories of child abuse and neglect is testimony to the fact that child abuse is often an inter-generational phenomenon. As such, it is important, not only for the current victim, but for future generations to identify child abuse whenever possible and to bring appropriate enforcement and treatment to bear on the problem.

## **Responsibility for Reporting**

All states have laws that mandate reporting of suspected cases of child abuse. About half the states require that such reports be filed with child protective agencies, and the remainder include police departments as appropriate reporting agencies. In all but a few states, criminal penalties are provided for individuals who suspect but do not report such cases. It is not necessary that individuals have conclusive evidence that a child abuse situation exists, only that there is reasonable cause to suspect that such an act took place or situation exists.

Even with these laws, there is substantial under-reporting of child abuse by medical, educational and social service agency personnel as well as law enforcement officers, all of whom are in particularly opportune positions to identify such cases. In addition to having negative consequences for the victim, failure to report carries potential civil liabilities for damages resulting from the abuse. Civil liability extends to police officers who fail to take appropriate action.

Most state statutes provide for immunity from criminal prosecution for individuals who act in good faith in reporting child abuse cases. Should a complaint be unfounded, however, there is no guarantee that a civil suit will not be lodged. Nevertheless, it is exceedingly difficult for a parent, guardian or similarly responsible individual to prevail in such a case if the complainant acted in good faith and with reasonable care.

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Police officers should be aware that there is also a problem associated with improper reporting of suspected child abuse cases. Individuals may file such complaints with police departments in good faith, but with little knowledge of child abuse or ability to interpret available information. Such situations can create some difficulty for police departments as the investigating agency and for parents who may be inappropriately drawn into an investigation of their conduct, generally alleged to have taken place in the confines of their own home.

Inappropriate reporting is an issue that should be recognized by police officers. However, until an investigation can be conducted, all complaints of child abuse should be taken seriously, whether eyewitness or secondhand accounts, or whether filed personally or anonymously by telephone. Police officers must be in a position to make knowledgeable judgments about suspected child abuse and neglect cases based on an awareness of the signs and symptoms of such crimes.

In short, there is a great deal of both hesitancy and misunderstanding in reporting and investigating alleged cases of child abuse. Many individuals are confused about their responsibilities for reporting, a factor often compounded by a desire to give parents the benefit of the doubt or, the belief that parents or similar persons should be allowed to discipline and otherwise raise their children as they see fit. Others may be more zealous in their desire to report such crimes or may even make such reports out of spite or malice.

## II. PROCEDURES

### A. Investigative Resources

The point at which an investigation of child abuse begins depends largely upon the reporting party or agency and the degree to which a case of abuse, neglect or abandonment can be legally established. For example, abused children who require immediate medical attention suggest a point of investigative departure through interviews with medical staff. In most cases, investigation of child abuse will require contact with one or more sources of information depending upon the nature of the complaint and the perceived scope of the abuse. Basic types of questions are presented in the model policy for conducting interviews with individuals who report child abuse. Such inquiries are generally warranted prior to direct contact with the family and the child.

Other basic types of information available through the police department should also be collected early in the investigation. This includes such information as the existence of criminal records or charges against any members of the family or court protection orders that may have been filed against any family members. Other general sources of investigative information can be gathered from a variety of resources in the community. These are reviewed in the following sections.

### Medical Examiners and Emergency Room Personnel

In the worst possible scenario, the death of a child, a medical examiner may be the primary source of contact for investigative purposes. Police departments in general and investigative personnel in particular must develop a good working relationship with the medical examiner's office. In these and related circumstances, a collaborative relationship generally proves to be far more productive than either the police or medical personnel working independently. The investigative officer should be present at the autopsy or at the initial examination of the body and should brief the examining physician on the circumstances of the alleged accident if information is available. This also holds true for emergency room physicians who treat a child following a presumed serious but nonfatal accident. In both cases, physical examinations may reveal certain types of injuries that confirm or suggest abuse. These include the following:

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1. **External Signs.** Some injuries have identifiable patterns that can be linked to specific objects used in an attack. For example, one may be able to identify bite or scratch marks; coat hanger or hot iron impressions, fingertip marks caused by tight gripping; straight, curved, curvilinear or jagged lesions that may indicate whipping by specifically shaped objects; and scald or peculiar burn marks.

The location of some injuries is also indicative of abuse. These include injuries to the genitals, buttocks and rectal areas, as well as trauma to the torso, upper arms and thighs. These and related injuries are particularly incriminating if they are not accompanied by other relatively common injuries suffered by children, such as skinned knees and bruises to the elbows, shins and forehead, or by other injuries that would have probably been received as part of the accident. For example, most often children who are involved in accidents also display these signs of typical childhood play. On the other hand, children who are abused, may show few or none of these signs and, except for the abusive injuries, may even appear well groomed and dressed.

There may also be signs of old injuries to various parts of the body that are in different stages of healing. Some children seem to be accident-prone and may accumulate a variety of injuries over time. However, injuries that are not common to childhood and that appear to have been received over a period of time can be signs of a steadily escalating cycle of abuse.

In all cases of suspected abuse, injuries should be photographed in color in order to assist in establishing the extent of damage and the age of injuries at later trial presentation.

2. **Internal Signs.** As noted, some injuries are not characteristic of childhood activities and common accidents. For example, it is very unlikely that pre-toddlers would be able to break a major bone such as a thigh or upper arm bone, nor likely to break other smaller bones given the child's lack of mobility and the inherent difficulty in breaking the bones of young children. Some fractures will be apparent externally. Others, particularly older fractures, require radiological examination in order to be identified. The nature of some fractures provide almost indisputable evidence of abuse. These include spiral fractures, indicating vigorous handling, shaking or twisting; and fractures to the rear and upper part-occipital and varietal bones respectively-of the skull, suggesting that the child was swung by the feet into a solid object or suffered a blow to the head. Subdural hematomas, without evidence of contusions on the scalp, or skull fractures may suggest violent shaking of an infant that caused whiplash of the child's head and subsequent internal injuries.

Like the emergency room physician, the medical examiner may be confronted by a child where the history, pattern or extent of injuries does not correlate with the alleged cause of death. Also typical of the abused child is an inordinate parental delay in seeking medical attention, evidence of administration of home remedies for a serious injury, a history of prior visits to different emergency rooms, frequent changes of physicians, any prior diagnosis of "failure to thrive," even multiple emergency room visits with a well child. If any of these situations is encountered, one should consider child abuse as likely.

At the autopsy, there are procedures that should be performed to establish the full scope of current and past injuries to the child, as well as any possible contributing causes of death. A principal purpose of the medical-legal autopsy is to establish a cause of death. However, this is not the only purpose. As one noted pathologist states: "If the purpose of the examination did not extend beyond this (determining the immediate cause of death), much evidence concerning the nature of the perpetrator, the degree of injury, the intervals

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between episodes of injury, the magnitude of force directed at unexamined portions of the body, and perhaps the presence or absence of underlying natural disease or old trauma which may have contributed to the death, may not be revealed.”<sup>1</sup> Some medical examiners may feel comfortable with simply establishing a cause of death. However, at trial, they probably would not be able to positively exclude other possible causes of death because of the limited scope of the examination. This factor could compromise the prosecutorial effort. By the same token, the lack of any external trauma does not necessarily mean that the child did not die from abuse. Many fatal internal injuries are not detectable through external examination alone. The importance, therefore, of a detailed and thoroughly documented autopsy cannot be over-emphasized in cases of suspected child abuse. Photographic evidence coupled with detailed measurements and laboratory data are essential for both investigation and prosecution.

Based on the judgment of a physician, the diagnosis of one or more of these suspicious injuries may be sufficient evidence to conclude that the child suffered from abuse. These injuries are particularly incriminating when they do not correlate with parental explanations of how they were incurred. This underscores the importance of a close and ongoing communication between police investigating officers and physicians. Examining physicians must be kept informed about the course of the investigation and the types of questions that should be answered as the result of their examination.

## **Social Welfare Personnel**

Child abuse is evident at all socioeconomic levels, and police officers should not assume that a seemingly affluent or socially acceptable family is immune to these crimes. In contemporary American society, however, a significant percentage of child abuse is found in homes where there is considerable apparent domestic and economic stress.

The most common victim of abuse is under three years of age—a period of development characterized by considerable crying, toilet training petty disobedience and general selfish demands. For some, these demands can be difficult to handle, especially when coupled with other personal difficulties such as loss of or intermittent employment, substance abuse and emotional problems. Many offenders are those who have little tolerance for these and other stressors. These include teenage parents, baby sitters, boyfriends, or nonbiological parents who may also display other coping problems. As such, those who come to the attention of police officers for child abuse and neglect are often those who have received assistance from other local support agencies such as social welfare and child protective agencies.

These public and private agencies may provide police with a wealth of valuable information on such matters as family background, employment, economic and domestic stability, and related matters that serve to shed light on the dynamics of the family environment. If the family is from another jurisdiction, these agencies will also often have additional materials that will help to establish whether they have been involved previously in child abuse or neglect.

While child abuse and child neglect are crimes, they are also the center of a web of interrelated social problems. Law enforcement is one solution to child abuse and neglect, but it is not always the only solution. Job placement; educational and vocational assistance; mental health, family, and substance abuse counseling, housing assistance; and related aid may be of equal or greater value. Unfortunately, in many communities these agencies often work independently.

To overcome this problem and take greater advantage of these resources, many police departments rely on an interdisciplinary team composed of representatives from community service agencies

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and the police department. These teams work cooperatively on common cases that cut across agency responsibilities. An attempt is made in each case to develop a solution or strategy that meets the responsibilities of specific agencies while serving the best interests of the family and the child.

When criminal charges are warranted, they should be filed. But, rather than file charges in some instances, it may be deemed more useful to employ the aid of other community service agencies to work with the family in an effort to stop the abuse. As long as there is no threat to the child, arrest and prosecution may be deferred, local agencies can come to a joint decision on appropriate actions.

## Teachers

If the child is enrolled in school, his teacher may provide a variety of information that may shed light on the suspected child abuse. The child's record of attendance, grades, demeanor, socialization, motivation and perceived emotional stability are among the factors that may provide insights about possible problems at home. The investigator should explore these areas of information with the teacher and school counselor, as available, to determine whether there are any behavioral indicators of child abuse. These behavioral indicators include the following:

- Recurrent injuries or complaints of parental physical mistreatment;
- Marked changes in the child's behavior or achievement;
- Exaggerated reactions to being touched;
- Strong antagonism toward those in authority;
- "Incorrigible" actions or acting out;
- Severe withdrawal from peers or adults;
- Statements indicating that the child is frightened of the parents;
- Assaultive behavior;
- Extremely provocative behavior designed to incite physical confrontations;
- Delinquent acts;
- Running away from home;
- Truancy;
- Emotional disturbances, such as depression and withdrawal;
- Refusal to dress out for physical education.

These indicators can also be used when interviewing any individual, such as a neighbor, who may have personal knowledge of the family situation in general and the child-parent relationship in particular.

## Family Interview

Based on information from the above sources and others, a decision may be made that an interview should be conducted with the family in question. Whenever there are indications that a child is the victim of abuse, separate interviews should be conducted with the parents or guardians and the child. It is best to conduct the interview in the child's residence. This will give the officer a good opportunity to examine the residence and observe the family in familiar surroundings. It will also reinforce the officer's intent and the parents' perception that the interview is a non-accusatory, informal, fact-finding session. If officers plan to make charges, however, it may be preferable to conduct the interview at the police station. Under such circumstances, officers should have discussed the case and the bases for the charge(s) with the local prosecuting attorney.

It is not possible here to adequately explore techniques for interviewing adults and children. These are more appropriate for separate policy statements. However, there are some basic rules that should be followed. For example, one should limit the number of interviews with children in order to

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avoid further traumatization. It is often preferable to incorporate child protective workers or others into the interview in order to avoid duplication of questions in separate sessions. Social welfare officers are also frequently able to bring special insights into such investigations due to extensive exposure to these types of cases.

The officer should begin interviews with parents with a general non-threatening and non-accusatory introduction. One may simply inform the parents that it is departmental policy to conduct interviews in such cases. The officer should ask questions in an open-ended manner so as to allow parents complete latitude in providing answers. For example, it would be appropriate to begin by simply asking the parents to describe how the child was injured as opposed to asking them initially to respond to specific questions concerning the injury.

There are several criteria that police officers may use to determine the truthfulness of a parent's explanation. For example, the explanation should be reasonable in relationship to the physical injuries involved. In making these types of judgments, the police officer needs the full report of the examining physician or medical examiner and the doctor's assessment of the injuries. It would not be plausible, for example, if a parent attempted to explain a skull fracture by attributing it to a simple fall or an accidental dropping.

It would also be unreasonable to believe that an infant or small child could incur self-inflicted injuries of particular types. In some cases, the child may not be of sufficient maturity, such as in cases that would require a degree of manual dexterity or the ability to walk or stand. In other cases, the instrument alleged to be involved in the accident may not be consistent with the nature or degree of injuries sustained by the child.

Some parents may attempt to explain or excuse the incident as a legitimate attempt to discipline the child. Several criteria may be used to establish whether such explanations are reasonable. For example, the severity of the punishment should be appropriate to the misbehavior involved. But even in cases of serious transgressions, a parent does not have the right to inflict serious bodily injury. The child should also be of an age to understand why the punishment was administered. One would not expect an infant or toddler to adequately understand the relationship between physical punishment he received and specific acts in question.

In order for physical discipline to be considered reasonable, it must also be administered with care and prudence. It is unreasonable, for example, to unnecessarily expose a child to possible injury, to punish the child for no meaningful wrongdoing or to direct physical punishment to vulnerable areas of a child's body, such as the head, face or genitalia.

In determining whether to accept a parent's explanation, police officers should also consider the consistency and reliability of the parents story. For example, are there inexplicable aspects of the incident? Do the parents claim ignorance of critical details? Or do they contradict certain elements of their explanations?

In addition to the parents' explanation, officers should attempt to assess the home environment. Where appropriate, photographs of the home should be taken if it would serve to better detail the nature of the child's physical surroundings. For example, if possible, one should determine whether the family has a support system that includes neighbors, friends and family. Many abusive families live in a socially isolated environment and, because they have no one to confide in, tend to take their aggressions out on their children.

It is important to determine whether both parents seem to be involved in or condone the abuse of the other. If only one parent is involved, does the other appear to support the child? If not, there is greater likelihood of abuse to the child. Do the parents appear to support one another in a positive domestic context? If so, there is less likelihood that either will engage in abuse. However, a child's



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vulnerability to abuse increases in situations where there is serious parental disharmony and lack of mutual support.

Do the parents tend to pick out one of the children as “special” in a negative context? If a parent tends to identify a child as stupid, unattractive or in some other negative manner, the child may be targeted for abuse. Are there frequent or ongoing crises in the family? Crises may be based on a number of factors such as economic, employment, emotional, psychological or physical problems that create stress or strife in the family.

Finally, within the home environment, investigators should be aware of any physical evidence that may bear on the abuse investigation. Guns, knives, drugs, poisons or related items, as well as any other instruments that have bearing on the abuse and/or are in possession of the suspected perpetrator should be identified and, if possible, collected as potential evidence.

## **Protecting the Abused Child**

In a confirmed child abuse situation, ensuring the future welfare of the child is the most important consideration. While every attempt should be made to resolve the differences and problems of the family in order to correct the parents’ abusive behavior, one should not lose sight of the fact that child abuse is a criminal act. In some cases, arrest of the abusing parent may be the only appropriate response and the only action that will adequately protect the child in spite of pressures to keep the family together.

In addition to arrest, there are some situations in which an officer may need to take immediate action in order to protect a child from danger. Normally, in order to take a child into protective custody, it is preferable to obtain a court order. However, all states permit a police officer to remove a child from the home under emergency circumstances. While state laws may differ, such situations may typically be deemed to exist when, in the officer’s best judgment, the child is in imminent danger and there is not sufficient time to obtain a court order or where it appears that abusing parents might flee with the child. Imminent danger may also exist when the child’s surroundings or conditions create a physical emergency. Most state statutes define the steps that must be taken following an emergency removal in order that continued custody (normally more than 48 hours) is valid. Continued custody decisions should be made in conjunction with the appropriate child protective agency and court review procedures.

Forced removal of a child for protection may not always be necessary. Many parents will consent to the removal of their child, and some will even welcome the child’s removal as a desired relief. In some cases, it may be possible to place the child with close friends or relatives providing that the child can be adequately protected. In other less urgent circumstances, it may be preferable to seek a restraining order from the court in order to maintain the necessary child-parent separation.

## **Endnotes**

1. Joseph H. Davis, M.D., Chief, Metro Dade County, Florida, Medical Examiner’s Office, paper presented at IACP seminar: “Police-Medical Investigation of Death,” 1989.

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## Model Policy: Death Notification

*Effective Date:* December 1, 1995

*Reference*

*Special Instructions*

*Distribution*

*Reevaluation Date:* December 1, 1996

*No. Pages* 2

### **PURPOSE**

It is the purpose of this policy to provide officers with guidelines for notifying next of kin of the death of a family member.

### **POLICY**

Notification of next of kin of the death of a family member is a difficult task even for experienced officers. There is a natural hesitancy to deal with this subject, and the risk exists that, without guidance, inappropriate methods, comments or remarks may unnecessarily exacerbate the mental distress of survivors. Therefore, this law enforcement agency requires that all officers become familiar with concepts and procedures set forth in this policy so as to provide surviving family members with sufficient useful information and support in a manner consistent with professionally accepted crisis intervention techniques.

### **DEFINITIONS**

*Next of Kin.* For purposes of this policy, the closest relative of the deceased—spouse, parents, brothers or sisters, and children.

### **PROCEDURES**

#### **Information Gathering and Preparation**

All death notifications that are the responsibility of this agency shall be delivered in person unless the exigency of circumstances demand telephonic notification.

Officers shall be prepared to and shall be provided adequate discretion to spend the necessary time with survivors to provide assistance as authorized by this policy.

Prior to contacting next of kin, notifying officers shall gather and familiarize themselves with essential details concerning the deceased, to include full name, age, race and home address, as well as details of the death, location of the body/personal effects and other pertinent information.

Officers shall identify the next of kin of the deceased for purposes of notification. Particular effort should be made to locate the closest relative starting with a spouse and followed by parents, brothers or sisters, then children.

Only where substantial delays would be required to make contact with next of kin should other relatives be contacted.

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Officers should contact a supervisor for guidance when in doubt concerning next of kin or delays in notification.

Where another agency must be contacted to notify the next of kin, officers should request that the notification be made in person, and request immediate verification when notification has been accomplished.

Wherever possible, officers should gather available information concerning the survivors that may aid in the notification. This includes but is not limited to whether survivors are elderly, disabled, visually or hearing impaired, have medical problems or may not speak English. If possible, obtain the names of the survivor's closest relative, friend, family doctor and clergyman.

Officers shall ensure that they have on hand a list of referral agencies that may be helpful and should leave this with survivors.

Officers should, wherever reasonably possible, avoid using the name of the deceased over the radio prior to notification of immediate surviving relatives.

Where possible, two officers (preferably a male and female team) should be assigned to a death notification.

Officers should request the assistance of the agency chaplain or local crisis intervention specialist where feasible.

Personal effects of the deceased shall not be delivered to survivors at the time of death notification.

## **Making Notification**

Upon arrival at the residence or place of business, officers shall do the following:

- check the accuracy of the location;
- request to speak to the immediate survivor;
- identify themselves by name, rank and departmental affiliation;
- verify the relationship of the survivor to the deceased; and
- ask permission to enter the residence or (in the case of a business or other location) move to a place of privacy.

Every reasonable effort shall be made to make the death notification in the privacy of the survivor's home or in another location away from public scrutiny.

Prior to making notification, officers should, where possible, bring members of the family together who may be in the house or otherwise on hand.

Officers should address the survivor(s) in a straightforward manner and use easy-to-understand language to briefly explain the circumstances of the incident and the fact that the individual is dead.

Officers should not use euphemisms such as "passed on" or "no longer with us" in order to avoid using the term "dead" as these may create confusion or false hope.

Officers should avoid graphic aspects of the incident and the use of police jargon.

Officers should refer to the deceased using his/her first name or terms reflecting the deceased's relationship to the survivor (i.e. son, daughter, etc.).

Officers should be prepared for unexpected responses from survivors to include hysteria and possible verbal or physical attack.

Officers should provide survivors with sufficient time to regain composure before proceeding. Avoid attempts in the interim to provide comfort by using simple platitudes or trite phrases (e.g. "I know how you feel," "I know how hard this is for you.").

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## **Providing Assistance and Referral**

Officers shall not leave upon completion of the notification until reasonably assured that the survivor has adequate personal control and/or family or close friend(s) readily available to provide support. In gauging the need for assistance, officers shall also consider the following:

- the emotional reaction and physical condition of the survivor;
- the availability of other adults in the home;
- responsibility for infants or small children;
- home environment (e.g. evidence of excessive alcohol use or drug use, lack of means of financial support, shortage of food, problem with shelter, etc.); and
- availability of a support system (e.g. including friends, family, close neighbors, access to clergy, means of transportation, etc.)

Officers should provide any additional information on the incident requested by survivors. While graphic details may not be necessary, officers should provide information if asked specifically concerning the cause of death, condition of the body or other details of the fatality.

Officers should remain alert to the possible need for medical assistance. When officers are aware of serious medical conditions in advance of notification, they should place a local medical response unit on alert.

Officers should be aware of confusion on the part of survivors; speak slowly and deliberately, and write down any pertinent information that the survivor may need. This includes such matters as the following:

- disposition of the body;
- location of personal effects;
- identification requirements/procedures; and
- notifying officers' names, agency and telephone numbers.

Officers should assess the physical and emotional well-being of the survivor before departing. Officers should be reasonably assured that survivors can take care of themselves and those for whom they may be responsible. In addition to concerns noted in item C-1 above, officers should be able to answer "yes" to the following types of questions:

- Is the survivor thinking clearly? That is, does the individual seem to be aware of your presence?
- have some grasp of place and time?
- demonstrate a progressive ability to express himself/herself? and/or
- begin to demonstrate some grasp of the reality of the death?
- Does the survivor have reasonable control over his/her emotions or does the individual display shock (no apparent emotion), furious hostility or the desire to commit suicide?
- Can the survivor cope physically? For example, has the survivor fainted, displayed debilitating weakness or emotional collapse, and does the survivor have an adequate support system that can be relied upon?

Officers should not leave a lone survivor unattended until all reasonable efforts have been made to garner first-hand support from the survivor's family, friends, co-workers, neighbors, family clergy, crisis counselors or other community social service agency.

Notifying officers should conduct a follow-up within 24 hours with any survivor when there is concern for the survivor's well-being.

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of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice or the International Association of Chiefs of Police.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors.

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IACP National Law Enforcement Policy Center  
Death Notification  
Concepts and Issues Paper  
May, 1996

## INTRODUCTION

### **Purpose of the Document**

This paper is designed to accompany the Model Policy on Death Notification established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their community and their law enforcement agency.

### **Background**

Frequently, police officers who are assigned the task of notifying survivors are resigned to using their "instincts" and their personal perspectives on how the task should be performed. More often than not, this approach is simply not adequate. For example, in an effort to get the notification over, officers may hurry through prepared statements, unknowingly make inappropriate remarks or comments, or generally fail to provide survivors with sufficient, accurate, or useful information.

The importance of properly conducting death notifications cannot be overlooked. An officer's ability to deal effectively with such situations can substantially assist survivors in resolving their loss. By the same token, a poorly conducted notification can have a negative impact on the same process. The community relations aspect of this task should also not be overlooked. A poorly conducted notification, or one that is performed in a seemingly callous or unsympathetic manner, can cause unnecessary personal suffering for the survivor and potentially produce long-term negative community reactions.

Many police officers will admit that death notification is one of the more difficult tasks that they have faced. This difficulty is based on a number of factors that are worth recognition. For example, death is an unknown factor that is full of uncertainties. As police officers we are trained to deal with facts, to form conclusions, and to take appropriate actions. Additionally, the entire police role is one of providing help and resolving conflicts. Death and its consequences for the living, however, cannot be solved, and there is a limit to the help that can be provided to surviving relatives.

Death also forces us to face our own mortality and the potential death of our own family members, or it may renew the suffering associated with personal losses that we have experienced.

Dealing with death and the survivors of victims is a gray area in socialization, where rules of etiquette are not taught and where there is general difficulty in knowing what to say or do. Without question, bringing tragic news to unsuspecting families that will change their lives is a difficult and emotional task even for those who have dealt with death in many other circumstances.

While each death notification is different, each shares certain similarities. Crisis intervention specialists have been able to add immensely to our understanding of such events and provide us with the basic skills and abilities to better deal with them. This understanding may not rid police officers of the emotional upheaval associated with a notification, but it can provide the necessary framework for more effectively and constructively managing the notification process.

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## PROCEDURES

### Preparation

A principal ingredient of any effective death notification is the "human factor" brought to the event by the notifiers. The officers' attitude toward the task, as conveyed to the survivor by words and gestures, can have a significant bearing. Awkward and uncomfortable feelings of the notifiers can, in some cases, be disguised by assuming a role that may or may not be consistent with the officers' customary way of dealing with individuals.

Others may approach the task in a swift and seemingly untroubled manner. In such cases, the notifiers will generally drop the bomb in a matter-of-fact fashion and at the earliest possible opportunity. Others may assume an authoritative posture and deliver their message in a firm manner, in an apparent attempt to control the situation.

None of these approaches is appropriate or useful for either the notifiers or the survivors. It should be recognized that they are attempts to mask or cover up basic human emotions concerning the event and to reduce personal anxiety and tension. Such approaches, however, fail to help the notifiers accomplish the task effectively and, moreover, leave the survivors with the attitude that the officers are cold and unfeeling. Such perceptions can add to the difficulty of the immediate situation as well as have later repercussions for both the survivors and the notifiers.

In approaching the task of death notification, officers should attempt to be honest with themselves concerning their own feelings. Attempts to bottle up emotions under such trying circumstances are neither honest nor healthy, and do a disservice to the notifiers and the survivors. There is an obvious need to maintain composure, but showing some personal distress is only natural.

By the same token, officers must guard against potentially identifying too closely with the survivors. Officers who have had similar personal experiences, particularly in cases of accidental death, may run a greater risk of over-identification with the personal emotions and distress of the survivors. Comments such as "I know how you feel" or "I know how hard this is for you" may help some, but they may also elicit a negative reaction, such as angry comments like, "No, you're just saying that; you couldn't possibly know how I feel!"

While it is appropriate and natural to reflect caring for the survivors' feelings, it is generally inappropriate to display personal feelings that reflect pity or sympathy for the survivors. Most individuals do not want sympathy from strangers. The notifiers' role is to provide initial order, stability, and structure to the situation and is of substantially greater value to the survivors.

The news that the notifiers bring to survivors may, in a moment, destroy the very basis of their current and projected world. Either over-identification and pity for this personal tragedy or a seemingly unsympathetic and authoritarian response can result in an ineffectual or even destructive situation. It is the notifiers' responsibility to deliver this personal news in a concise, straightforward and compassionate way, and to be prepared to provide basic information or referral services if necessary. The notifiers should approach the notification knowing that they may spend whatever time is reasonably necessary to calm and comfort the survivor, and to help them gain access to any other support persons or services they may need. This time allowance is purposefully built into the model policy in order to make it clear to notifiers that the agency sanctions the use of their time for purposes of providing necessary support to survivors.

With a knowledge of what they can expect during a death notification, combined with good interpersonal skills and well-developed procedures, the task of the notifiers will be greatly facilitated. There are several elements of any notification that should be addressed, although death notification should not become a step-by-step procedure. Death notification, like other crisis intervention situa-

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tions, carries a degree of unpredictability, and even the danger of verbal or physical hostility. Awareness of these and other possibilities will work to the distinct advantage of the notifiers.

## **Gathering Information**

As indicated in the model policy, gathering and organizing the essential details surrounding the deceased and the deceased's immediate survivor are one of the earlier necessities. The officers should, for example, record such details as the deceased's full name, age, sex, race, home address, location of death, nature of death, time of death, location of the body, and any other pertinent details surrounding the death.

The closest relative of the deceased to be notified should be determined as quickly as possible. If the closest relative is unavailable and there will be some delay in contacting him or her, the next closest relative should be notified. A supervisor or command officer should be contacted for advice when there is doubt concerning who should be notified. While time is of the essence, care must be taken to ensure that proper preliminary identification of the victim is made before any attempt to locate next of kin.

All officers should follow departmental policy prohibiting release of victim identity before the next of kin is notified. Instances in which the identity of a victim is prematurely released to the media or unauthorized persons can result in devastating consequences for survivors. To help guard against this possibility, officers should not make inquiries or directives concerning the deceased, survivors, or the circumstances surrounding the incident or convey any such information by police radio. General availability of police radio scanners poses the possibility that such information could be intercepted and conveyed prematurely to survivors or others. Cellular or land-line telephones should be used to convey the names of victims and related information before the next of kin is notified.

If possible, the notifying officers should also gather some information on the survivors to facilitate the notification process. For example, the survivors' age, physical disabilities such as hearing loss, vision impairment, heart problems, mental illness or other factors should be established if possible. If the survivors are not fluent in English, this should also be noted, as well as the names of their closest relative and neighbor, family doctor, and clergyman, if any.

Survivor information such as this has obvious implications on how best to proceed with the notification process. Notifying officers should be alert to any factors that may present problems at the time of notification and take appropriate action or precautions. Of course, detailed information of this type may be difficult to obtain. A friend or acquaintance of the deceased on hand at the time of death is an ideal source for such information. However, the officers should not attempt to gather this or other survivor information from any individuals other than those who already have knowledge of the death, for fear of arousing suspicions. The most immediate relative should be the first to have knowledge of the death aside from any persons who were involved at the scene of the death.

Should there be need to contact a police agency in another jurisdiction in order to perform the notification, be sure to provide them with all the pertinent details at your disposal. Request that they make the notification in person as quickly as possible and that verification be forwarded after this has been accomplished.

If at all possible, notification should be done by two officers, or one officer should be accompanied by another individual. A second individual is important where several family members are involved, in cases where the notification elicits anger or overt physical reactions by the survivors(s), or when family members are physically overcome by the news and may require medical attention. In many instances, a male-female team works best for notifications as many survivors (especially men) are more comfortable in expressing their emotions in the presence of a woman. A departmental



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auxiliary chaplain or priest may also be of great help in these instances. If the opportunity is afforded, a close family friend or relative may also help.

En route to the survivors' residence, the officers should review the details of the death and the names of those individuals involved. The necessary details of the incident should be committed to memory so that there will be no need to read them verbatim from notes.

If at all possible, officers should assume a low profile, including wearing civilian clothing and using unmarked vehicles. Uniforms often tend to heighten anxieties under such circumstances. However, all sworn officers should ensure that they are carrying proper identification. Effects of the deceased should never be brought with the notifier for identification or other purposes.

## **Conducting the Death Notification**

Once at the survivors' home, officers should check to verify that it is the correct address. When the door is answered, the officers should simply introduce themselves, present their identification and ask to speak to "Mr. Smith," for example. If "Mr. Smith" does not answer the door, whoever answers the door should be asked to call him to the door or to provide the officers with his location. No other explanations should be provided at that time.

If Mr. Smith is located, a few brief questions should serve to verify his relationship to the deceased. After the introductions, the officers might ask for example, "Do you have a son named John, aged 18?" If the survivor's identity is verified, the officers should at that point ask to be permitted into the house to speak with him. In some cases, it may be necessary to contact individuals at their place of employment. After the survivor's identity has been verified in this instance, officers should request to speak with the survivor in a private office or room.

Officers should be inside the house before actually performing the death notification for several reasons. First, death notifications convey very personal and private information that should not be initially shared with others, nor should the survivor's need for personal privacy be compromised at this traumatic moment. Second, if notification is completed at the door, officers may not be able to gain admission to the house thereafter. In this event, should any survivors suffer serious medical or psychological problems, the officers would not be available to assist. However, many survivors will know the purpose of the officers' visit on an intuitive if not a conscious level once an inquiry is made as to the relationship of the survivor to the deceased. The possibility of hysterics or panic by the survivors under such circumstances may make entrance into the home more difficult for notifying officers. However, every effort should be made to gain entrance in order to provide necessary post-notification assistance.

Before beginning the notification, the presence at the home of other adult members of the immediate family should be determined. If so, they should be brought together at this point so notification will not have to be repeated and to spare the family members present the task of doing this. In the case of having young children present, officers should defer to the desires of the survivors. Some prefer to excuse them until their parents can speak to them later in their own time and manner. Other survivors, sensing that the children will know that something terrible has happened anyway, may prefer to have the children on hand. These decisions are driven largely by the age and emotional maturity of the children as well as the parents' unique understanding of the needs and limitations of their children.

Once together, family members may be asked to sit down, and the notifiers should join them in the most relaxed manner possible. Again, however, circumstances will dictate the most appropriate approach. Some survivors, sensing the enormity of the news, will not be interested in sitting and may be either highly agitated or emotionally overcome. They may simply blurt out questions, such as "Is he dead?" In other cases, the survivors may seem subdued and anticipatory. In the latter case, there

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may be a natural tendency to stall, make small talk, or in some way delay the inevitable news. Notifiers may sense a tightness or dryness of the throat, weakness or fatigue, or generalized feelings of helplessness. Nevertheless, they should proceed directly with business, speaking in a slow, calm manner, and continue with the notification until completed.

The pace will be dictated in largest measure by the actions of the survivor. If permitted, notifiers should deliver the message in a gradual but direct manner, for example, "Mr. Smith, your son has been in a bad accident this evening." The survivor may query by asking "Is he all right?"; in which case the officers might state, "No, he isn't." At this or a similar juncture, the ultimate fact can be stated. By staggering the notification in this manner, survivors are given some opportunity to adjust their emotional defenses to the news.

In other cases, the staggered approach may not be possible. Some survivors may insist on knowing straight off what has happened and whether the individual in question is dead. In such a case, the officers must simply proceed directly with the news, choosing to state the entire message at one time such as, "Mr. Smith, I have some very bad news for you. Your son John was involved in an accident this evening, and he died."

In either event, the notifiers should use plain language in a straightforward fashion. Euphemistic terms that are often used to soften the meaning or finality of death should not be used. Phrases such as "He is in a better place" or "He is no longer with us" may tend to confuse the survivors and the actual fact of death. There is no adequate substitute for the word "dead" in this situation, and officers should not attempt to avoid using it.

Other words should be avoided, however, if they would serve to enhance the anguish of the survivor. Details regarding the cause of death, particularly in cases of violent accidents or murder, should not normally be discussed at this time. Using such words as decapitated or killed, for example, detract from a competent and compassionate notification and are best left to a physician or coroner to discuss with the survivors at a later time. Being too graphic at this stage can create an emotional overload for the survivors that will complicate an already difficult situation. On the other hand, some survivors may demand to know the details of what happened, even at this early stage. Under such circumstances, officers should be truthful and forthright, but should avoid becoming too involved in relaying graphic details of the death and the death scene.

Some untrained notifiers also find that they have difficulty in determining how best to refer to the deceased. It is best to use the first name of the deceased or to refer to them in terms of their relationship to the survivor, such as "son" or "daughter." Using references such as the "body," "corpse," "deceased," or the "victim," for example, would be regarded as callous or uncaring on the part of family members.

Notifiers should also be careful to avoid any police jargon when referring to the victim or the circumstances surrounding their death. This terminology will not be clearly understood and may add to confusion or misunderstanding.

It is the objective of the notifiers to add as much control to the situation at this time as possible. Survivors' reactions to such news can be quite different, and it is up to the notifiers to assess the situation in order to determine how best to proceed. Notifiers should stay with the survivors even though they may want to extricate themselves from this unpleasant situation.

The initial effects of the news on the survivors should be evaluated to ensure that there are no unusual reactions. Notifiers may need to provide additional information to the survivors once they have regained their composure; in the interim, it is best to simply stand by quietly. It is not necessary to make attempts at conversation. Off-hand or trite phrases often employed as comforting remarks should be avoided.

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At some point, survivors will invariably ask such questions as when and where the death took place, circumstances surrounding the death, or the current disposition of the deceased's body. The officers should answer these questions in a straightforward fashion, but extensive details are not generally necessary and are best left to a latter time. At this stage, survivors frequently have difficulty comprehending all that is being said. Therefore, notifiers should speak slowly and look for signs that indicate that the survivors understand what is being said.

Notifiers should ask the survivors if they would like for officers to contact a family priest or minister, a neighbor, close friend or relative to come over.

## **Assessing the Situation**

An important part of the notifiers' responsibility is to evaluate the physical and emotional condition of the survivors and their overall environment. This of course, begins with the first contact with the survivors and does not end until the notification process is complete.

Notifiers should be alert to verbal cues as well as non-verbal gestures, expressions, actions or inactions to determine the pace at which they should proceed as well as the well-being of the survivor. Simple gestures such as regaining eye contact, a nod of the head or a change of position may indicate that the survivors are prepared to continue. Assessments should be done in an unobtrusive manner, and the notifiers should avoid verbally exploring the feelings of the survivor.

Notifiers should also be aware of anything in the immediate environment that could add stress or complication to the situation. Signs of excessive alcohol use, illness of the survivors or members of the family, or other factors may suggest added problems with the survivors' immediate capability to cope.

Notifiers should be continuously alert to any atypical reactions to the death notification. In some cases, survivors may faint, or the news may precipitate a heart attack or other physical reactions that requires emergency first-aid or professional medical attention. In other cases, survivors may become angry and turn their hostility on the notifier. The importance of using two individuals for notifications is evident in both of these cases. Survivors may also become hysterical to the point of being incapacitated, or they may rush from the house in a dangerous attempt to go to the deceased at the hospital or morgue. Under such circumstances, medical assistance as well as the aid of other family members or close friends becomes necessary.

Among other unusual reactions, the notifiers should be alert to potential suicide. Comments about suicide or self-destructive behavior or signals should be taken seriously; individuals who display such reactions should never be left alone. In these circumstances, the notifiers should summon a professional intervener or seek out a stable family member. The notifiers should be prepared to stay with the survivor until others have arrived, and the situation is under control.

## **Answering Questions and Providing Referral**

After the survivors have regained a degree of composure, the notifiers will need to provide additional information and answers. The notifiers should be prepared to answer questions in regard to such basic matters as making arrangements with funeral directors and coroners and provide information on police and court procedures and how to go about identifying and claiming the body.

This and related information should be kept as simple as possible, and only the points that are necessary should be covered at this early stage. Notifiers should not attempt to become involved in discussions about life insurance, social security benefits or other matters. There is a limit to the amount of information the survivors are capable of or willing to absorb at this difficult time. In fact, a great deal of information that is provided during this period will be lost if it is not written down.

# SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES

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Notifiers should ensure that all essential details are recorded and that they leave their names and phone numbers so that they may be reached if necessary.

Before departing, the notifiers should be satisfied that the survivors are able to take adequate care of themselves and those for whom they may be responsible, such as small children or the elderly. If the survivors cannot gain adequate control of the situation, the notifiers should wait until another stable adult or professionally trained social service worker arrives. In any event, before departing, the notifiers should ask the survivors who they would like to have with them. If appropriate, the notifiers should contact the desired individual and arrange if necessary for transportation.

In order to assess the physical and emotional well-being of the survivors, the notifiers should be able to provide answers to the following types of questions:

1. *Are the survivors thinking clearly?* Most survivors will show some problems in their ability to relate effectively to others following a death notification. However, after a reasonable period, they should at least have an understanding of place and time. They should also demonstrate a progressive ability to express themselves in a logical and coherent fashion even though they are still extremely distressed. In addition, survivors should begin to show an understanding of the reality of the death, even though they may continue to express shock or disbelief. This is evidenced when survivors can ask about the circumstances of the death or what steps need to be taken next. Those who continue to deny the reality of death may also maintain their anger at the notifiers and accuse them of "lying."
2. *Do the survivors have reasonable control over their emotions?* In assessing the survivors' emotional state, the notifiers should determine whether there are any obvious signs of severe emotional trauma, and generally, whether the emotional reactions have resulted in their requiring professional assistance.

Serious emotional trauma may be reflected in an apparent shock reaction in which the survivors may show little or no outward sign of emotion. Furious hostility may be displayed by some survivors as an initial reaction, but it should be resolved rather quickly. Continued and unabated hostility may also signal the presence of emotional trauma. These and other signals, which are out of the spectrum of normal reactions, should be carefully appraised. Serious reactions of this type are more likely to occur, however, in the case of catastrophic losses such as in multiple family deaths.

3. *Can the survivors cope physically?* There is always the possibility that a notification could have a physical impact on the survivors. As noted, fainting or even a heart attack could result from the sudden impact of such news and will require immediate medical attention. However, a less serious physical side effect that is often encountered is a general weakness of the individual, as though the emotional drain has resulted in a near physical collapse. While this problem will normally be overcome in a relatively short period of time, it may have a short-term effect on an individual's ability to care for vital immediate needs. Such may be the case when an individual is already suffering from an illness or condition that require regular medication.

Finally, the notifiers should assess the availability of emotional support mechanisms for the survivors, such as spouses, other family members, neighbors or close friends that are helpful and available. Also, does it appear as though the survivors will use the help of these or other persons? Generally, if the individuals have in some way been responsive to attempts to help, they will also use the assistance of others.

From the standpoint of the notifiers, one final point should also be remembered. Death notifications are invariably trying on emotions. Rather than attempt to deny these emo-

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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tions, it is best to accept them and to bring feelings into focus. By honestly talking about feelings and what happened during the notification with a close friend, fellow officer, spouse or other individual, officers will be better able to ventilate those feelings and return to a normal operating equilibrium.

This project was supported by Grant No. 95-DD-BX-K014 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: the Bureau of Justice Assistance, the Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice or the International Association of Chiefs of Police.

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## Model Policy: Hate Crimes

*Effective Date:* April 1, 1991

*Reference*

*Special Instructions*

*Distribution*

*Reevaluation Date:* July 31, 1992

*No. Pages*

### **PURPOSE**

This policy is designed to assist employees in identifying crimes motivated by bias toward an individual's race, religion, ethnic background and/or sexual orientation and to define appropriate steps for assisting victims and apprehending suspects.

### **POLICY**

It is the policy of this law enforcement agency to safeguard the state and federal rights of all individuals irrespective of their race, religion, ethnic background or sexual orientation. Any acts or threats of violence, property damage, harassment, intimidation or other crimes designed to infringe upon these rights are viewed very seriously by this agency and will be given high priority. This agency will use every necessary resource rapidly and decisively to identify the perpetrators, arrest them and take vigorous enforcement action.

Also, recognizing the particular fears and distress typically suffered by victims of these crimes, the potential for reprisal and escalation of violence and the possible far-reaching negative consequences of these acts on the community and the agency, particular attention shall be given to addressing the security and related concerns of the immediate victims as well as their families and others affected by the crime.

### **DEFINITIONS**

*Hate Crime:* Any unlawful action designed to frighten, harm, injure, intimidate or harass an individual in whole or in part, because of a bias motivation against the actual or perceived race, religion, ethnic background or sexual orientation of the victim.

*Race:* A group of persons who possess common physical characteristics (e.g., color of skin, eyes and/or hair, facial features; etc.) genetically transmitted by descent and heredity that distinguish them as a distinct division of humankind (e.g., Asians, blacks, whites, etc.).

*Ethnic Group:* A group of persons of the same race or national origin who share common or similar traits, languages, customs and traditions (e.g., Arabs, Hispanics, etc.).

*Religious Group:* Any persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being (e.g., Catholics, Jews, Protestants, atheists, etc.).

# VICTIM SERVICES IN COMMUNITY POLICING PROGRAMS:

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*Sexual Orientation:* A sexual attraction toward, and responsiveness to, members of one's own sex or members of the opposite sex (e.g, gays, lesbians, heterosexuals, etc.).

## **INITIAL RESPONSE PROCEDURES**

When an officer at the scene of an incident believes that it may have been motivated by racial, religious, ethnic or sexual orientation bias (RRES), the officer shall take any preliminary actions necessary, such as

- determining whether any perpetrators are present and, if so, taking appropriate enforcement measures;
- restoring order to the crime scene and taking any necessary actions to gain control of the situation,
- identifying any injured parties and taking steps to provide medical assistance;
- identifying any witnesses or others who have knowledge of the crime;
- protecting the crime scene; and
- summoning a field supervisor to the scene.

## **SUPERVISOR'S RESPONSIBILITIES**

The supervisor shall confer with the initial responding officer, take measures to ensure that all necessary preliminary actions have been taken and inform an immediate supervisor of the criminal act. The supervisor shall request any appropriate additional personnel necessary to accomplish the following:

Provide immediate assistance to the crime victim, such as

- expressing empathy for the victim and showing a sincere interest in his well-being;
- expressing the law enforcement agency's official position on the importance of these cases, the measures that will be taken to apprehend the perpetrators, and the officers' and department's interest in the victim's well-being;
- allowing the victim a period in which to ventilate his immediate concerns and express his feelings;
- assisting the victim in identifying and contacting individuals or agencies that may provide support and assistance. These may include family members or close acquaintances, family clergyman or departmental chaplain and community service agencies that provide shelter, food, clothing, child care or other related services; and
- providing security and precautionary advice to the victim and arranging for any additional security that may be required for protection of the victim.

Conduct a standard preliminary investigation to include preliminary interviews of the victim and any witnesses to the incident.

Ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as an RRES offense.

## **INVESTIGATOR'S RESPONSIBILITIES**

Investigative personnel assigned to alleged RRES incidents shall be responsible for the following: In responding to the scene of an alleged RRES incident investigators shall assume control of the follow-up investigation. This includes

- assuring the scene is properly protected, preserved and processed and all physical evidence of the incident is removed as soon as possible. If evidence of an inflammatory

# **SAMPLE PROTOCOLS, POLICIES, AND PROCEDURES**

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nature cannot be physically removed (e.g, painted words or signs on a wall) the owner of the property shall be contacted to remove such material as soon as possible and the officer shall follow-up to ensure that this is accomplished in a timely manner,

- conducting a comprehensive interview with all victims and witnesses at the scene, or as soon as possible thereafter, and canvassing the neighborhood for additional personal sources of information;
- notifying other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense, and its potential inflammatory and related impact on the community;
- working closely with the prosecutor's office to ensure that a legally adequate case is developed for prosecution;
- coordinating the investigation with agency, state and regional intelligence operations. These sources shall provide the investigative officer with an analysis of any patterns, organized groups and suspects potentially involved in the offense;
- coordinating the investigation with the identification and other units of the agency and with outside agencies where appropriate,
- maintaining contact with the initial responding officer and keeping him apprised of the status of the case;
- making a final determination as to whether the incident should be classified as an RRES crime; and
- completing any reports necessary to comply with statistical reporting requirements for hate crimes.

Investigative officers shall also take the lead role in providing ongoing assistance to the crime victim to include

- contacting the victim periodically to determine whether he is receiving adequate and appropriate assistance; and
- providing ongoing information to the victim about the status of the criminal investigation.

## **COMMUNITY RELATIONS/CRIME PREVENTION**

RRES crimes are viewed in the community not only as crimes against the targeted victim, but also as a crime against the victim's racial, religious, ethnic or sexual orientation group as a whole. Working constructively with segments of this larger audience after such incidents is essential to help reduce fears, stem possible retaliation, help prevent additional RRES incidents and encourage any other previously victimized individuals to step forward and report those crimes. Towards this end, this agency's community relations function, or officers so assigned, shall

- meet with neighborhood groups, residents in target communities and other identified groups to allay fears, relay this agency's concern over and response to this and related incidents, reduce the potential for counter-violence and provide safety, security and crime prevention information;
- provide direct and referral assistance to the victim and his family;
- conduct public meetings on RRES threats and violence in general, and as it relates to specific incidents;
- establish liaison with formal organizations and leaders; and
- expand, where appropriate, existing preventive programs such as anti-hate seminars for school children.



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## IACP National Law Enforcement Policy Center Hate Crimes Concepts and Issues Paper

April 1, 1991

### I. INTRODUCTION

#### A. Purpose of Document

This paper was designed to accompany the model policy on hate crimes developed by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements of the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their community and their law enforcement agency.

#### B. Background

Hate crimes are unlawful actions designed to frighten or harm an individual because of his or her race, religion, ethnicity or sexual orientation. A strong law enforcement response to such crimes is necessary if the proper message is to be sent to the perpetrators and the community—that these crimes will not be tolerated in a free society. Vigorous enforcement of state and federal laws against hate crimes serves not only the immediate victim but all those of the same targeted population.

*Hate crimes are anathema to a free and democratic society. The destruction and fear that these acts cause, not just for the individual victim but for an entire group of citizens, have ramifications well beyond the actual crime itself. This is why we must vigorously investigate, indict and punish those who unleash their bigotry through cowardly acts of abuse, vandalism and violence.*

*Local law enforcement agencies play a large role in combatting and deterring hate crimes. Police training in how to identify a hate crime and how to deal with a victim's trauma is essential for an effective law enforcement response.<sup>1</sup>*

As suggested in the above statement, the degree to which law enforcement agencies respond to acts of intimidation, violence or desecration that form the basis for hate crimes sends a message to the victim, the perpetrator and the community. A tepid response may lead the perpetrator to believe that he may act again with little chance of being apprehended or that he may escalate his violence with little added risk. Likewise, the community's reaction depends upon how law enforcement responds to the victim and the incident. A vigorous response will normally help to mitigate fear and intimidation that is the desired end of the perpetrator. It will also serve to defuse the sympathetic radical voices in the community that feed upon such acts and often use them to their advantage to escalate similar criminal acts. Swift and effective response to hate crimes helps to generate the degree of trust and goodwill between the community and its law enforcement agency that has long-term benefits for all concerned.

#### C. Legal Prohibitions

Violence motivated by racial, religious or ethnic hatred is specifically prohibited by federal law

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where the acts interfere or there is an intent by the perpetrator to interfere with constitutionally guaranteed rights. Chapter 13, Title 18 of the U.S. Code can be used to prosecute those who conspire to deprive an individual of such rights. Most states have enacted laws similar to those on the federal level and some have gone further to prohibit more specific hate crime-related activities, such as those commonly engaged in by the Ku Klux Klan—the burning of crosses and the operation of secret societies.<sup>2</sup> A brief review of federal prohibitions will lay the framework for later discussion of the identification of hate crimes for specific local action and for new federal reporting requirements. The statutes of Title 18 U.S.C. that are used to prosecute these types of cases are Section 241, Conspiracy Against Rights; Section 245, Federally Protected Activities; and Section 247, Damage to Religious Property and Obstruction of Persons in the Free Exercise of Religious Beliefs. In addition, Title 42 U.S.C., Section 3631, also deals with Fair Housing Rights. Another statute that law enforcement officers should be aware of is Title 18, Section 242 Deprivation of Civil Rights under Color of Law. This statute is directed specifically at law enforcement officers and other public officials who use their official office to deprive individuals of their constitutional liberties.

Many prosecutions of hate or bias crimes on the federal level contain violations of one or more other crimes, such as the use of a firearm in the commission of a felony or obstruction of justice. Similarly, on the local level, those and other offenses such as assault, trespass, destruction of property or other offenses are frequently involved. These should, of course, be incorporated into the prosecution of hate crime perpetrators. Additionally, victims of hate crimes may also be able to pursue civil action under federal and some state statutes for both damages and injunctive relief.

Specifically, Section 241 of Title 18 makes it unlawful for two or more persons to conspire to injure, oppress, threaten or intimidate an inhabitant of the United States in the free exercise or enjoyment of a right or privilege secured by the Constitution or laws of the United States. It should be noted that this statute requires only that a conspiracy be proven and does not require an act to take place in furtherance of that conspiracy. It also protects all inhabitants of the United States, whether or not they are citizens. An alien, even if he has entered the country illegally, would also receive the benefits and protection of this statute.

To invoke the provisions of this statute, however, the perpetrators of the crime must be motivated by a desire to interfere with one of the victim's constitutional rights. Without this motivation, Section 241 does not apply, although other state and local criminal statutes may be employed.

Section 245 (b)(2) of Title 18 makes it a federal offense to injure, intimidate or interfere with; or to attempt to injure, intimidate or interfere with an individual who is engaged in one or more enumerated federally protected activities; and the defendant acted because of the victim's race, color, religion or national origin. The victim must have been engaged in a federally protected activity at the time of the attack and the defendant must have purposely intended to deprive him of that right because of his race, ethnicity or national origin.

One of the federally protected activities is enrolling in or attending a public school or college. As an example of a violation of this right under Section 245, a group of white youths and a group of black youths attending the same school engage in a brawl on school property. Investigation finds that the dispute between them, though racially motivated to a degree, grew out of an argument at football practice between a white and a black youth. In such a scenario, there is no federal violation because the motive for the fight had nothing to do with attendance at or enrollment in a public school.

This example illustrates that it is sometimes difficult to define a violation of this and other federal and state hate statutes. The true motivation of a defendant can be very difficult to prove even though criteria have been developed to define hate crime and bias.

Section 247 of Title 18 makes it a federal crime to intentionally deface, damage or destroy any

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religious property because of its religious nature, or to obstruct by force or threat of force any person in the enjoyment of his free exercise of religious beliefs. Two provisions of this statute make it difficult to employ for prosecution. First, the accused must have traveled interstate on an interstate carrier of some form in order to commit the offense, and second, the estimated damage to the religious property must be valued at \$10,000 or more. Primarily because of these restrictions, there have been no federal prosecutions under this statute.

Finally on the federal level, Title 42, U.S.C. Section 3631 of the Fair Housing Act has been used on numerous occasions as the basis for prosecuting persons for hate crimes directed at housing rights. This statute is similar to that of 18 U.S.C., Section 245, with the exception being that the conduct of the defendant must have been motivated by the victim's race, color, religion, national origin, sex, handicap or familial status. This statute is most often used in situations such as cross burnings outside residences that have unmistakable racial motivation; spray painting of swastikas frequently associated with religious hatred; and in cases of arson or fire bombings, which often indicate attempts to intimidate residents into vacating their premises.<sup>3</sup>

## **D. Hate Crimes Statistics Act**

Over the years, one of the greatest barriers to confronting and overcoming hate crimes on national, state and local levels has been the lack of firm statistical data on the incidence and nature of those crimes. While several states implemented programs to capture this information from local law enforcement agencies, most law enforcement agencies have had no reporting requirements of this type. Notable exceptions to this include the policies of police departments in Chicago, Boston, Los Angeles and New York City. On the national level, only the Anti-Defamation League of B'nai B'rith has collected hate crime-related statistics and, in that case, only as it related to anti-Semitic incidents.

In response to a growing concern about hate crimes generally, on April 23, 1990, President Bush signed the "Hate Crimes Statistics Act of 1990." Guidelines were developed, as part of the FBI's Uniform Crime Reporting Program, to collect data "about crimes that manifest evidence of prejudice based on race, religion, sexual orientation or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, arson, and destruction, damage or vandalism of property."<sup>4</sup>

The key to the success of the new national reporting system is the proper identification of hate crimes. As suggested in the previous overview of federal hate crime statutes, accurate identification and classification of these offenses is sometimes difficult. Some hate crimes may be disguised by the perpetrator while others may be misinterpreted or overlooked as a hate crime by the investigator. Therefore, it is important for the law enforcement officer to conduct a thorough investigation to establish the accurate context in which the offense was committed, determine whether it was, or was suspected to have been, a hate crime and to respond accordingly.

## **III. PROCEDURES**

### **A. Initial Assistance to Hate Crime Victims**

The procedural aspects of the model policy on hate crimes are subdivided into sections related to the duties of the responding officer, the responsibilities of the supervisory officer, the criminal investigator and the community relations or crime prevention officer. It is apparent, however, that not all law enforcement agencies are large enough to support all of these specialized functions or personnel assignments. For example, in some smaller agencies the responding officer will also conduct the investigation and be responsible for all or a major portion of community relations responsibilities.

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Under such circumstances, it is less important who performs the varied tasks identified in the policy than that the tasks be addressed effectively by one or more individuals.

Procedurally, hate crimes should be handled in much the same manner as other crimes-evidence should be protected, the crime scene stabilized, victims and witnesses interviewed and, if necessary, attended to for injury. However, there are several matters that the officer should be sensitive to when responding to actual or suspected hate crimes.

First, most hate crimes are committed by persons under the age of 21 and frequently by youths acting in groups or gangs.<sup>5</sup> The growth of formal hate groups has been linked to many recent incidents although most offenses are committed by informal groups. Skinheads are a notable example of formal groups that preach violence against blacks, Hispanics, Jews, Asians and homosexuals. They are known to be heavily armed and have engaged in murder, violent assaults and extensive vandalism of religious property, among other crimes. Law enforcement officers should view any individual who commits a hate crime as potentially violent, irrespective of his age.

In responding to such incidents, particularly where force or the threatened use of force is involved, patrol officers may confront some unusual problems in stabilizing the scene. Victims, as well as their friends, neighbors and sympathizers, are typically quite emotional. Under certain circumstances there may also be a tendency for crowds to develop and, without proper and timely police response, to become unruly or riotous.

The physically injured should of course receive immediate attention and care. However, in the larger percentage of cases the injuries sustained will be more emotional in nature. In all cases, officers should be particularly sensitive to the feelings and emotions of hate crime victims. They typically suffer deep emotional distress, a blow to their self esteem and a sense of being personally violated. A key ingredient in the individual's identity-his race, religion, ethnicity or sexual orientation-has made him a target of violence or intimidation. The victim may express a broad range of feelings such as fear for himself or his family and fear that the incident may happen again or escalate. On the other hand, the victim may express or feel anger and hatred for real or presumed perpetrators and may be prepared to act out these feelings in retaliation. Some may even speak of arming themselves and others for protection or to seek vengeance.

Under such emotionally laden circumstances, the initial responses of the officer may have lasting impact on the victim and potentially have far-reaching implications for the relationship of the agency to the victim's racial, religious, ethnic or sexual orientation group. In such cases, the responding officer must be prepared to make a realistic assessment of additional resources that may be needed at the scene. These may range from the assistance of a supervisor to specialized help from community relations/affairs officers or victim advocacy workers. In some cases it may be best to assist the victim in contacting a close friend or relative or to contact a social caseworker, community mental health professional or the family's or department's clergyman. Targets of hate crimes are often of different cultures or nationalities from that of the responding officer. With that in mind, the use of the victim's family or friends may be essential in efforts to communicate with the victim and deal with the emotional impact of the crime.

There are several other steps that responding officers can take during these incidents to be of particular assistance to the victim, while also facilitating the investigation. For example, one should not forget to inquire about the well-being of the victim. This simple gesture is surprisingly often neglected in stressful situations, but may reveal the need for medical assistance that may not otherwise have been detected. A simple inquiry: "Are you all right?" is also an easy way to demonstrate concern, to help alleviate some of the victim's fright and to calm the individual so that he can better communicate the circumstances of the incident. It is also important early on to let the victim know

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that the police department takes these types of crimes very seriously, that it shares the victim's outrage over the crime and will do everything possible to identify the perpetrators as soon as possible. Most hate crime victims experience high levels of anxiety until the case is settled. An initial and continued indication that the department is pursuing the case vigorously will help to alleviate some of this anxiety.

Allow the victim to ventilate his feelings. Patrol officers do not have the time to hear victims "blow off steam" at length; that is the responsibility of the family, friends, crisis counselors and others in helping the victim to recover. However, the officer should be ready to guide the victim through a short ventilation-letting the victim express his feelings while also relating the facts of the incident.

Simple expressions of concern by the officer-"I'm sorry this happened" or "I'm glad you are all right"-will often help to calm a victim down. Dealing with angry victims is sometimes a test of patience. Hate crimes can be particularly outrageous to the victim who has been singled out from the general population for no fault of his own, but simply because of his race, religion, ethnicity or sexual orientation. It is important not to take this anger personally even though it may sometimes seem to be directed at the officer or the police department for allowing the incident to happen. Victims generally want to find a logical explanation for what happened and particularly in the case of hate crimes, often come up empty-handed. Questions such as "Why me?" or "Why was I singled out?" may be expressed or the victim may blame himself, feel guilty, humiliated and generally out of control of his life.

Helping the victim focus on the offender, rather than internalize the blame, is one way to put some order back into the victim's life. Another way is to give the victim a clear indication of what will happen during the course of the investigation. Providing the victim with a name and telephone number to call for information and assistance should be standard procedure and responding officers should telephone the victim at an appropriate time thereafter to ensure that follow-up has taken place. In addition, the officer should provide whatever information is available on when an investigating officer will get back with the victim. Hate crime victims often feel that they may be victimized again after the police leave; therefore, a responding officer should not leave the scene until appropriate companionship or assistance has arrived.

## **B. Initial Classification of Hate Crimes**

There are a number of factors that a responding officer should consider when attempting to determine whether a hate crime has been committed or is suspected. The types of factors that the officer should consider include the following:

- Is the motivation of the alleged offender known?
- Was the incident known to have been motivated by racial, religious, ethnic or sexual orientation bias?
- Does the victim perceive the action of the offender to have been motivated by bias?
- Is there no other clear motivation for the incident?
- Were any racial, religious, ethnic or sexual orientation bias remarks made by the offender?
- Were there any offensive symbols, words or acts that are known to represent a hate group or other evidence of bias against the victim's group?
- Did the incident occur on a holiday or other day of significance to the victim's group or the offender's group?
- What do the demographics of the area tell you about the incident?<sup>6</sup>

If these factors, when considered individually or in combination, lead the responding officer to believe that a hate crime has been committed, it should be designated a suspected hate crime and referred to the appropriate investigative unit in the department. Some law enforcement agencies

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located in areas that have particular problems with regard to hate crimes have established specialized hate crime units. These generally consist of officers who are specially trained in the investigation of these crimes and in dealing with individual victims and target populations in the community. Other agencies may designate follow-up investigations of these incidents to community affairs officers who have similar training and expertise. In the majority of cases, however, the incident will be referred to an investigative officer or the responding officer will personally complete the investigation.

In the case of major incidents, a field supervisor and/or shift commander should always be summoned to the scene. Arrangements should be made to increase patrols in the neighborhood in which the incident took place and victims informed that this measure has been taken. This is also a good opportunity to provide any advice to the victim that may increase his safety and security. However, officers must provide this advice in a realistic manner to those affected. Officers should never state or imply that the measures the department is taking to protect them or that are being suggested are completely sufficient to prevent the occurrence of additional incidents.

In cases where the department's crime laboratory personnel will not be used, the responding officer should conduct a search for any evidence that may be expected. Where evidence is present, it should be protected and assistance secured where necessary to ensure proper processing, packaging and transportation to the department's evidence control room.

## **C. Follow-up Investigation of Suspected Hate Crimes**

Once a responding officer has completed his initial report and classified an incident as a suspected hate crime, the report should be forwarded to an investigative, immediate supervisor or other "second judgment officer" who has received special training in classification of and dealing with hate crimes. Even in smaller agencies with limited resources, one individual should be specially assigned the responsibility for reviewing suspected hate crime incidents and making the final decision as to the existence or nonexistence of a bias motivation. This procedure is important for accurate statistical reporting of such incidents on a local, state and national level. Of equal if not greater importance, it is a critical means of accurately identifying the underlying reasons for these incidents so that they can be adequately dealt with on enforcement and prosecutorial levels and perhaps prevented in the future.

As noted, it is often difficult to accurately identify hate-motivated crimes. Generally, no single factor is sufficient to make this determination. Rather, it is often the result of cumulative information that supports this finding. It is not enough, for example, to determine that the perpetrator was biased against the victim's racial, religious, ethnic or sexual orientation group, but that the offender was motivated in whole or in part by that bias. In sorting out the facts of a particular situation, an investigator may wish to seek answers to the following types of questions:

- Is the victim a member of a target racial, religious, ethnic/national origin or sexual orientation group?
- Were the offender and the victim of different racial, religious, ethnic/national origin or sexual orientation groups? (For example, the victim was black and the offender was white.)
- Would the incident have taken place if the victim and offender were the same race, religion, ethnic group or sexual orientation?
- Were biased oral comments, written statements or gestures made by the offender that indicate his bias? (For example, the offender shouted a racial epithet at the victim.)
- Were bias-related drawings, markings, symbols or graffiti left at the crime scene? (For example, a swastika was painted on the door of a synagogue.)
- Were certain objects, items or things that indicate bias used (e.g., the offender wore a

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white sheet with a hood covering his face) or left behind by the offender (e.g., a burning cross was left in front of the victim's residence)?

- Is the victim a member of a racial, religious, ethnic/ national origin or sexual orientation group that is overwhelmingly outnumbered by members of another group in the neighborhood where the victim lives and the incident took place? This factor loses significance with the passage of time, in that it is most significant when the victim first moved into the neighborhood and becomes less significant as time passes without incident.
- Was the victim visiting a neighborhood where previous hate crimes had been committed against other members of his racial, religious, ethnic/national origin or sexual orientation group and where tensions remain high against his group?
- Have several incidents occurred in the same locality, or at about the same time, and are the victims all of the same racial, religious, ethnic/national origin or sexual orientation group?
- Does a substantial portion of the community where the crime occurred perceive that the incident was motivated by bias?
- Was the victim engaged in activities promoting his racial, religious, ethnic/national origin or sexual orientation group? (For example, the victim is a member of the NAACP, participates in gay rights demonstrations, etc.)
- Did the incident coincide with a holiday relating to, or a date of particular significance to a racial, religious or ethnic/national origin group (e.g., Martin Luther King Day, Rosh Hashanah, etc.)?
- Was the offender previously involved in a similar hate crime or is he a member of a hate group?
- Were there indications that a hate group was involved? (For example, a hate group claimed responsibility for the crime or was active in the neighborhood.)
- Does a historically established animosity exist between the victim's group and the offender's group?
- Is this incident similar to other known and documented cases of bias, particularly in this area? Does it fit a similar modus operandi to these other incidents?
- Has the victim been previously involved in similar situations?
- Are there other explanations for the incident, such as a childish prank, unrelated vandalism, etc.?
- Did the offender have some understanding of the impact his actions would have on the Victim?<sup>7</sup>

The investigating officer should ensure that continuous contact is maintained with the victim. Lack of information about case status can be one of the greatest sources of dissatisfaction among victims. Those who have been subjected to hate crimes may be particularly sensitized to law enforcement's response to their needs, both at the time of and immediately following the offense, as well as during the ongoing course of the investigation. Additionally, the victim's racial, religious, national/ethnic or sexual orientation group is also keenly observant of law enforcement's response to the victim and the crime. Police contact with community leaders among the victim's orientation group, coupled with community meetings with members of that group where necessary, will help to alleviate many potential fears and misgivings about the police response. It will also give the department the opportunity to identify any other unreported incidents of a similar nature. Studies show that when citizens believe the police will respond effectively to their problems, they are more likely to report crime.



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The primary investigating officer is generally the most suitable individual to maintain contact with the victim during the course of the investigation and prosecution of the case. Hate crime victims and witnesses may be particularly fearful of recrimination and retaliation, and ongoing contact with and assistance from the law enforcement agency will greatly help in alleviating or mitigating these and other fears. Officers will not be able to alleviate all of these fears, but when they understand the needs and concerns of the victim they can take the steps necessary to deal with them rather than assume that they are being handled by some other source. Understanding the limitations on most officers' time, they should be prepared to make appropriate referrals of hate crime victims to other community and departmental resources.

Finally, the investigating officer or other appropriate individual should coordinate the investigation with the department's intelligence function or, alternatively, their state and regional intelligence operation. These will be of particular assistance in linking the offense with any related activities of extremists and organized hate groups operating in the area.<sup>8</sup>

## ***Endnotes***

1 Richard Thornburgh, U.S. Attorney General in *Hate Crime: A Training Video for Police Officers, Discussion Manual*, Anti-Defamation League of B'nai B'rith, New York, New York.

2 For a review of state statutes on hate and bias crimes refer to *Hate Crimes Statutes: A Response to Anti-Semitism, Vandalism and Violent Bigotry*, ADL Law Report, Anti-Defamation League of B'nai B'rith, New York, New York.

3 Timothy J. Fuhrman, Supervisory Special Agent, FBI, *Investigation of Crimes Motivated by Hate or Bias: A Federal Perspective*, pending publication in *Police Yearbook 1991*, IACP, Arlington, Virginia.

4 U.S. Department of Justice, *FBI Uniform Crime Reporting: A Training Guide for Hate Crime Data Collection*, Washington, D.C. It should be noted that "sexual orientation" is not specified in federal statutes against hate and bias crimes and only infrequently in state statutes, even though a National Institute of Justice report found that homosexuals are probably the most frequent victims of hate crimes.

5 *Op Cit.* at 1, p. 9.

6 *Op Cit.* at p. 4.

7 *Id.*

8 For examples of policies and procedures employed by several major police agencies, refer to *Hate Crimes: Policies and Procedures for Law Enforcement Agencies*, Anti-Defamation League of B'nai B'rith, New York, New York, 1988.

This project was supported by Grant No. 95-DD-BX-K014 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: the Bureau of Justice Assistance, the Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice or the International Association of Chiefs of Police.

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## Model Policy: Dealing with the Mentally Ill

*Effective Date:* April 1, 1997

*Reference*

*Special Instructions*

*Distribution*

*Reevaluation Date:* April 1, 1998

*No. Pages*

### **PURPOSE**

It is the purpose of this policy to provide guidance to law enforcement officers when dealing with suspected mentally ill persons.

### **POLICY**

Dealing with individuals in enforcement and related contexts who are known or suspected to be mentally ill carries the potential for violence, requires an officer to make difficult judgments about the mental state and intent of the individual, and requires special police skills and abilities to effectively and legally deal with the person so as to avoid unnecessary violence and potential civil litigation. Given the unpredictable and sometimes violent nature of the mentally ill, officers should never compromise or jeopardize their safety or the safety of others when dealing with individuals displaying symptoms of mental illness. In the context of enforcement and related activities, officers shall be guided by this state's law regarding the detention of the mentally ill. Officers shall use this policy to assist them in defining whether a person's behavior is indicative of mental illness and dealing with the mentally ill in a constructive and humane manner.

### **DEFINITIONS**

*Mental Illness:* A subject may suffer from mental illness if he/she displays an inability to think rationally, exercise adequate control over behavior or impulses (e.g. aggressive, suicidal, homicidal, sexual), and/or take reasonable care of his/her welfare with regard to basic provisions for clothing, food, shelter, or safety.

### **PROCEDURES**

#### **Recognizing Abnormal Behavior**

Mental illness is often difficult for even the trained professional to define in a given individual. Officers are not expected to make judgments of mental or emotional disturbance but rather to recognize behavior that is potentially destructive and/or dangerous to self or others. The following are generalized signs and symptoms of behavior that may suggest mental illness although officers should not rule out other potential causes such as reactions to narcotics or alcohol or temporary emotional disturbances that are situationally motivated. Officers should evaluate the following and related

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symptomatic behavior in the total context of the situation when making judgments about an individual's mental state and need for intervention absent the commission of a crime.

*Degree of Reactions.* Mentally ill persons may show signs of strong and unrelenting fear of persons, places, or things. The fear of people or crowds, for example, may make the individual extremely reclusive or aggressive without apparent provocation.

*Appropriateness of Behavior.* An individual who demonstrates extremely inappropriate behavior for a given context may be emotionally ill. For example, a motorist who vents his frustration in a traffic jam by physically attacking another motorist may be emotionally unstable.

*Extreme Rigidity or Inflexibility.* Emotionally ill persons may be easily frustrated in new or unforeseen circumstances and may demonstrate inappropriate or aggressive behavior in dealing with the situation.

In addition to the above, a mentally ill person may exhibit one or more of the following characteristics:

- abnormal memory loss related to such common facts as name, home address, (although these may be signs of other physical ailments such as injury or Alzheimer's disease);
- delusions, the belief in thoughts or ideas that are false, such as delusions of grandeur ("I am Christ.") or paranoid delusions ("Everyone is out to get me.");
- hallucinations of any of the five senses (e.g. hearing voices commanding the person to act, feeling one's skin crawl, smelling strange odors, etc.);
- the belief that one suffers from extraordinary physical maladies that are not possible, such as persons who are convinced that their heart has stopped beating for extended periods of time; and/or
- extreme fright or depression.

## Determining Danger

Not all mentally ill persons are dangerous while some may represent danger only under certain circumstances or conditions. Officers may use several indicators to determine whether an apparently mentally ill person represents an immediate or potential danger to himself, the officer, or others. These include the following:

The availability of any weapons to the suspect.

Statements by the person that suggest to the officer that the individual is prepared to commit a violent or dangerous act. Such comments may range from subtle innuendos to direct threats that, when taken in conjunction with other information, paint a more complete picture of the potential for violence.

A personal history that reflects prior violence under similar or related circumstances. The person's history may be known to the officer, or family, friends, or neighbors may be able to provide such information.

Failure to act prior to arrival of the officer does not guarantee that there is no danger, but it does in itself tend to diminish the potential for danger.

The amount of control that the person demonstrates is significant, particularly the amount of physical control over emotions of rage, anger, fright, or agitation. Signs of a lack of control include extreme agitation, inability to sit still or communicate effectively, wide eyes, and rambling thoughts and speech. Clutching one's self or other objects to maintain control, begging to be left alone, or offering frantic assurances that one is all right may also suggest that the individual is close to losing control.

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The volatility of the environment is a particularly relevant factor that officers must evaluate. Agitators that may affect the person or a particularly combustible environment that may incite violence should be taken into account.

## **Dealing with the Mentally Ill**

Should the officer determine that an individual may be mentally ill and a potential threat to himself, the officer, or others, or may otherwise require law enforcement intervention for humanitarian reasons as prescribed by statute, the following responses may be taken.

Request a backup officer, and always do so in cases where the individual will be taken into custody.

Take steps to calm the situation. Where possible, eliminate emergency lights and sirens, disperse crowds, and assume a quiet non-threatening manner when approaching or conversing with the individual. Where violence or destructive acts have not occurred, avoid physical contact, and take time to assess the situation.

Move slowly and do not excite the disturbed person. Provide reassurance that the police are there to help and that he will be provided with appropriate care.

Communicate with the individual in an attempt to determine what is bothering him. Relate your concern for his feelings and allow him to ventilate his feelings. Where possible, gather information on the subject from acquaintances or family members and/or request professional assistance if available and appropriate to assist in communicating with and calming the person.

Do not threaten the individual with arrest or in any other manner as this will create additional fright, stress, and potential aggression.

Avoid topics that may agitate the person and guide the conversation toward subjects that help bring the individual back to reality.

Always attempt to be truthful with a mentally ill individual. If the subject becomes aware of a deception, he may withdraw from the contact in distrust and may become hypersensitive or retaliate in anger.

## **Taking Custody or Making Referrals**

Based on the overall circumstances and the officer's judgment of the potential for violence, the officer may provide the individual and family members with referrals on available community mental health resources or take custody of the individual in order to seek an involuntary emergency evaluation.

Make mental health referrals when, in the best judgement of the officer, the circumstances do not indicate that the individual must be taken into custody for his own protection or the protection of others or for other reasons as specified by state law.

Summon an immediate supervisor or the officer-in-charge prior to taking into custody a potentially dangerous individual who may be mentally ill or an individual who meets other legal requirements for involuntary admission for mental examination. When possible, summon crisis intervention specialists to assist in the custody and admission procedures.

Once a decision has been made to take an individual into custody, do it as soon as possible to avoid prolonging a potentially volatile situation. Remove any dangerous weapons from the immediate area, and restrain the individual if necessary. Using restraints on mentally ill persons can aggravate their aggression. Officers should be aware of this fact, but should take those measures necessary to protect their safety.

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Report the incident whether or not the individual is taken into custody. Ensure that the report is as explicit as possible concerning the circumstances of the incident and the type of behavior that was observed. Terms such as "out of control" or "psychologically disturbed" should be replaced with descriptions of the specific behaviors involved. The reasons why the subject was taken into custody or referred to other agencies should be reported in detail.

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## IACP National Law Enforcement Policy Center Dealing with the Mentally Ill Concepts and Issues Paper December 1, 1997

### INTRODUCTION

#### **Purpose of the Document**

This paper was designed to accompany the Model Policy on Dealing with the Mentally Ill developed by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model policy to the requirements and circumstances of their community and their law enforcement agency.

#### **Background**

The need to assess the mental state and intention of individuals is a routine requirement of officers performing enforcement and investigative functions. The motorist who appears unusually nervous following a routine traffic stop, the individual who becomes enraged and assaults his wife following a verbal dispute, or the seemingly responsible individual who is arrested for shoplifting are among the many types of persons who present officers with recurrent challenges and questions. Are they hiding something? Are they armed? Are they potentially violent? What is their mental state?

Officers must attempt to answer these and other questions concerning persons they come into contact with in a wide variety of enforcement situations. It is a difficult task even when dealing with persons who would not normally be considered mentally ill. Even persons with no history of mental problems can respond with unpredictable behavior particularly when confronting traumatic incidents and undergoing stress. Add to this formula the presence of a law enforcement officer and the subject's possible use of controlled or illegal substances, and some individuals, particularly if threatened with the possibility of arrest, may respond in a bizarre or violent manner. Therefore, even persons who may not show any sign of mental illness in clinical terms under most conditions may fail to think rationally at times or occasionally lose control of their behavior or impulses. Persons who suffer from some form of mental illness pose additional problems.

For the patrol officer, the distinction between the sane person who acts in a deranged manner and the mentally ill person who acts psychotically is in many ways a moot point. The determination of whether an individual is mentally disturbed is one that has more meaning for psychiatrists from a treatment standpoint and for the courts in determining guilt, culpability, and sentencing. For the officer who must deal with a person acting in a bizarre or abnormal manner, the immediate issue is one of determining the intent and capabilities of the individual and taking those steps to ensure the safety of the officer and others. To this end, it is helpful for officers to understand the symptomatic behavior of persons who are afflicted with a form of mental illness. In this way, officers are in a better position to formulate appropriate strategies for gaining the individual's compliance, determining whether medical or other assistance is required, determining whether detention is appropriate or required, and, if the suspect is to be questioned or interrogated, deciding whether the individual is competent to waive his constitutional rights and submit to questioning in a rational manner.

This is not to say that a law enforcement officer needs to or should be called upon to diagnose persons who appear to be mentally disturbed. Mental illness, as the foregoing suggests, is often

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difficult for even the trained professional to diagnose under controlled circumstances. For the officer who often confronts such individuals in enforcement settings where other aggravating factors generally come into play, the task is far more complex and uncontrolled. But officers can and should be able to recognize behavior that is characteristic of the mentally ill and particularly that which is potentially destructive and/or dangerous. This is the primary focus of the Model Policy on Dealing with the Mentally Ill, the elements of which are discussed in the following section of this discussion paper.

## POLICY RECOMMENDATIONS

### Symptoms of Mental Illness

As will be noted later, officers should evaluate the following types of behavior in the total context of the situation when judging an individual's mental state and the need for police intervention absent the commission of a crime. The model policy identifies three broad types of behavior that may suggest mental illness:

1. *Degree of reactions.* Mentally ill persons may show signs of strong and unrelenting fear of persons, places, or things. A fear of crowds, for example, may make the individual extremely reclusive or aggressive without apparent provocation.
2. *Appropriateness of behavior.* An individual who demonstrates extremely inappropriate behavior for a given context may be emotionally ill. For example, a motorist who vents his frustration in a traffic jam by physically attacking another motorist may be emotionally unstable.
3. *Extreme rigidity or inflexibility.* Emotionally ill persons may be easily frustrated in new and unforeseen circumstances and may demonstrate inappropriate or aggressive behavior in dealing with the situation.

In addition to the above, a mentally ill person may exhibit one or more of a number of other characteristics. For example, the mentally ill person may suffer from abnormal memory loss related to such common facts as name and home address. In some cases, however, such memory loss may be the product of other physical ailments. With older persons, in particular, one should not overlook the possibility of Alzheimer's disease.

The mentally ill person may exhibit delusions, that is, hold impossible beliefs, thoughts, or ideas. These may include delusions of grandeur, such as "I am Christ," or paranoid delusions such as "Everyone is out to get me." Delusional persons may also have generalized fears or beliefs such as unrealistic fears that they are being constantly watched; that their conversations or even their thoughts are being overheard, recorded, or monitored; or, that they are being talked about, followed, or otherwise persecuted.

False and either unlikely or impossible beliefs and fears may also take on the character of physical maladies. For example, a person may believe that his heart has stopped beating for extended periods of time.

Hallucinations may also be evident. Hallucinations may involve any of the five senses but hearing or seeing things that are not based in reality are most common. For example, the individual may hear voices commanding him to act in a particular way, or he may feel his skin "crawl" or smell strange odors. However, hallucinations may also be induced by drugs or alcohol.

Mental illness can also be evident when individuals display sudden changes in lifestyle, which include but are not limited to an unwillingness to live up to commonly accepted roles and responsibilities; sudden and drastic mood swings; serious lack of judgment regarding money, job, family, and

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property, or marked and extreme departures in dress and sexual behavior. The mentally ill person may also be obsessed with recurrent and uncontrolled thoughts, ideas, or images, or may appear highly confused, frightened, or depressed.

## **Other Causes of Abnormal Behavior**

Officers should not confuse mental illness with abnormal behavior that is the product of other physical disabilities. This includes mental retardation or other developmental disabilities that may include some of the characteristic behaviors of the mentally ill. There are important differences between individuals suffering from these other medical conditions and the mentally ill. These conditions include the following.

1. *Mental retardation.* Mental retardation refers to subnormal intellectual capacity and deficiencies in a person's ability to deal effectively with social conventions and interaction. The mentally retarded may display behaviors that are rational but that are similar to younger persons who are not retarded. By contrast, the mentally ill may not be impaired intellectually and may act in many instances as rational, functional members of society. Their behavior generally fluctuates between the normal and the irrational. The mentally retarded individual does not demonstrate this type of behavioral fluctuation. Mental retardation is evident during one's early years and is a permanent condition for life, whereas mental illness may develop during any period of an individual's life. Additionally, mental illness may not be a permanent condition, and many forms of mental illness can be cured or at least controlled by therapy and/or medication.

Another important distinction is that the mentally retarded individual does not engage in violent behavior without the types of provocations that may initiate violence among the non-retarded person. On the other hand, a mentally ill person, depending upon the nature of the illness and the circumstances of the situation, may become violent for no apparent reason because of the individual's distorted perception of reality.

2. *Cerebral palsy.* In addition to the mentally retarded, persons suffering from other types of developmental disabilities should be distinguished from the mentally ill. Persons suffering from cerebral palsy exhibit motor dysfunctions that may, at first glance, be confused with some characteristics of either the mentally retarded or the mentally ill. These include awkwardness in walking, involuntary and uncontrollable movements, or seizures and problems in speech and communication.
3. *Autism.* The characteristics of an autistic person may also be confused with those of mental retardation and mental illness. The autistic often engage in compulsive behavior, or repetitive and peculiar body movements, and can become very distressed over minor changes in their environment. They may also display unusual reactions to objects or people they see around them; appear insensitive to pain; and may be hyperactive, passive, or susceptible to tantrums. Such persons may also appear retarded in some areas, but highly capable or even gifted in others.

## **C. Police Response to the Mentally Ill**

Police response to the mentally ill is determined to some degree by the manner in which the contact is initiated. Possibly the largest percentage of police officer contacts with the mentally ill are initiated by officers as the result of their observation of bizarre, disruptive, or other abnormal behavior. In many cases, however, the mentally ill will seek out officers particularly when there is a degree of familiarity between the two based on prior contacts. The family of a mentally ill person is also



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frequently the initiator of police contact, often when the affected person has created a family disturbance.

Possibly one of the more significant points of contact between the police and the mentally ill is on city streets and in other public places. In both enforcement and investigative capacities, officers often encounter mentally ill persons among the homeless who inhabit public places on a full-time or part-time basis. A large proportion (possibly as high as 50 percent in some areas) of these individuals suffer from serious mental illness, often schizophrenia. Other street persons have milder forms of mental illness that often allow them to move among the street and the homes of relatives and friends, shelters, or other living arrangements. Among these are also persons who suffer from a combination of mental illness, alcoholism, drug abuse, and degenerative diseases.

In the late 1960s and early 1970s, several hundred thousand persons were released from state mental hospitals as the result of public pressure and court rulings that were intended to deinstitutionalize mental illness and turn the confined over to treatment facilities in the community. But most communities have not done a good job in developing such services, and once on the street without treatment and medication, it is difficult to entice such individuals into voluntary treatment even where it does exist. Today, it is far more difficult to involuntarily commit mentally ill persons than in prior years. As a result, officers are often hard pressed to find reasonable and productive ways to deal with the mentally ill.

Due to the unpredictable nature of many mentally ill persons, when dealing with the mentally ill, officers must be particularly conscious of their own safety and that of innocent bystanders. This safety check or assessment must be performed on an ongoing basis beginning with the receipt of basic information about the individual and continuing throughout the period of contact. The more information the officer can obtain on the individual, the better the officer will be in making responsive decisions. If the initial contact is made through a dispatched call for service, some basic information can be obtained from the dispatcher. The same type of information should be obtained if possible from other sources of the police contact, whether that be a concerned citizen, the court, family member, or other individual.

For example, responding officers should seek information, as available, on the characteristics and specific behavior of the subject, relationship of the complainant to the subject (if any), whether a crime is involved, the availability of weapons to the subject, prior police contact with the person, and the nature of any mental health dispositions.

Once armed with all available information, the officer can better determine an appropriate response. Unless a crime of violence has been committed and/or a dangerous weapon is involved, officers should normally respond to the incident or approach a known mentally ill subject in a low-profile manner. Emergency lights and siren should be used only when urgency is mandatory, and these devices should be turned off as soon as possible upon arrival. Emergency equipment can have a disturbing and altogether negative impact on the mentally ill, may potentially heighten the person's anxiety, and deter officers from efforts to calm the situation.

Where there is reason to believe that the subject is in a crisis situation, such as threatening suicide or involved in a hostage and/or barricade, officers should request backup and any specialized crisis intervention assistance available while taking initial steps necessary to moderate or defuse the situation.

At the scene of an incident involving a mentally ill person or one who is suspected of being mentally ill, officers should first take time, if possible, to survey the situation in order to gather necessary information and avoid hasty and potentially counterproductive decisions and actions. Often, circumstances preclude such inquiries, but, where time permits, family members or friends of the individual

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can often lend some insight into the person's background and specifics about his behavior. Friends or acquaintances may be able to provide some insight into the cause of the person's present behavior problem. Pinpointing the cause of the behavior, as perceived by the individual, can provide officers with a basis for discussion and possible moderation of the person's distress and behavior.

Also important is information on the person's present or past use of prescription drugs. Many persons who suffer from mental illness fail to use medication that has been prescribed for their diagnosed mental illness. This is common, for example, among schizophrenics. Many schizophrenics receive treatment on an out-patient basis and gain a degree of self-control as long as that treatment is continued. However, without medical supervision, many are incapable or unwilling to maintain the prescribed treatment regimen on their own. As such, they often revert to their previous pattern of uncontrolled or bizarre behavior.

In addition, many mentally ill persons attempt to alleviate their anxieties and related mental disturbances through self-medication with alcohol, street drugs, or a combination of these substances. The use of these drugs can exacerbate existing mental problems, compound the difficulty in diagnosing and treating these individuals, and cause additional difficulty for officers in their attempts to gain control of the individual's behavior. However, information provided by friends or acquaintances on these and other matters can assist officers as well as crisis intervention and medical personnel in providing appropriate assistance to the mentally ill.

Before approaching the suspected mentally ill person, officers should attempt to bring the immediate situation under control. The mentally ill are generally adversely affected by distractions including noise and crowds. Crowds of curious bystanders generally, and antagonistic or rowdy persons, in particular, can excite and unduly agitate the mentally ill, particularly those who are in a crisis mode such as one who is threatening suicide or violence. Therefore, where such crowds or bystanders are on hand they should be controlled and preferably dispersed in order that officers may better communicate with and control the subject. Family members who create disruption or who contribute to confusion of the subject are no exception. However, witnesses and those who can provide information or assistance that is helpful in resolving the situation should be asked to remain nearby.

Once the immediate surroundings are under control, attention should be directed toward determining whether the individual represents a danger to himself or others. The presence of a dangerous weapon is an obvious indication that violence is possible, but there are other behavioral characteristics that an officer can use to help determine whether the subject is prone to violence. The model policy cites the following as examples.

1. *Statements of the subject.* Any threatening statements made by the subject should be given serious consideration and should not be dismissed simply as the ramblings of a confused or troubled individual. This is particularly the case where the capacity or capability to commit violence exists. Such statements may range from subtle innuendoes to direct threats. Comments that suggest intent to commit a dangerous act do not have to be taken at face value. When taken in conjunction with other information, such threats can paint a more complete picture of the potential for violence.
2. *Personal history.* It is not uncommon for police officers to have some familiarity with individuals who are mentally ill based on prior contacts with them in the community. Under such circumstances, officers are in a better situation to assess the individual's propensity for violence as well as the predictability of the individual's behavior. Where the subject is unknown to the officers, friends, family, or others may be able to provide some insight into the individual's behavior and capacity for violence. With or without such information, officers should be cautioned that mentally ill persons are typically unpredict-

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able. Even the familiar and often compliant person who is mentally ill can react in a violent manner without perceived provocation.

3. *Observed actions.* The subject's actions while officers are on the scene as well as those that were observed prior to the officers' arrival are relevant to a determination of the individual's propensity for violence. Acts of violence or threats of violence during those periods should be taken seriously. Failure to act in a violent manner prior to an officer's arrival does not guarantee that there is no danger, but it does tend to diminish the potential for danger.

Officers should make mental notes of the precise actions and behaviors taken by the individual so that these can be entered into their report. Descriptions of the exact actions of an individual who is suspected of being mentally ill are particularly important when justification is required for arrest or referral to a mental health facility. Use of generalized terms such as "bizarre" or "crazy" to describe the nature of an individual's actions are not sufficient and should be substantiated with concrete illustrations of actual behavior.

4. *Degree of control.* The amount of control that an individual demonstrates is significant, particularly the amount of physical control over emotions of rage, anger, fright, or agitation. Signs of a lack of control include extreme agitation, inability to sit still or communicate effectively, wide eyes, and rambling thoughts and speech. In addition, clutching one's self or other objects to maintain control, begging to be left alone, or offering frantic assurances that one is all right may also suggest that the individual is close to losing control.
5. *Volatility of the environment.* The general environment surrounding the event should also be taken into consideration. This potentially covers a broad range of issues in addition to those involving crowds, noise, and confusion already mentioned. For example, if a criminal offense is involved and an arrest is required, attempts to restrain the individual can be the source of agitation and confrontation between the officers and the mentally ill person if not handled wisely and skillfully. In open public spaces where attention is being drawn, the individual may be more easily distracted and/or agitated as opposed to isolated or private settings.

## **D. Approaching and Handling the Mentally Ill**

When officers are prepared to approach a suspected mentally ill person, they should take several factors into consideration. The model policy includes the following factors as among the most important.

First, officers should always be aware of their personal safety when dealing with persons who exhibit characteristic behavior of mental illness. When possible, a backup officer should be summoned to provide assistance. This is particularly necessary prior to efforts to take the person into custody.

Officers should also recognize that they are not in a position personally to solve the problems of a mentally ill person. More often than not, it should be anticipated that the same person will again come into contact with the police in a similar or related context. With this in mind, officers should remember that their actions may have a long-term impact on the perceptions of the mentally ill person toward the police. Dealing with the mentally ill is one of the more trying of police tasks and one that few officers would normally invite. But dealing with the mentally ill in a dismissive manner or with disdain is neither a humane approach or one that will reap any long-term benefit for the mentally ill person. It will also invariably create difficulty for the same or other officers in future interactions with

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that individual. In a worst-case scenario, failure to deal responsibly and fairly with the individual may lay the groundwork for a later, more serious confrontation with the police and the community involving potential physical injury or loss of life.

When approaching a suspected mentally ill person, officers should assume a physically defensive posture in relationship to the individual while attempting to build rapport by speaking in a calm and relaxed manner. Officers should avoid approaching the subject until a degree of rapport has been developed if this is at all possible. When speaking with the individual, one should exhibit a take-charge attitude but without becoming overbearing, condescending, or intimidating. While the mentally ill person may not be in command of his behavior at all times, he does not necessarily lack intellectual abilities or insight, and may be provoked by demeaning, condescending, arrogant, or contemptuous attitudes of others. Attempts to deal constructively with the person in a calm, non-judgmental manner, develop some understanding, and demonstrate some empathy for the individual's problems or concerns while avoiding a tough or threatening manner should greatly assist in gaining compliance.

In addition, avoiding issues and topics that may serve to agitate the individual is recommended along with efforts to guide the conversation toward subjects that help bring the subject back to reality. Officers should reassure the individual that the officers are there to help and that an appropriate resolution of the problem can be reached. All attempts should be used to communicate with the person first by allowing him to ventilate in order to determine what is bothering him. Efforts should be made to relate the officer's concern for the individual's feelings and an appreciation for the problems and concerns that the individual describes, no matter how trivial or bizarre they may appear. The emphasis here is to develop a rapport with the individual that will provide reassurance that the officer(s) is not there simply in an authoritarian role but there to assist the individual. In attempts to assist, however, officers should always attempt to be truthful with a mentally ill person. If the person becomes aware that officers are deceiving him, he may withdraw from contact in distrust and may become hypersensitive or retaliate in anger.

The individual should not be threatened with arrest or other enforcement action as this will only add to the subject's fright and stress and may potentially spark aggression. Should arrest be necessary, the officer should request assistance and proceed with taking the person into custody. In doing so, the officers should consider the following.

## **Taking Custody or Making Referral**

Based on the overall circumstances of the situation, applicable state law, and departmental policy, an officer may take one of several courses of action when dealing with an individual who is suspected of being mentally ill. The options for dealing with such individuals generally fall into one of four response categories as suggested by the model policy.

1. *Counsel and/or refer.* When a criminal or other offense is not involved and there is not sufficient grounds for taking the person into custody for his own protection, the protection of others, or for other reasons as specified by law, it is often best to make mental health referrals and provide some basic guidance for the individual. For the mentally ill who reside in public places, referrals to community mental health facilities are often a futile effort. Most individuals in this capacity do not have the presence of mind to recognize their mental problems and even less ability or interest in acting upon referral recommendations. Nonetheless, such referrals should be made. Some mentally ill persons go through periods of relative lucidity during which they may be able to recognize their needs and act upon an officer's suggestions, particularly if the location and telephone number of local mental health facilities has been provided to them in writing.

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In cases where the mentally ill have friends, family, and other support systems in the community, information on mental health facilities may also be provided directly to these individuals. With this information, they may be in a better position to seek assistance for their friend, acquaintance, or relative who suffers from mental illness.

In cases where the individual is extremely agitated, it is generally inadvisable to leave the person unattended. In many such cases, when left alone in a highly emotional state, the mentally ill may resort to the same behavior that was the basis for police intervention in the first place. In such cases, officers may, if permitted by departmental policy, provide transportation for the individual to a group home or other facility that can provide shelter, counseling, or related mental health services or, to the home of a friend, family member, or acquaintance who may be willing to provide assistance.

2. *Professional assistance.* Because it is so difficult for officers to recognize some persons who are mentally ill and those that may need professional care in order to avoid violence to themselves or others, use of a trained mental health professional is often a preferred option. Some agencies are fortunate to have a mental health professional, such as a counselor or crisis intervention specialist on staff who may be employed in this capacity. Officers in other agencies may be able to use the services of such individuals on a contract basis when needed. In any of these cases, officers may, based on the nature of the situation, request assistance by either direct intervention at the scene of the incident, by telephone consultation with a mental health professional, or by transporting the subject to a centralized location where an interview and other treatment can be obtained.

Refusal to submit to voluntary examinations or professional assistance can be expected in many instances. However, it is entirely acceptable for officers to explain that such refusal may leave the officer with no other option than to seek alternative remedies, such as arrest where justified or an involuntary examination in a mental health facility where legal grounds exist. Many mentally ill persons, recognizing that they are not fully in control of their actions and/or thoughts and aware of stories of confinement related by other mentally ill acquaintances, fear mental health professionals and examinations. Officers can dispel some of that fear by explaining that an examination does not mean incarceration or confinement in a mental health facility but may provide them with much-needed assistance and possibly allow them to avoid future confrontations with others, including the police.

3. *Involuntary examination.* State laws provide the legal criteria and limitations for involuntary commitment of individuals for mental examinations. While state statutes vary, they generally provide for involuntary examination when the person is a danger to self or others, is gravely disabled by mental impairment, and/or is so impaired as to not understand the need for mental treatment. Officers must refer to specific state statutes for details in these regards and should be aware of the rights of those who are detained for mental examinations. Where the criteria for involuntary mental examination has been satisfied, and a misdemeanor or other less serious violations have also been committed, officers may, depending upon departmental policy, choose the course of involuntary commitment in lieu of or in addition to lodging criminal charges.

The issue of involuntary examination is problematic for officers and others involved. Many state and local institutions are not eager to become involved in such examinations, and under such circumstances it becomes difficult and time-consuming for officers to deal with the mentally ill in this manner. At the same time, failure to take action when there is

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sufficient grounds to believe that a mentally ill person may be a danger to himself or others can have serious consequences. Officers may, in fact, place themselves and/or their agency in jeopardy of civil liability should a serious incident develop as the result of their inaction. Jurisdictions that have developed a coordinated police-public health partnership to deal with the mentally ill are in a far better position to deal with these and other related issues than those that have lacked interest, concern, and/or resources to adequately address the mental health problem within their community.

4. *Arrest.* As noted in the foregoing, arrest may be used solely or in combination with involuntary commitment. However, when a felony or other serious offense is involved, officers should normally make the arrest and rely on supervisory and other command-level personnel to determine whether an involuntary mental examination is warranted.

Before taking a person into custody under arrest or for involuntary mental examination, officers should summon a supervisor or the officer-in-charge. As noted, taking custody of a possible mentally ill person can be a difficult undertaking. Where available, a mental health professional should also be summoned in order to help handle the individual and deal with admissions procedures. Once a decision has been made to take a suspected mentally ill person into custody, it should be done as soon as possible to avoid prolonging a potentially violent situation. Officers should immediately remove any objects that can be used as a dangerous weapon and restrain the person if necessary. While the use of restraints can, with some individuals, aggravate their aggression, officers should take these and related security measures necessary to protect their safety and the safety of others with whom the mentally ill person will come in contact.

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Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors.