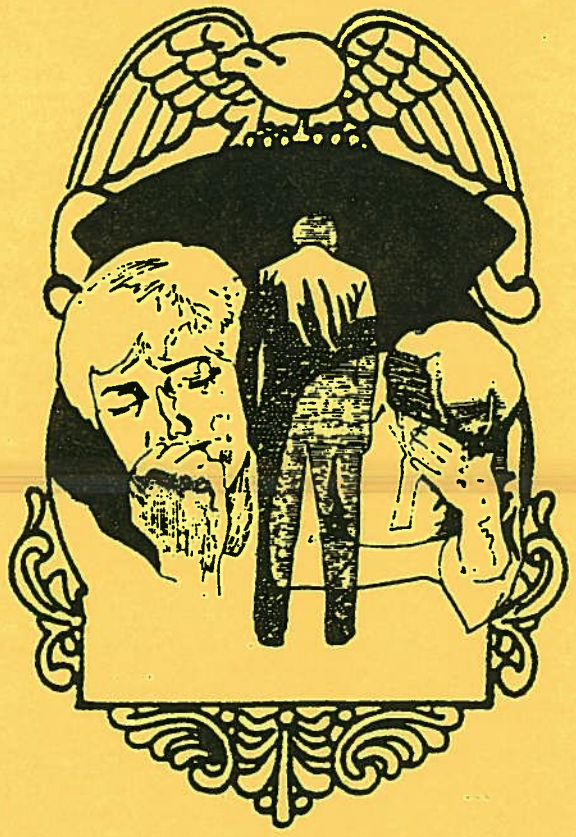
149 pages

CONFRONTING DOMESTIC VIOLENCE:

EFFECTIVE POLICE RESPONSE



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CONFRONTING DOMESTIC VIOLENCE:

EFFECTIVE POLICE RESPONSE

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CONFRONTING DOMESTIC VIOLENCE: EFFECTIVE POLICE RESPONSE

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DOMESTIC VIOLENCE:

CRIMES AGAINST WOMEN

DOMESTIC VIOLENCE OVERVIEW

There has been a change in consciousness about domestic violence over the course of the last ten years. We no longer believe that wife/partner beating is inevitable and private. We believe it is avoidable and criminal. We have all heard statistics that nearly 6 million women will be battered by their husbands in any single year and that that 28% of all the adult women in this country are likely to be the victims of woman abuse during an intimate relationship. We have heard that battery is the single major cause of injury to women in the U. S., more significant than auto accidents, rapes and muggings put together. (O'Reilly, 1983)

While this data is compelling, it is also overwhelming. It may be more manageable to look at the incidence of domestic violence during this seven hour criminal justice seminar. The following domestic violence occurs in each seven hour time period in this country:

- More than 1,400 women will be battered by their husbands/male partners; that's 1 domestic assault every 18 seconds in the country. (FBI statistics.) (This figure may be a substantial underestimate since about 75% of all assaults against women by intimates/former intimates occur after separation, and data is generated from husbands/wives/partners who are cohabiting. See **Separation Violence** below.)

  Three of four of these women may be injured in the assaults. (Browne, 1987)

- At least $40,000 will be paid in medical costs related to spouse/partner abuse. (Bureau of Justice Statistics)

- More than 490 adults will face a spouse wielding a knife or a gun during these seven hours. (Straus et al, 1980)

- 11 husbands/wives/partners will be killed by a spouse/partner. (FBI, 1986-7)

- 2,637 children will have witnessed their fathers assaulting their mothers. (National Women Abuse Prevention Project, 1989)

- 288 children will be abused by fathers/mothers/caretakers. (Children's Defense Fund, 1989) Another source would estimate the figure at 800 during this 7 hours. (National Committee for the Prevention of Child Abuse, 1986.)

  Where a male perpetrator is identified, as many as 70% of the injuries inflicted are likely to be severe. (Bergman et al, 1986)

  Between 50% and 70% of the men who batter their wives/partners also abuse their children. (Walker et al, 1982) Most severe child abuse occurs in the context of domestic violence, and the onset of child abuse post-dates the woman abuse. (Stark & Flitcraft, 1985)

- 283 children will be abducted by a parent; that's 40.4 children abducted per hour in this country. 54% of these abductions are short-term manipulations around custody orders, but 46% involve concealing the whereabouts of the child and/or taking the child out of state.

  Most of these abductions are perpetrated by fathers or other adult men in the family. Fully 41% occur between the separation of the parents and the divorce. Yet another 41% happen after the parents are separated or divorced for more than 2 years.

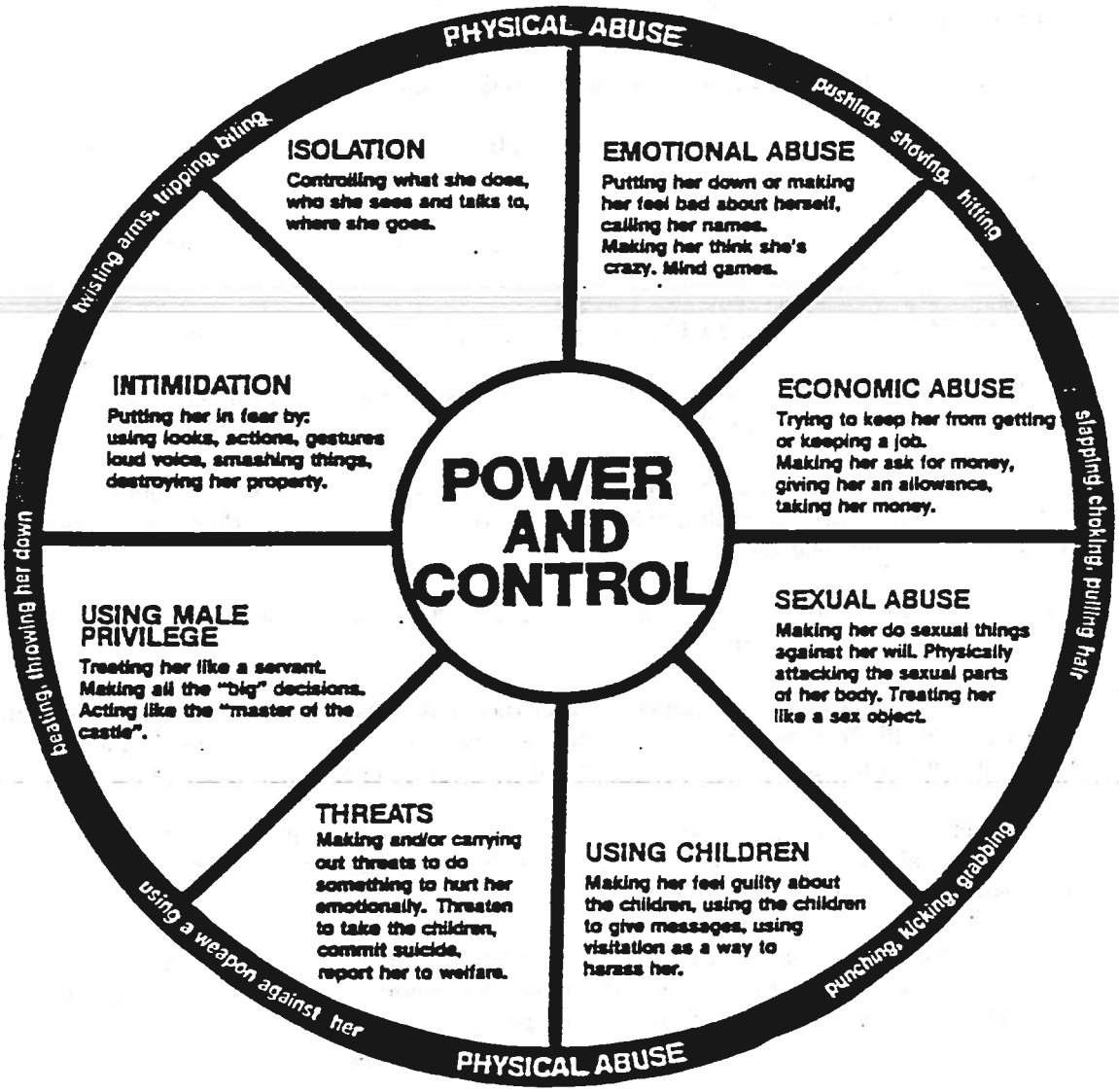
Three of 10 of the abducted children will suffer mild to severe mental harm as a result of the abductions. (Finkelhor et al, 1990)

No data is yet available to answer the question -- How many of these abductions are perpetrated by men who batter their wives/female partners? Our experience is that the figure is substantial. Battering men use custodial access to the children as a tool to terrorize battered women or to retaliate for her separation from the batterer. Custodial interference is one of the few battering tactics available to an abuser after separation; thus it is not surprising that it is used extensively.

What is Domestic Violence?

Domestic violence involves a continuum of behaviors ranging from degrading remarks to cruel jokes, economic exploitation, punches and kicks, false imprisonment, sexual abuse, suffocating actions, maiming assaults, and homicide. Unchecked, domestic violence usually increases in frequency and severity.

Below, you will find a chart which helps describe domestic violence.



Duluth, Domestic Abuse Intervention Project
206 W. 4th St., Duluth, MN 55806
218/722-2781

Many victims suffer all forms of abuse. Verbal and emotional abuse may be more subtle than physical harm, but this does not mean that it is less destructive to victims. Many have said that the emotional scars take much longer to heal than the broken bones.

The first assault inflicted by a batterer usually shocks the victim. It is hard to believe that a person who proclaims love, devotion and commitment to you could violate you. About 20% of battered women report that the first assault by their partner came during pregnancy. Thereafter, episodes of violence may be infrequent or frequent, prolonged or short-lasted, severe or mild assaults. Non-violent tactics of control are always coupled with violent conduct. Violent assaults usually increase in frequency and severity over time. As the batterer's violence progresses, he may begin to abuse the children and he may direct violence or threats of violence against friends or extended family. Even those batterers who infrequently use violence regularly remind their battered partners that non-compliance with their demands may precipitate violent assaults.

Who Are The Victims and Perpetrators?

Research shows that the overwhelming majority of adult victims of domestic violence are women. About 95% of the victims of domestic violence are women. (Dobash & Dobash, 1979; Browne, 1987)

Battering occurs regardless of race, age, socioeconomic status, sexual orientation, mental or physical ability and religious background. Women can be beaten in any neighborhood in any town. Battered women are factory workers, nurses, lawyers, homemakers, police officers, and college students. They are grandmothers and they are teenagers. Batterers are unemployed workers, farmers, computer experts, car salesmen, university professors, truck drivers, psychiatrists and house painters.

Battered women are like all other women. They are not psychologically impaired. Neither do they suffer from personality disorders. Their behavior does not distinguish them from other women. They cannot be identified by particular demographics. The only two consistent risk markers for women being battered are gender and witnessing the abuse of their mothers by their fathers. (Hotaling & Sugarman, 1986)

Batterers are not easily identifiable. They reflect the full range of demographic measures. They are not likely to suffer from severe mental disorders. (Saunders & Browne, 1990) Although some are "negativistic" and "narcissistic," the majority do not meet the criteria for psychopathology. (Hamberger & Hastings, 1986) Men who batter, however, seem to have been more likely to have witnessed their fathers beating their mothers and to have been severely abused during childhood than men who do not use violence and terrorism in intimate relationships. (Hotaling & Sugarman, 1986; Saunders, 1988)

While there is no behavioral profile that identifies all batterers, a cluster of behaviors appears quite consistently among severely violent and life-threatening perpetrators. These include:

- Threats to kill.
- Frequent physical assaults on his woman partner.
- Frequent and severe sexual assaults of his woman partner.
- Infliction of severe injury on his woman partner.
- Frequent consumption of drugs or alcohol.
- Violence outside the home. (Saunders, 1988; Gondolf, 1988; Browne, 1986)

Separation Violence.

Many, perhaps most, people believe that battered women will be safe once they separate from the batterer. They also believe that women are free to leave abusers at any time. However, leaving does not usually put an end to the violence. Batterers may, in fact, escalate their violence to coerce a battered woman into reconciliation or to retaliate for the battered woman's perceived rejection or abandonment of the batterer. Men, who believe they are entitled to relationship with battered women or that they "own" their female partners, view women's departure as an ultimate betrayal which justifies retaliation. (Saunders & Browne, 1990; Dutton, 1988; Bernard et al, 1982)

Evidence of the gravity of *separation violence* is overwhelming.

- Up to 3/4 of domestic assaults reported to law enforcement agencies were inflicted after separation of the couples. (U.S. Dept. of Justice, 1983)

- One study reveals that 73% of the battered women seeking emergency medical services sustained injuries after leaving the batterer. (Stark et al, 1981)

- In a study of women seeking divorce in Philadelphia in 1986, 11% of the women reported that they were battered during separation as well as during the marriage. 4% of the women stated that they were assaulted during separation even though they had not been abused during co-habitation. 32.6% of the women said that they were fearful during negotiations for child custody, about 22% stated that they were fearful of retaliatory violence during negotiations for child support and 27.7% fearful during negotiations for property. 13% of the women in the study stated that they gave up legal rights because of their fear of retaliatory violence. (Kurz & Coughey, 1989)

- Almost 1/4 of the women killed by their male partners in one study in Philadelphia and Chicago were separated or divorced from the men who killed them. 28.6% of the women were attempting to end the relationship when they were killed. (Casanave and Zahn, 1986) In one study of spousal homicide, over half of the male defendants were separated from their victims. (Bernard et al, 1982)

- Women are most likely to be murdered when attempting to report abuse or to leave an abusive relationship. (Sonkin et al, 1985; Browne, 1987)

Because leaving may be dangerous -- dangerous from the point that the batterer learns that the relationship may end through several years after separation -- does not mean that the battered woman should stay. Cohabiting with the batterer is highly dangerous both as violence usually increases in frequency and severity over time and as a batterer may engage in pre-emptive strikes, fearing abandonment or anticipating separation even before the battered woman reaches such a decision. Although leaving may pose additional hazards, at least in the short run, the research data and our experience as advocates for battered women demonstrates that ultimately a battered woman can best achieve safety and freedom apart from the batterer.

Leaving will require strategic planning and legal intervention to avert *separation violence* and to safeguard victims and their children. Law enforcement, advocates, and battered women must work in partnership to assure that the separation process is safeguarded against batterer violence.

The Long-Term Effects of Domestic Violence.

The long-term effects of domestic violence have not begun to be fully documented. Battered women suffer physical and mental problems as a result of domestic violence. Battering is the single major cause of injury to women, more significant than auto accidents, rapes, or muggings. (O'Reilly, 1983) In fact,

the emotional and psychological abuse inflicted by batterers may be more costly to treat in the short-run than physical injuries. (Straus, 1987) Many of the physical injuries sustained by women seem to cause medical difficulties as women grow older. Arthritis, hypertension and heart disease have been identified by battered women as directly caused or aggravated by domestic violence early in their adult lives. (Corrao, 1985)

Battered women lose their jobs because of absenteeism due to illness as a result of the violence. Absences occasioned by court appearances also jeopardize women's livelihood. Battered women may have to move many times to avoid violence. Moving is costly and can interfere with continuity of employment.

Battered women often lose family and friends as a result of the battering. First, the batterer isolates them from family and friends. Battered women then become embarrassed by the abuse inflicted upon them and withdraw from support persons to avoid embarrassment.

Some battered women have lost their religious communities when separating from abusers because religious doctrine prohibits separation or divorce whatever the severity of abuse.

Many battered women have had to forgo financial security during divorce proceedings to avoid further abuse. (Kurz & Coughey, 1989) As a result they are impoverished as they grow older. (Marshall & Sisson, 1987)

One-third of the children who witness the battering of their mothers demonstrate significant behavioral and/or emotional problems, including psychosomatic disorders, stuttering, anxiety and fears, sleep disruption, excessive crying and school problems. (Jaffe et al, 1990; Hilberman & Munson, 1977-78)

Those boys who witness their fathers' abuse of their mothers are more likely to inflict severe violence as adults. (Hotaling & Sugarman, 1986) Data suggest that girls who witness maternal abuse may tolerate abuse as adults more than girls who do not. (Hotaling & Sugarman, 1986) These negative effects may be diminished if the child benefits from intervention by the law and domestic violence programs. (Giles-Sims, 1985)

The long-term effects of child sexual abuse include "depression and self-destructive behavior, anger and hostility, poor self-esteem, feelings of isolation and stigma, difficulty in trusting others (especially men), marital and relationship problems, and a tendency toward revictimization." (Finkelhor & Browne, 1988) Other effects identified include runaway behavior, hysterical seizures, compulsive rituals, drug and school problems. (Conte, 1988)

THE CHALLENGE TO THE CRIMINAL JUSTICE SYSTEM.

In the last fifteen years we have identified domestic violence as criminal conduct. We have made significant statutory change. In Pennsylvania, we began upgrading the civil law, and in 1976 the legislature adopted the Protection From Abuse Act. It has twice been amended to expand the relief available to battered women and children. Judges, advocates and battered women all agree that the injunctive and compensatory relief under the Act have afforded vital protections to the victims of domestic violence. Pennsylvanians then focused our attention on the criminal justice system and its potential for safeguarding those terrorized and jeopardized by family violence. We adopted law enforcement and prosecutorial guidelines to expedite appropriate, firm responses to domestic violence crimes. In 1986 the legislature passed the Probable Cause Arrest Statute in order to authorize law enforcement to arrest batterers who commit specific violent misdemeanors. Police training on domestic violence is now mandatory within the Commonwealth. Landmark appellate legislation has further strengthened the rights and protections available to battered women in the Commonwealth. The

Attorney General's Task Force on Domestic Violence recently promulgated a model protocol for law enforcement response to domestic violence. This model is being used throughout the country.

As battered women's advocates and other actors in the criminal justice and legislative systems have introduced and implemented progressive changes, academics have been evaluating the efficacy of these legal protection strategies. Earlier this year the National Institute of Justice published a report that strongly supports the value of civil protection orders in affording safety for battered women and children. (Finn & Colson, 1990) Several years ago a study of domestic homicide confirmed that there were fewer female-perpetrated domestic homicides in states having more domestic violence laws and other resources for abused women, including shelters, crisis lines, support groups, and legal advocacy. (Browne & Williams, 1989) Viable options apparently offer women avenues of escape from situations where they are forced to use violence to protect themselves or a child. (Browne, 1986) Pennsylvania is one of the states where there has been a decrease in homicide by wives, ex-wives and girlfriends. Research has also demonstrated that arrest is the most effective tool for law enforcement response to domestic violence. Arrest deters recidivism best. (Sherman & Berk, 1984) Not only have pro-arrest policies by police departments protected victims, they have, likewise, protected responding officers. Apparently, officers operating under pro-arrest guidelines quickly identify perpetrator conduct as criminal and potentially dangerous and intervene more definitively than those working under more ambiguous policies. (Duluth Police Dept., 1990)

But police officers cannot do this work alone. Research reveals that where the justice system coordinates its efforts so that arraigning magistrates, prosecutors, judges, probation and parole officers, sheriffs, victim-witness personnel, and battered women's advocates upgrade, clarify and coordinate their efforts, domestic violence can be stopped and victims protected. (Bowker, 1983; Goolkasian, 1986; Lerman, 1981)

Barbara J. Hart, Esquire

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WHY SHE STAYS, WHEN SHE LEAVES

Many people not involved with an abusive partner say that if their mates ever harmed them they would leave. Many battered victims remember the same resolve. Why do they stay? Why might they go back? Why do some permanently separate from abusers?

There are serious factors which weigh on the battered woman's decision to leave. This is the man she loves, or has loved. The batterer may be the father of her children. Ending an intimate relationship is very difficult, even more so when self-confidence has been destroyed by the batterer. Battered women report the following reasons for staying with the batterer or leaving him.

Hope for change. Many abusive mates become remorseful after inflicting violence. This contrite behavior may include promising never to hit again, agreeing to seek counseling if the victim does not leave, reminding the victim of how hard the perpetrator works, pointing out the incredible stresses under which he is operating, acknowledging the wrongfulness of his violence to the children and asking their help in stopping it, and demonstrating his love for her in meaningful ways. Since battered women are in committed relationships and have often built their lives around the relationship, they hope for change. When the batterer acknowledges the error of his ways, when he breaks down and cries out his despair, and concedes the need for dramatic change, hope is often born anew for battered women.

Isolation. Many battered women lose their support systems. The batterer has isolated them. For example, a batterer may prohibit a battered woman from using the phone; may humiliate her at family gatherings; may insist on transporting her to work; may censor her mail, etc. Men who batter are often highly possessive and excessively jealous. They believe that they "own" the battered woman and are entitled to her exclusive attention and absolute obedience. The batterer knows that if the truth is told about his conduct, support persons will urge the battered woman to leave or seek assistance. Therefore, batterers quickly isolate battered women in order to sustain the power of their violence.

Societal denial. Battered women fear that no one will believe their husbands or partners beat them. Batterers often are very ingratiating and popular men who keep their terrorizing, controlling behaviors within the family behind closed doors. The battered woman knows this, and it compounds her fear that no one will believe her. Battered women discover that many people and agencies in the community trivialize the impact of violence (e.g. doctors prescribe valium for coping; ministers recommend prayer and more accommodating behaviors; therapists advise better communications with the perpetrators, etc.). No one understands that she feels like a prisoner who might be severely injured or die at the hands of her jailer. She concludes that since they don't understand the seriousness of the violence, they will not support her disruption of the family.

Barricades to leaving. Even when a battered woman decides to leave, batterers put up many barricades. Many threaten to seek custody of their children, to withhold support, to interfere with her employment, to advise prospective landlords that she is not credit-worthy, to try to turn the children or family against her, to threaten to kill her or other family members if she leaves, to threaten retaliatory suicide, or in other ways to escalate his violence in an attempt to hold her in the relationship.

Belief in batterer treatment. Battered women are reluctant to leave when their partners are in treatment. They believe the treatment will motivate them to make the profound changes necessary to stop their battering. Therefore, it is very important that battered women are referred to domestic violence programs so that they can gain full information about treatment programs for batterers and evaluate whether these programs are likely to effect the change that will make life safe for them. (Gondolf, 1988; Okun, 1986)

Dangers in leaving. Many battered women believe that leaving is not necessarily going to make her life or the life of her children safer. Many battered women killed by their partners are killed *after* they have left or separated. (Casanave & Zahn, 1986; Browne & Williams, 1989 & 1987) Leaving, itself, may be a dangerous process. Many batterers, in fact, escalate their violence to coerce a battered woman into reconciliation or to retaliate for the battered woman's departure. (Please see the section on Separation Violence on page 4 of this manual.) Leaving requires strategic planning and comprehensive legal intervention to safeguard victims and their children.

Economic autonomy. But battered women do leave. The most likely predictor of whether a battered woman will permanently separate from her abuser is whether she has the economic resources to survive without him. Therefore, it is incredibly important that battered women obtain support awards in protection orders and are referred to battered women's programs where they can learn about other economic supports, job training and employment opportunities. (Gondolf, 1988; Okun, 1986)

Leaving is a process. Most battered women leave and return several times before permanently separating from the batterer. Leaving is a process. The first time a battered woman leaves may be a test to see whether he will actually get some help to stop his terrorism. When he is violent again, she may leave to gain more information about resources available to her. She may then reconcile and begin to get some economic and educational resources together in case she decides that she must later leave. She may next leave to try to break out of the isolation in which the batterer has virtually imprisoned her. Most battered women eventually leave. (Okun, 1986)

When friends, family and helping agencies, such as police, shelters, clergy, courts, medical personnel, educators and therapists, lend substantial and concerted efforts to assist battered women in the leaving process, battered women are more likely to leave and secure protection for themselves and their children. Therefore, when battered women stay, we as a community should look to see what we are doing to hinder the leaving process and then make changes to facilitate leaving and ultimate safety.

Leaving must be done in a way that does not further jeopardize the victim's safety. It is important for law enforcement personnel to refer victims to domestic violence programs to develop plans for safe leave-taking.

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PENNSYLVANIA HOMICIDE VICTIMS
RELATIONSHIP OF VICTIMS TO PERPETRATORS

1985-1989

	1989	1988	1987	1986	1985
Total Number	747	649	645	656	550
Killed by Family	114	225	110	103	94
	15.3%	17.7%	17.1%	15.7%	17.1%
Husband	10	10	7	13	15
Wife	27	32	30	33	21
Killed by Acquaintance	320	294	315	335	245
	47.8%	45.3%	48.8%	51.1%	44.5%
Acquaintance	195	215	220	210	173
Boyfriend	20	12	13	17	14
Girlfriend	25	23	17	17	23
Killed by Stranger	109	84	75	112	102
	14.6%	12.9%	11.6%	17.1%	18.5%
Unknown	204	156	145	106	109
	27.3%	24.0%	22.5%	16.2%	19.8%

Source: Bureau of Research, Pennsylvania State Police, **Crime in Pennsylvania: Uniform Crime Report**, 1985, 1986, 1987, 1988, 1989.

- Of the husband/wife homicides in Pennsylvania in 1989, 73% of the victims were women.
- Of the boyfriend/girlfriend homicides in Pennsylvania in 1989, 55% of the victims were women.
- Overall, of the homicides between partners in Pennsylvania in 1989, 63% of the victims were women.

DOMESTIC VIOLENCE

PROTOCOL

PENNSYLVANIA ATTORNEY GENERAL'S
FAMILY VIOLENCE TASK FORCE

DOMESTIC VIOLENCE: A MODEL PROTOCOL FOR POLICE RESPONSE

January, 1989

The Task Force urges the Pennsylvania State Police and each police department in Pennsylvania to adopt a written protocol establishing guidelines and procedures to be followed by police officers and other personnel involved in the police response to domestic calls. In aid of that purpose, the Task Force offers the following model protocol, which can be readily adapted to the particular needs of the state police and police departments throughout the Commonwealth.

The core feature of the model protocol is the provision that police should arrest the assailant in domestic violence cases whenever arrest is authorized. To underscore the presumption that arrest is the proper response in the overwhelming majority of domestic violence cases, the protocol requires the responding officer, if he decides not to arrest, to include in his report of the incident a detailed explanation of the reasons why an arrest was not made. The protocol further provides a list of factors that the officer should not consider in making the arrest decision.

Many other jurisdictions, either by legislation or through police department protocols,have adopted policies that mandate arrest of the assailant in domestic violence cases. The Task Force considered but rejected this absolute approach because it found problematic the concept of removing all discretion from the responding officer. However exceptional they may be, cases are certain to arise in which arrest, though authorized, is inappropriate because it does not serve the interests of justice and is not necessary to ensure the victim's safety.

Another important feature of the model protocol is the provision that police should identify the victim to a domestic violence program whenever the accused has been arrested or is the subject of an arrest warrant. The intent and expectation of this provision is that the domestic violence program will contact the victim, in the manner that the program finds most appropriate, to offer the victim support and referral to services. This aggressive outreach is designed to help overcome the fear and isolation that so often deter victims of domestic violence from pursuing needed assistance on their own initiative.

Some members expressed concern that, while the law does not require police to keep the victim's identity confidential, the identification of victims to domestic violence programs nevertheless might unduly compromise the preference of some victims for strict privacy. The majority believed, however, that the benefit to the many victims who otherwise would receive no help when they needed it most justifies the approach of affirmative referral and outreach, particularly in view of the minimal intrusion upon privacy that such referral and outreach entails. Domestic violence programs routinely observe the strictest confidentiality; no victim is required to accept assistance, and the risk of further disclosure of the victim's identity is remote.

The following protocol, in the judgment of the Task Force, combines law enforcement and victim assistance into an effective program of police response to domestic violence.

MODEL PROTOCOL FOR POLICE RESPONSE TO DOMESTIC VIOLENCE

A. Purposes

1. The principal purpose of this protocol is to establish guidelines and procedures to be followed by police officers and other personnel involved in the police response to domestic calls.

2. Other purposes and goals of this protocol are:
   (a) To reduce the incidence and severity of domestic violence by establishing arrest and prosecution, rather than mediation, as the preferred means of police response to domestic violence;
   (b) To afford maximum protection and support to victims of domestic violence through a coordinated program of law enforcement and victim assistance;
   (c) To ensure that law enforcement services are as available in domestic violence cases as they are in other criminal cases;
   (d) To reaffirm the police officer's authority and responsibility to make arrest decisions in accordance with established probable cause standards;
   (e) To promote officer safety by ensuring that officers are as fully prepared as possible to respond to domestic calls; and
   (f) To help reduce police resources consumed in responding to domestic violence by reducing the number of police interventions required for any particular household.

B. Policy

Domestic violence is a crime that differs from other crimes because of the intimate relationship between the victim and the accused. Notwithstanding that difference, police should respond to domestic violence as they would respond to any crime. Police should arrest and pursue criminal remedies appropriate to the crime that the police have probable cause to believe the accused has committed. In recognition of the difference between domestic violence and other crimes, however, police also should provide victims with special assistance, including efforts to ensure that victims are informed of services available to victims of domestic violence.

C. Scope of Coverage

1. This protocol applies to any call to police reporting a disturbance between persons in a "covered relationship" to each other.

2. "Covered relationships" include: persons related by blood or marriage; persons who reside or formerly resided together; persons who are biological parents of the same child; and current or former sexual or intimate partners.

D. Dispatch

1. Dispatchers under the direct supervision of a police department should dispatch domestic calls in the same manner as any other call for police assistance, in accordance with the priority criteria prescribed by generally applicable department procedures.

2. Dispatchers who serve multiple police departments should accord domestic calls the highest priority classification. Whenever possible, the dispatcher should assign a back-up unit.

3. The dispatcher receiving a domestic call should attempt to elicit from the caller and should communicate to the responding officer as much of the following information, in the following order of importance, as time and the exigencies of the reported incident allow:

(a) The nature of the incident;
(b) The address of the incident, including the apartment number or the name of the business, as appropriate;
(c) A telephone number where the caller can be called back;
(d) Whether weapons are involved;
(e) Whether an ambulance is needed;
(f) Whether the suspect is present and, if not, the suspect's description, direction of flight, and mode of travel; and
(g) Whether children are at the scene.

4. If the caller is the victim, the dispatcher should attempt to keep the caller on the telephone as long as possible and should tell the caller that help is on the way and when the caller can expect the police to arrive.

5. If the caller is a witness to a domestic incident in progress, the dispatcher should keep the caller on the telephone and should relay ongoing information provided by the caller to the responding officer.

6. If the dispatcher has ready access to police department records that indicate whether the parties involved in the incident have been involved previously in domestic incidents or that indicate whether there is a protection from abuse order involving the parties in effect, the dispatcher should consult such records and radio any relevant information to the responding officer.

E. Initial Police Officer Response

1. Approaching the scene.
   (a) The responding officer should approach the scene of a domestic dispute as one of high risk. Whenever possible, two officers will respond to a domestic call.
   (b) The officer should obtain all available information from the dispatcher before arriving at the scene and should notify the dispatcher upon arrival.
   (c) The officer should avoid the use of sirens and emergency lights in the vicinity of the scene of the incident. Sirens and lights should be employed only when speed is essential.
   (d) The officer should not park the police vehicle directly in front of the residence or other site of the disturbance. The officer should be alert for assailants leaving the scene and for the employment of weapons from doors, windows, or nearby vehicles.
   (e) The officer otherwise should employ standard precautionary measures in approaching the scene of the incident.

2. Initial contact with occupants.
   (a) The responding officer should identify himself as a police officer, explain his presence, and request entry into the home. The officer should ask to see the person who is the subject of the call. If the person who called the police is someone other than the subject of the call, the officer should not reveal the caller's name.
   (b) The officer may enter and conduct a search of the premises relevant to the incident if consent has been given to do so.
   (c) If refused entry, the officer should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused, the officer should request the dispatcher to contact the caller if the caller is the subject of the call. If access is still refused, the officer must decide whether to leave, remain and observe, or force entry. If the officer leaves the scene, he should drive by and observe frequently. If the officer remains to observe, he should move to public property (the street) and observe the premises. In some circumstances, forced entry will be necessary and appropriate.

3. Once inside, the responding officer should establish control by:
   (a) Identifying potential weapons in the surroundings;
   (b) Separating the victim and the assailant;
   (c) Restraining the assailant if necessary, and removing the assailant to the patrol car if immediate arrest is warranted;
   (d) Assessing the injuries (including inquiry about possible internal injuries), administering first aid, and/or notifying emergency medical services;
   (e) Inquiring about the nature of the dispute;
   (f) Identifying all occupants/witnesses on the premises; and
   (g) Separating occupants/witnesses from the victim and accused and keeping them out of hearing range (to avoid compromising their witness status).

4. On-scene investigation:
   (a) The responding officer should interview the victims and the assailant as fully as circumstances allow. The officer should be alert to possible incriminating statements.
   (b) The officer should ensure the victim's safety and privacy by interviewing the victim in an area apart from the assailant, witnesses, and bystanders. In questioning the victim, the officer should use supportive interview techniques. The officer should ask the victim about previous domestic incidents, their frequency and severity. The officer should not tell the victim what action he intends to take until all available information has been collected.
   (c) If the accused has been arrested prior to interview, the accused must be given *Miranda* warnings before being questioned. If the accused has fled the scene, the officer should solicit information as to the possible whereabouts of the accused (place of employment, relatives, friends, etc.).
   (d) If the dispatcher has not advised the officer of the existence of a protection from abuse order, the officer should ask the victim whether there is such an order and, if so, if the victim can produce a copy and what police department might have a copy. The officer should contact the countywide registry of protection from abuse orders, the prothonotary's office, or a local police department specified by the victim to verify the existence and effective period of the order. The officer should note carefully the restrictions imposed by the order so that the officer may determine whether there is probable cause to believe that the order has been violated.
   (e) The officer should interview any witnesses as fully and as soon as circumstances allow. If witnesses provided information about prior incidents, the officer should document such incidents to establish a pattern.
   (f) Children should be interviewed in a manner appropriate to the child's age. Signs of trauma and any apparent healing of abuse wounds on the child should be noted by the officer.
   (g) The officer should collect and preserve all physical evidence reasonably necessary to support prosecution, including evidence substantiating the victim's injuries, evidentiary articles that substantiate the attack (weapons, torn clothing, etc.), and evidence recording the crime scene. The officer should ensure that photographs are taken of visible injuries on the victim and of the crime scene.
   (h) The officer should encourage the victim to seek an emergency room examination. Emergency room pictures are excellent evidence of injuries. The officer should inquire about injuries of the victim that are concealed by clothing or otherwise not readily apparent. Also, because bruises may not appear for several days after an assault, the office should advise the victim to contact the police for photographs if injuries later appear and, if possible, should revisit the victim if there is reason to suspect that such evidence of injury indeed may later appear.
   (i) All physical evidence should be collected, noted in reports, and vouchered as in other criminal investigations.

F. The Arrest Decision

1. *The responding officer should arrest the assailant whenever arrest is authorized.* If the officer decides not to arrest, he must include in his report of the incident a detailed explanation of the reasons why an arrest was not made.

2. Under current Pennsylvania law, arrest is authorized in the following circumstances:
   (a) When the officer has probable cause to believe that the suspect has committed a felony.
   (b) When the officer observes the commission of a felony or a misdemeanor.
   (c) When the officer has probable cause to believe that the suspect has committed a domestic violence misdemeanor as specified in 18 Pa.C.S.§2711, which authorizes warrantless arrest when the misdemeanor is involuntary manslaughter (18 Pa.C.S. §2504), simple assault (18 Pa.C.S. §2701), or recklessly endangering another person (18 Pa.C.S. §2705), *and* the officer observes recent physical injury or other corroborative evidence, *and* the victim is the spouse of the suspect or a person with whom the suspect resides or has formerly resided. The domestic violence misdemeanor need not have been committed in the officer's presence.
   (d) When the officer has probable cause to believe that the suspect has violated a valid protection from abuse order. The violation need not have occurred in the officer's presence, and no corroborative evidence is required.
   (e) When a misdemeanor not included among those in paragraphs (b) through (d) has been committed and the officer has obtained an arrest warrant.

3. The officer should not consider the following factors in making the arrest decision:
   (a) The marital status of the parties.
   (b) The ownership or tenancy rights of either party.
   (c) Verbal assurances that the violence will stop.
   (d) A claim by the accused that the victim provoked or perpetuated the violence.
   (e) Denial by either party that the abuse occurred when there is evidence of domestic violence.
   (f) Speculation that the victim will not follow through or cooperate with criminal prosecution (whether based on prior incidents involving the same victim, the victim's hesitancy about pursuing prosecution, or any other factor).
   (g) The disposition of any previous police calls involving the same victim or accused.
   (h) Speculation that the arrest may not lead to a conviction.
   (i) The existence or not of a current protection from abuse order (except insofar as the violation of such an order might justify arrest).
   (j) The victim's emotional state.
   (k) Concern about reprisals against the victim.
   (l) Adverse financial consequences that might result from the arrest.
   (m) That the incident occurred in a private place.
   (n) The racial, cultural, social, political, or professional position, or the sexual orientation, of either the victim or the accused.

4. It is the officer's responsibility to decide whether an arrest should be made. The officer, therefore, should not consider the victim's opposition to arrest and should emphasize to the victim, and to the accused as well, that the criminal action thus initiated is the Commonwealth's action, not the victim's action.

5. If the officer arrests for the commission of a crime, the officer should confiscate all weapons used or threatened to be used in the commission of the crime, and such weapons should be held as evidence for prosecution.

6. If the officer arrests for violation of a protection from abuse order, the officer is required by 35 P.S.§10190 to confiscate all weapons used or threatened to be used in the violation, and to deliver such weapons to the office of the sheriff.

7. If there is evidence of mutual battering and the officer concludes that one party was acting in self-defense, that party should not be arrested.

8. If there is evidence of mutual battering and the officer concludes that one party was the principal aggressor, the officer should arrest only that party.

G. Effectuating the Arrest

1. The responding officer should take the accused into custody as soon as the officer determines that a warrantless arrest is appropriate. If the suspect has fled the scene, the officer should initiate procedures to pursue and apprehend the accused as promptly as possible, since the risk is high in domestic violence cases that the accused will return to the victim's residence or the scene of the violence. If a warrant is necessary, the officer should obtain and execute the warrant as soon as practical.

2. When the accused is a minor (under 18 years of age), the provisions of this protocol shall be fully applicable, except that arrest should be effectuated and the juvenile processed pursuant to the Juvenile Act.

3. If, upon examination of the accused, the responding officer determines that a voluntary or involuntary commitment to a mental health facility is required, the officer should restrain the accused and contact a MH/MR delegate. The officer should not allow the possibility of mental illness to preclude a valid criminal arrest.

4. Domestic disturbances involving prominent citizens, public officials, or police officers may present particular difficulties for the responding officer. In such circumstances, the responding officer should request that an appropriately senior officer come to the scene. The responding officer should take whatever action is necessary to protect the victim and detain the assailant, while awaiting the arrival of the senior officer. When there is probable cause to believe that the accused has committed a crime, the procedure followed upon arrival of the senior officer should be the same as it would be in any other domestic incident.

H. Procedure When Arrest Is Not Authorized or, if Authorized, Is Not Made

1. If an arrest is not authorized because the abusive act is a summary offense, the responding officer should issue a citation.

2. If arrest is not authorized because of the absence of probable cause to believe that a crime was committed, or if arrest is authorized but not made (for reasons to be detailed in the incident report), the officer should:
   (a) Explain to the victim the reasons that arrest is not being made;
   (b) Advise the victim of procedures for filing a private criminal complaint; and
   (c) Encourage the victim to contact the domestic violence program identified in the notice required by 18 Pa. C.S. §2711 (see paragraph I.2. of this protocol) for information regarding counseling and other services available to victims of domestic violence.

3. The office should not become involved in the disposition of personal property, ownership of which is in dispute. In the absence of a warrant or probable cause to believe a crime has occurred, the officer should remain neutral and be concerned primarily with maintaining the peace and safety of those present.

I. Other On-Scene Assistance to Victims and Dependents

1. Whether or not an arrest is made, the responding officer should not leave the scene of the incident until the situation is under control and the likelihood of further violence has been eliminated. The officer should stand by while victims gather necessities for short-term absences from home, such as clothing, medication, and necessary documents.

2. Whether or not an arrest is made, the responding officer is required by 18 Pa. C.S. §2711 to notify the victim orally or in writing of the availability of a shelter, including its telephone number, or other services in the community. The notice must include the following statement:

   > If you are a victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from abuse pursuant to the Act of October 7, 1976 (P.L. 1090, No. 218), known as the Protection From Abuse Act, which could include the following:
   > (1) An order restraining the abuser from further acts of abuse.
   > (2) An order directing the abuser to leave your household.
   > (3) An order preventing the abuser from entering your residence, school, business or place of employment.
   > (4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.
   > (5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.

3. If an arrest is made or an arrest warrant obtained, the officer should:
   (a) Advise the victim that the officer will give the victim's name, address, and telephone number to the domestic violence program and proceed to do so before the officer's shift has ended;
   (b) Advise the victim that a domestic violence counselor will be asked to contact the victim to offer assistance and referrals to other available services (such as counseling, legal aid, etc.);
   (c) Advise the victim of what procedure will happen next, including the probability that the accused will be in custody for only a short period of time;
   (d) Obtain the address and telephone number where the victim can be contacted if the victim decides to leave the residence (being careful that the accused cannot overhear);
   (e) Obtain from the victim information to be included in the arrest report indicating any special conditions of bail that should be requested at the preliminary arraignment; and
   (f) Provide the victim with the police incident number (if available), the officer's name and badge number, and a follow-up telephone number.

4. If the victim does not speak English, the officer should arrange for translation of the foregoing notices and advice.

5. In circumstances in which it is necessary for the victim temporarily to leave the residence, the officer should offer the victim assistance in locating lodging with family, friends, in public accommodations, or at a domestic violence shelter.

6. The officer, upon request of the victim, should provide or help arrange transportation to emergency housing or to a medical facility.

7. Elder victims and dependents.
   (a) When a victim of domestic violence is elderly (60 or over), the accused is the sole caretaker, and an arrest is indicated, or when the victim of domestic violence is the sole caretaker of a physically dependent elder and the victim can no longer provide care (as, for example, when the victim is hospitalized), the responding officer should determine whether the elder is physically endangered, either as a result of the abuse, a pre-existing

medical condition, or the removal of a caretaker. If the elder is physically endangered and mentally alert, the officer should ask the elder for the name of a relative or friend who can be contacted immediately to assist the elder.

(b) If there is no one available to assist the elder, or if the elder appears not to be mentally alert, the officer should make an emergency referral to a local agency on aging. The officer should remain at the residence until the protective services worker arrives or should transport the elder to a medical facility or other appropriate place where the elder can wait for the worker.

(c) In addition to providing the notification required by other provisions of this protocol, the officer should advise the elder of the availability of protective services through the local area agency on aging.

8. Child victims and dependents.

(a) When the victim of abuse is a minor child, the officer should arrest the assailant upon probable cause to believe that a crime has been committed and should make a report to child protective services, as required by the Child Protective Services Law. If the child is physically injured, the officer should escort the child to the nearest hospital for treatment. The officer should provide victim notification, as described in this protocol, to an adult caretaker of the child who is not the perpetrator of abuse.

(b) If the accused is arrested and was the sole caretaker of a child, and/or if the victim is the sole caretaker of a child and can no longer provide care (as, for example, when the victim is hospitalized), the officer should determine whether there is a responsible relative who can care for the child and, if so, should contact that relative and await the relative's arrival. If no responsible relative is available, the officer should contact child protective services and remain at the residence until a protective services worker arrives or should take the child into custody pursuant to the Juvenile Act and/or the Child Protective Services Law.

J. Processing the Accused

1. A person arrested without a warrant for a domestic violence misdemeanor pursuant to 18 Pa. C.S. §2711 should be charged with any other crimes properly charged as a result of the incident. Likewise, a person arrested for violation of a protection from abuse order should be charged with any crimes properly charged as a result of the incident in which the violation occurred.

2. When arrest is made pursuant to 18 Pa. C.S. §2711 or for violation of a protection from abuse order, the accused should be taken before a district justice for preliminary arraignment without unnecessary delay. Under no circumstances should the arresting officer release the defendant before the preliminary arraignment.

3. The officer responsible for presenting the accused for preliminary arraignment should bring to the attention of the district attorney or the court any circumstances noted in the arrest report or known to the officer that argue for special conditions of bail authorized by 18 Pa. C.S. §2711 and Pa. R. Crim. P. 4013. Such conditions may include, but are not limited to: enjoining the defendant from abusing, harassing, or intimidating the victim; excluding the defendant from the home, school, and/or workplace of the victim; enjoining the defendant from contacting the victim in person or by telephone; and restraining the defendant from contact that will prevent the victim from performing the victim's normal daily activities.

4. All reports and other documents generated in the case should be marked "domestic incident" as an aid to processing the accused and to the identification of such cases.

K. Encouraging Follow-Through by Victims

1. The chief of police (in the jurisdiction in which the incident occurred) should designate a person to notify the victim of any conditions of bail imposed and to advise the victim of the right to request revocation of bail from the district attorney's office if the conditions are violated.

2. To the extent possible, the chief also should designate a person to make contact with victims of domestic incidents for the purpose of follow-up. The contact should be made within 30 days following the incident to determine whether subsequent violence or intimidation have occurred. If such acts have occurred, a designated officer should investigate the incident, proceeding in accordance with the provisions of this protocol.

L. Written Report and Data Collection

1. A written report clearly identified as a domestic incident report must be completed by the officer responding to any call covered by this protocol. The report should include the following information:
   (a) Names, addresses, and phone numbers of the victim, the accused, any witnesses, and the caller.
   (b) A second permanent address and telephone number for the victim (such as a close family member or a friend).
   (c) A statement of the relationship between the victim and the accused.
   (d) A narrative for the incident (including the date, time, and whether the accused appeared intoxicated or under the influence of a controlled substance).
   (e) What, if any, weapons were used or threatened to be used.
   (f) A description of any injuries observed by the officer.
   (g) A description of any injuries described by the victim but not observed by the officer and an indication that the injury was not observed.
   (h) Documentation of any evidence that would tend to establish that a crime was committed.
   (i) An indication of what arrest decision was made: a warrantless arrest; an arrest with a warrant; or no arrest.
   (j) Whether the accused actually was arrested or whether there is an outstanding arrest warrant.
   (k) The crimes with which the accused was charged.
   (l) If the accused was arrested and arraigned, whether bail was set and any conditions of bail imposed.
   (m) If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest.
   (n) The names and ages of any children present in the household; their address and phone number if children were relocated.
   (o) Notation of previous incidents of which the officer is personally aware.
   (p) Notation of previous incidents reported by the victim or witnesses.
   (q) If an officer was injured in the incident, the nature and circumstances of the injury.

2. Data collection.
   (a) All written reports on the same person should be kept together or cross-referenced so that repeat domestic violence can be monitored.
   (b) The written report, or another document (such as an index card) or computer entry generated from the written report, should become a domestic violence tracking report.
   (c) To the extent possible, the domestic violence tracking report should be accessible to dispatchers and police officers.

REFERENCES

1. Law Enforcement Training Project, Victim Services Agency, **A State-By-State Guide to Legislation on the Law Enforcement Response to Family Violence 6** (DRAFT, April 1988), at 7-8 and National Chart.

2. See, e.g., **The Denver Domestic Violence Manual, Denver Police Dept. Procedures and Guidelines** (Dec. 16, 1986); Domestic Abuse Intervention Project of Duluth, Minnesota, **The Justice System's Response to Domestic Assault Cases: A Guide for Policy Development,** 48-57 (1985); P.R.I.D.E. Program, Newport News Police Dep't, **Program Summary and Evaluative Statistics 2** (Concept Paper).

ADVANTAGES
OF HAVING AND USING A WRITTEN PRO-ARREST
DOMESTIC VIOLENCE PROTOCOL

1. Gives legitimacy to the criminal treatment of domestic violence by law enforcement.

2. Improves protection against liability for departments and individual officers.

3. Provides clear direction regarding arrest and other options.

4. Increases officer safety.

5. Reduces the number of repeat calls.

6. Increases victim safety through arrest and referral.

7. Increases job satisfaction through reducing incidents of domestic violence.

8. Enhances morale, teamwork and consistency of departmental practice.

"I like the protocol because I know what to do. It informs my decisions." --
Law Enforcement Officer in *Agents of Change.*

CITY OF YORK
DOMESTIC VIOLENCE PROTOCOL

CITY OF YORK, PENNSYLVANIA POLICE DEPARTMENT SUBJECT: INVESTIGATION OF DOMESTIC ABUSE COMPLAINTS	TYPE: GENERAL	EFFECTIVE DATE: 04-01-89	NUMBER: 89-001-08
REFERENCE: ATTORNEY GENERAL'S FAMILY VIOLENCE TASK FORCE "DOMESTIC VIOLENCE"	DISTRIBUTION: ALL POLICE OFFICERS YORK COUNTY CONTROL CITY SOLICITOR DISTRICT ATTORNEY		
ENCLOSURE: AVAILABILITY OF ACCESS SHELTER FORMS	RE-EVALUATION DATE: 03-31-90		

I. PURPOSES

1. The principal purpose of this general order is to establish guidelines and procedures to be followed by police officers and other personnel involved in the police response to domestic calls.
   - A. To reduce the incidence and severity of domestic violence by establishing arrest and prosecution, rather than mediation, as the preferred means of police response to domestic violence.
   - B. To afford maximum protection and support to victims of violence through a coordinated program of law enforcement and victim assistance.
   - C. To ensure that law enforcement services are as available in domestic violence cases as they are in other criminal cases.
   - D. To reaffirm the police officer's authority and responsibility to make arrest decisions in accordance with established probable cause standards.
   - E. To promote officer safety by ensuring that officers are as fully prepared as possible to respond to domestic calls; and
   - F. To help reduce police resources consumed in responding to domestic violence by reducing the number of police interventions required for any particular household.

II. POLICY

Domestic violence is a crime that differs from other crimes because of the intimate relationship between the victim and the accused. Notwithstanding that difference, police should respond to domestic violence as they would respond to any crime. Police should arrest and pursue criminal remedies appropriate to the crime that the police have probable cause to believe the accused has committed. In recognition of the difference between domestic violence and other crimes, however, police also should provide victims with special assistance, including efforts to ensure that victims are informed of services available to victims of domestic violence.

III. SCOPE OF COVERAGE

1. This general order applies to any police call reporting a disturbance between persons in a "covered relationship" to each other.

2. "Covered relationship" includes: Persons related by blood or marriage; persons who reside or formerly resided together; persons who are biological parents of the same child; and current or former sexual or intimate partners.

IV. POLICE RESPONSE

1. Approaching the scene
   A. The responding officer should approach the scene of a domestic dispute as one of high risk. Whenever possible two officers will respond to a domestic call.
   B. The officer should obtain all available information from the dispatcher before arriving at the scene and should notify the dispatcher upon arrival.
   C. The officer should avoid the use of sirens and emergency lights in the vicinity of the scene of the incident. Sirens and lights should be employed only when speed is essential.
   D. The officer should not park the police vehicle directly in front of the residence or other site of the disturbance. The officer should be alert for any assailants leaving the scene and for the employment of weapons from doors, windows, or nearby vehicles.
   E. The officer otherwise should employ standing precautionary measures in approaching the scene of the incident.

V. INITIAL CONTACT WITH OCCUPANTS

A. The responding officer should identify himself as a police officer, explain his presence, and request entry into the home. The officer should ask to see the person who is the subject of the call. If the person who called the police is someone other than the subject of the call, the officer should not reveal the caller's name.
B. The officer may enter and conduct a search of the premises relevant to the incident if consent has been given to do so.
C. If refused entry, the the officer should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused, the officer should request the dispatcher to contact the caller if the caller is the subject of the call. If access is still refused, the officer must decide whether to leave, remain and observe, or force entry. If the officer leaves the scene, he should drive by and observe frequently. If the officer remains to observe, he should move to public property (the street) and observe the premises. In some circumstances, forced entry will be necessary and appropriate.
D. Once inside the responding officer should establish control by:
   1. Identifying potential weapons in the surroundings;
   2. Separating the victim and the assailant;
   3. Restraining the assailant if necessary, and removing the assailant to the patrol car if immediate arrest is warranted;
   4. Assessing injuries, administering first aid, and/or notifying emergency medical services;
   5. Inquiring about the nature of the dispute;
   6. Identifying all occupants/witnesses from the victim and accused and keeping them out of hearing range; and
   7. Separating occupants/witnesses from the victim and accused and keeping them out of hearing range;
E. The responding officer should interview the victim and the assailant as fully as circumstances allow. The officer should be alert to possible incriminating statements.
F. The officer should ensure the victim's safety and privacy by interviewing the victim in an area apart from the assailant, witnesses, and bystanders. In questioning the victim, the officer should use supportive interview techniques. The officer should ask the victim about previous domestic incidents, their frequency and severity. The officer should not tell the victim what action he intends to take until all available information has been collected.

G. If the accused has been arrested prior to interview, the accused must be given Miranda warnings before being questioned. If the accused has fled the scene, the officer should solicit information as to the possible whereabouts of the accused.

H. If the dispatcher has not advised the officer of the existence of a protection from abuse order, the officer should ask the victim whether there is such an order and, if so, if the victim can produce a copy and what police department might have a copy.

I. The officer should interview any witnesses as fully and as soon as circumstances allow. If witnesses provide information about prior incidents, the officer should document such incidents to establish a pattern.

J. Children should be interviewed in a manner appropriate to the child's age. Signs of trauma and any apparent healing of abuse wounds on the child should be noted by the officer.

K. The officer should collect and preserve all physical evidence reasonably necessary to support prosecution, including evidence substantiating the victim's injuries, evidentiary articles that substantiate the attack (weapons, torn clothing, etc.), and evidence recording the crime scene. The officer should ensure that photographs are taken of visible injuries on the victim and of the crime scene.

L. The officer should encourage the victim to seek an emergency room examination. Emergency room pictures are excellent evidence of injuries. The officer should inquire about injuries of the victim that are concealed by clothing or otherwise not readily apparent. Also because bruises do not appear for several days after an assault, the officer should advise the victim to contact the police for photographs if injuries later appear and, if possible, should revisit the victim if there is reason to suspect that such evidence of injury indeed may later appear.

M. All physical evidence should be collected, noted in reports, and vouched as in other criminal investigations.

VI. THE ARREST DECISION

A. The responding officer should arrest the assailant whenever arrest is authorized. If the officer decides not to arrest, he must include in his report of the incident a detailed explanation of the reasons why an arrest was not made.

B. Under current Pennsylvania law, arrest is authorized when the officer has probable cause to believe that the suspect has committed a domestic violence misdemeanor as specified in 18 Pa. C.S. § 2711, which authorizes warrantless arrest when the misdemeanor is involuntary manslaughter, simple assault or recklessly endangering another person, and the officer observes recent physical injury or other corroborative evidence, and the victim is the spouse of the suspect or a person with whom the suspect resides or has formerly resided. The domestic violence misdemeanor need not have been committed in the officer's presence.

C. When the officer has probable cause to believe that the suspect has violated a valid protection from abuse order, the suspect should be arrested. The violation need not have occurred in the officer's presence, and no corroborative evidence is required.

D. It is the officer's responsibility to decide whether an arrest should be made. The officer, therefore, should not consider the victim's opposition to arrest and should emphasize to the victim, and to the accused as well, that the criminal action thus initiated is the Commonwealth's action, not the victim's action.

E. If there is evidence of mutual battering and the officer concludes that one party was acting in self-defense, that party should not be arrested. If the officer concludes that one party was the principal aggressor, the officer should arrest only that party.

F. When the accused is a minor, the provisions of this general order shall be fully applicable, except that arrest should be effectuated and the juvenile processed pursuant to the juvenile act.

G. If an arrest is not authorized because the abusive act is a summary offense, the responding officer should issue a citation.

VII. OTHER ON-SCENE ASSISTANCE TO VICTIMS AND DEPENDENTS

A. Whether or not an arrest is made, the responding officer should not leave the scene of the incident until the situation is under control and the likelihood of further violence has been eliminated. The officer should stand by while victims gather necessities for short-term absences from home, such as clothing, medication, and necessary documents.

B. Whether or not an arrest is made, the responding officer is required by 18 Pa. C.S. § 2711, to notify the victim orally and in writing of the availability of the ACCESS shelter, including its telephone number, or other services in the community. A copy of this notification will be attached to the police complaint.

C. If the victim does not speak English, the officer should arrange for translation of the foregoing notices and advice.

D. The officer, upon request of the victim, should provide or arrange transportation to emergency housing or to a medical facility.

E. If an arrest is made or an arrest warrant obtained, the officer shall:

1. Advise the victim that the officer will give the victim's name, address, and phone number to the ACCESS shelter and proceed to do so before the officer's shift has ended. This procedure will not be performed if the victim is vehemently opposed to it.
2. Advise the victim that a domestic violence counselor will be asked to contact the victim to offer assistance and referrals to other available services.
3. Obtain the address and telephone number where the victim can be contacted if the victim decides to leave the residence.
4. A report will be prepared regardless of any victim's intention regarding prosecution.

/s/ Wm Hose

William M. Hose
Chief of Police

DOMESTIC VIOLENCE INTERVENTION SYSTEM:
A MODEL FOR RESPONSE TO WOMAN ABUSE

In the last fifteen years the citizens of Pennsylvania have begun to recognize the terrible toll that domestic violence has taken upon women and children in our communities and families. We have heard the voices of battered women, describing the indifference of our justice system to their plight. And we are now responding -- "No more!" To achieve an end to violence against women in intimate relationships, those of us who serve in the justice system and those of us who have survived domestic violence have joined together to make social change -- transforming our institutions to put an end to cultural supports for woman abuse and creating communities which are intolerant of domestic violence and which safeguard victims.

While many communities in Pennsylvania have made exemplary, preliminary changes in a number of the relevant components of the justice system, the Pennsylvania Coalition Against Domestic Violence has not identified a jurisdiction which has totally coordinated its institutions to safeguard victims and to stop domestic violence. Research and common sense persuade us that a justice system which is fully operational -- where each component has a specific protocol on domestic violence intervention and a process for consistent implementation of that protocol -- best safeguards victims and calls perpetrators to account. We are hopeful that many communities will expand their efforts in the coming year to implement comprehensive policies for intervention in domestic violence. To facilitate these efforts, we offer the following description of a model **Domestic Violence Intervention System**, which includes information on effective law enforcement, victim/witness services, prosecution, legal advocacy, judicial practice, and probation and parole activities.

LAW ENFORCEMENT.

Perhaps it seems impolitic to suggest that this first component of a comprehensive domestic violence intervention system may be more critical than others, but since law enforcement is the sector which serves as the gatekeeper for the rest of the system and is the entry point for a substantial number of victims and perpetrators, the critical role of law enforcement must be highlighted. From the dispatcher to the Chief, the actions of law enforcement are pivotal to victim safety and perpetrator accountability.

- **Arrest deterrence.** Research reveals that arrest is the most effective response of law enforcement to domestic violence. The leading research in the field demonstrates that where police arrest perpetrators of domestic violence rather than separating the couple or mediating between the victim and offender, the arrested perpetrators are significantly less likely to recidivate within six months than those offenders with whom the police take conciliatory action. Arrest more effectively deters perpetrators than any other law enforcement action, even if a case does not result in conviction. (Ford, 1990; Sherman and Berk, 1984) Further, victims of domestic violence who call the police appear to be less likely to be assaulted again by their partners than those who did not. There is no evidence that subsequent domestic violence crimes became more serious as a result of communication with the police. Thus, police intervention has a significant deterrent impact on domestic violence. (Sherman and Berk, 1984)

  Experience also shows that officer safety is enhanced when responding officers approach a domestic violence crime scene with a preferred arrest perspective and when the decision to arrest or not is made quickly. (Pence, 1989)

- **Arrest policy.*** Each police department from the smallest, part-time force through the largest metropolitan department should adopt a domestic violence arrest policy. A policy should either strongly encourage or mandate arrest of domestic violence perpetrators. Each police officer needs to know the philosophy of the department on domestic violence. Even more important is the procedural delineation of responsibilities and authority. While no policy is self-effectuating, that which is detailed, broadly disseminated, and conspicuously endorsed by management is the policy that provides clear guidance for law enforcement response. Carefully drafted directives on interviewing the parties, assessing probable cause, and effecting arrest can greatly facilitate effective practice by responding officers.

- **Dispatcher priorities and practice.** Whether dispatch priorities are assigned by a computer or set at the discretion of the dispatcher, high priority should be given to domestic violence calls. (The California legislature recently mandated that dispatchers assign domestic violence calls a high response priority.)

  Domestic violence injures and kills more women in this country each year than muggings, rapes, and stranger assaults. Between 31 and 50% of all female homicide victims are killed by their partners. (F.B.I. 1980-89; Browne and Williams, 1987)

  Dispatchers should gather as much information as possible about the domestic violence incident and should communicate this to the responding officers. Dispatchers should check the Domestic Violence Risk File to see if there have been prior calls related to the alleged perpetrator, victim, and/or address. (See below.) The dispatcher should, likewise, check the Protection Order Registry to see if there is a current protection order. This information should be communicated to the responding officers.

- **Domestic Violence Risk File and Protection Order Registry.** Each department should implement both data bases. The Domestic Violence Risk File should contain information about law enforcement response to domestic violence incidents catalogued by perpetrator, victim and address. It will be helpful to a responding officer to have a cursory history of domestic violence, including perpetrator use of weapons, injuries to victims, and assaults on police officers. Since the severity of domestic violence appears to escalate over time, the responding officer will be better equipped to safely intervene when apprised of the pattern of perpetrator violence. Risk File data should be retained indefinitely.

  Valuable information can also be gleaned from any protection order entered in the Protection Order Registry. The presence of an outstanding protection order suggests heightened danger to the victim and officer, and may provide law enforcement with additional authority for arrest.

- **Domestic Violence Incident Report.** Each officer that responds to a domestic violence call should complete a detailed incident report. If an officer decides not to arrest an alleged perpetrator, he/she should specifically articulate reasons for deciding not to effect an arrest. A copy of every Domestic Violence Incident Report should be furnished both to the prosecutor and the local domestic violence program for outreach and advocacy with victims. Incident reports should be preserved for at least 7 years.

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*A model arrest policy was developed by the Pennsylvania Attorney General's Family Violence Task Force in 1989, entitled "Domestic Violence: Model Protocol for Police Response." The Protocol is reproduced in this manual at page 27. For copies of the entire document, contact Attorney General Ernest Preate, Office of Attorney General, 15th Floor, Strawberry Square, Harrisburg, PA. 17120, 717/787-3391.

- **Weapons Seizure.** The responding officer has broad authority to seize weapons used or threatened to be used in domestic violence crimes in Pennsylvania. Specifically, in the Crimes Code § 2711, an arresting police officer is required to seize all weapons used by the alleged perpetrator in the commission of the offense. Further, when a responding officer concludes that a perpetrator has violated a civil protection order and arrests the defendant, the officer is again mandated to seize all weapons used or threatened to be used during the violation of the protection order *and* during prior incidents of abuse. When the weapons are seized pursuant to violation of a protection order, the arresting officer is charged with delivering the confiscated weapons to the office of the sheriff who must maintain possession of the weapons until the court issues an order directing that the weapons be relinquished and identifying the persons to whom the weapons can be released. Many departments authorize responding officers to remove all weapons perceived to pose a danger to the victim with either the permission of the alleged perpetrator or the spouse. Research reveals that firearms are used in more than 60% of spousal or partner homicides. Handguns account for almost 80% of these firearms. Even temporary removal of weapons serves to prevent life-endangering assaults, especially at times of escalated confrontation. (Saltzman et al, 1990)

- **Victim's Rights Notification.** The responding officer should advise the victim of legal rights she may have, including a civil protection order, a restraining order against victim intimidation, and crime victim's compensation. The victim should also be given a referral to the local domestic violence program and advised of shelter and victim advocacy services. The victim should be given a free copy of the Domestic Violence Incident Report and apprised that copies will be sent to the local domestic violence program and the prosecutor.

- **Transportation.** The responding officer should provide or arrange transportation for the battered woman or children to medical facilities or emergency shelters if the victim requires such services.

- **Comprehensive criminal charges.** The responding officer should charge the alleged perpetrator with all of the crimes entailed in the domestic violence incident. Historically, there has been a tendency to classify domestic violence crimes as misdemeanors rather than felonies despite the presence of weapons and extensive injuries to victims. (Langan and Innes, 1986) Care should be taken not to minimize the gravity of domestic violence offenses.

- **Arraignment advocacy.** Experience demonstrates that domestic perpetrators pose a more serious continuing threat of violence to victims during the pendency of charges than do stranger perpetrators. Nonetheless, most domestic violence perpetrators are released on their own recognizance without any special conditions imposed on bail to afford victim safety. Officers present at arraignment should advise the court of the danger they believe the defendant may pose to the victim and suggest conditions of bail that will enhance victim safety. Requests for cash bail should be considered.

- **Mental health assessment.** Research reveals that as many as 1/3 of the men committed to mental health institutions because of depression have homicidal fantasies focused largely on their partners and family members. (Rosenbaum & O'Leary, 1979) Furthermore, about 1/3 of the men who kill their woman partners, then commit suicide; suggesting that suicidal ideation by a batterer is a high risk-marker for partner homicide. (Johnson, 1987) However, the mental health community appears resistant to any recognition that mental illness may aggravate domestic violence. Family violence perpetrators are less likely to be admitted to mental health services than non-family perpetrators. (Gondolf et al, 1989) Therefore, law enforcement should carefully evaluate the mental health crisis of any domestic violence perpetrator and takes steps to assure victim safety. The propriety of an emergency mental health commitment should be considered if an arrest is not effected.

- **Follow-up.** Each law enforcement agency should have a system for follow-up with victims to advise them of the charges approved, any bail conditions set, the release of the perpetrator from custody, and the availability of victim advocacy services. During follow-up, an evaluation should be made about victim safety and officers should encourage victims to engage in dangerousness assessment and safety planning with the assistance of the local domestic violence program. (See page 103.)

- **Training.** Recruits and veterans need regular training on domestic violence with input from domestic violence programs. This should include at least an overview of domestic violence with an emphasis on its impact on women and children, as well as clear articulation of the parameters of probable cause, use of force, authority to pursue, weapons confiscation, officer safety, relevant civil and criminal law, and victim services. (Pence, 1989; VSA, 1988)

- **Community education.** In community education and public relations materials, each law enforcement department should address domestic violence and child abuse.

- **Hostage-negotiation plan.** National data informs us that between 75-90% of hostage-taking in this country is an outgrowth of domestic violence. Law enforcement agencies should develop specific plans for intervention in domestic hostage situations. Since batterers may take hostages at a domestic violence program, a system for coordinated efforts between law enforcement and the shelter should be implemented.

- **Disciplinary action and employee assistance programs.** Police officers are also perpetrators of domestic violence. Safety of the public, as well as the victim, is jeopardized by officers who use violence in intimate relationships. Each department should have a procedure for response to domestic violence calls involving officer perpetrators. A system for corrective counseling and disciplinary action with officers who batter their partners and children must be implemented. The victim, a supervisor (pursuant to a domestic violence incident report of an investigating or arresting officer), or the battering officer should be able to initiate disciplinary action or corrective counseling related to domestic violence. A supervisor should notify the victim of any action contemplated so that she can make appropriate safety plans. Employee assistance programs should be put in place to afford perpetrating officers the opportunity of specialized rehabilitation services and to support victimized officers in achieving safety from abuse.

VICTIM-WITNESS ADVOCACY.

Although many believe that victims of domestic violence are less likely to follow-through with prosecution than are victims of serious stranger violence, experience demonstrates that when there is a system of support for domestic violence victims, many are committed to the successful prosecution of batterers as long as this can be achieved in the context of victim safety.

- **Victim notification.** Victims of domestic violence must be instructed as to the role of the victim in the criminal justice process and the stages of criminal prosecution, as well as the right to be present and heard at all crucial stages to the extent that this right does not interfere with the constitutional rights of the accused.

  Each victim of domestic violence should be notified promptly about any changes in scheduling which may affect her appearance at trial or post-conviction proceedings.

  The domestic violence victim also needs to be apprised of the defendant's status from arrest through parole. She needs to be informed of the arrest, bail conditions, and charges lodged against the defendant. She should be advised of the release of the defendant from imprisonment on bail and for furloughs, emergency leave, work-release, escape, or discharge.

- **Employer and creditor intercession.** The victim-witness program should offer to intercede with employers in order to minimize the victim-employee's loss of employment, pay and other benefits while participating in prosecution. Likewise, when domestic violence subjects the victim to serious financial strain, the victim witness program should offer to advocate with creditors for consideration in management of the victim's financial obligations.

- **Victim assistance.** The victim of domestic violence must be assisted in preparing any statements to be made at sentencing or at hearings concerning probation, pre-release plans or parole.

  The victim-witness program should apprise domestic violence survivors of the right to restitution as a condition of probation or parole. The program should assist victims of domestic violence in developing a comprehensive statement of losses resulting from the crime(s) of domestic violence. Restitution claims may be made for any costs resulting from the crime, such as lost wages; expenses for relocation of residence; childcare and transportation costs associated with prosecution; medical, counseling and other treatment fees; replacement costs of any destroyed property; and shelter or advocacy costs.

- **Crime victim compensation advocacy.** As of October 1, 1990, victims of domestic violence may not be denied crime victim compensation for losses sustained as a result of crimes committed by their spouses/partners, unless the compensation would substantially inure to the benefit of the perpetrator. Although federal regulations compel compensation to victims of domestic violence, awards may still be difficult to achieve because of several legal hurdles that domestic violence victims must overcome. Therefore, careful monitoring of these applications and the bases for denial of awards must be made by victim-witness programs to assure just compensation of battered women and children.

- **Victim protections.** Victim witness programs must make sure that victims can participate safely in the prosecution of perpetrators. This means that victim witness programs must advocate for weapons searches of domestic violence perpetrators at all legal proceedings, safe waiting rooms for victims, modification of bail conditions, and the imposition of protective orders against victim intimidation.

PROSECUTION.

As law enforcement adopts policies encouraging or requiring officers to arrest suspects in domestic violence incidents, there is a substantial increase in the number of domestic violence cases submitted for prosecution. To expedite the handling of these cases, changes in district attorney policy and practice are essential.

- **Specialization.** District attorneys should establish domestic violence units in large offices or create specialists in smaller offices in order to permit vertical prosecution and the enhancement of expertise on domestic violence cases. Specialization has improved the success of prosecution. (Fagan, J., 1988)

- **Appropriate charging.** Domestic victims are entitled to the same quality of justice as victims of stranger violence. Historically, prosecutors have been reluctant to charge alleged perpetrators of domestic violence with felonies. District attorneys have often utilized evidentiary standards that are higher in domestics. Not only is this disparity unwarranted, it is counterproductive. Domestic assailants are acutely dangerous. Therefore, efforts must be made to eliminate discrepant practice in charging crimes of domestic violence.

- **Outreach efforts.** The prosecutor should review the Domestic Violence Incident Reports submitted by law enforcement in cases which do not result in arrest. Where the prosecutor concludes that prosecution is, nonetheless, warranted, he/she should attempt to contact the victim and consult about prosecution. Charges may thereafter be filed by the prosecutor or the victim.

- **Preliminary hearing prosecution.** Unless law enforcement has agreed to bear the burden of prosecution at the preliminary hearing, it is critical that a deputy district attorney appear at preliminary hearings in domestic violence misdemeanor and felony cases. In many jurisdictions, the prosecutor leaves it to the victim to persuade the court that the elements of the crime charged have been committed and that the defendant is the perpetrator of these crimes. Battered women have neither knowledge of the evidentiary requirements nor of methods for producing evidence at preliminary hearings. Furthermore, even if a victim had the knowledge and skills, her fear of the batterer and the situation may be so acute that she cannot successfully prosecute the case. Prosecution will likely fail at this juncture unless the state's case is asserted by the district attorney.

- **Investigation.** Battered women almost all claim that district attorneys never vigorously investigate their cases. The strong empirical evidence of the chronic, escalating nature of domestic violence and its acute danger to victims compels a reordering of priorities and resources to improve the prosecution of domestic violence perpetrators. (Fagan, 1988)

- **Victim protection.** Where victims are besieged by defendants with pleas or threats to withdraw the prosecution, prosecutors must provide victim-witnesses with protection both to assure the safety of the victim and to expedite prosecution. In Pennsylvania, the district attorney can seek a temporary protective order on behalf of victims to direct defendants to cease and desist from any conduct which would intimidate the victim or any witness and interfere with the victim's participation in prosecution. (See 18 Pa.C.S. §4954.)

  Besides temporary protective orders, the district attorney can enlist law enforcement in victim protection strategies. Victims of domestic violence should also be eligible for witness protection programs when it is apparent that their lives may be in danger as a consequence of prosecution.

- **Property return procedures.** Law enforcement agencies and the district attorney should promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it. Requests should be made of the trial court for appropriate orders to expedite the return of property to victims, including permission for photographs of the victim's property to be used as evidence at trial when no substantial evidentiary issue related thereto is in dispute. However, weapons are best held until final disposition of the criminal case.

- **Victim consultation.** The prosecutor should develop guidelines for reasonable consultation with the victim advocate and/or the victim prior to entering into any plea bargain or dismissing a case.

- **Victim testimony.** Sometimes, even in jurisdictions where prosecutors engage in all of the above, victims are reluctant to testify. In many jurisdictions, prosecutors have developed policies whereby they subpoena victims to testify on trial dates. However, where the victim persists in resistance to testify, the practice is to proceed to prosecute without victim testimony wherever possible. These policies specify that victims are not to be penalized or prosecuted for failure to testify.

- **Diversion programs.** The use of diversion as an alternative to prosecution should be carefully evaluated. Many in the justice system believe that pre-trial diversion is always inappropriate in domestic violence crimes. Others assert that diversion should only be available to first

offense batterers charged with misdemeanors other than involuntary manslaughter. If diversion of domestic violence perpetrators is instituted, domestic violence defendants should not be eligible when victims object to this disposition. Diversion programs should be specifically tailored to assure victim safety and stop the violence. Participants in diversion programs should be compelled to attend educational programs on domestic violence. Restitution should be paid during the period of diversion. Breach of the conditions of the diversion program should result in termination of the program and immediate prosecution.

- **Self-defense protocol.** When perpetrators of domestic violence are not deterred from continuing violence against their wives/partners, the brutality of their violence often escalates to life-threatening proportions. (Browne, 1987) National research over the past 30 years has shown that when women use lethal violence against their partners, it is almost always to protect themselves or their children. (Browne and Williams, 1987; Cazenave and Zahn, 1986) Further, in the last 10 years women have killed their partners less, particularly in those states where comprehensive legal protections and social services are available. (Browne and Williams, 1987) Pennsylvania is one such state. Men, on the other hand, have been killing wives/partners in ever increasing numbers, especially after separation and divorce. (Browne and Williams, 1987)

  Therefore, prosecutors knowledgeable about domestic violence should carefully design a protocol for investigation and charging in situations where women who have been the victims of domestic violence kill batterers. Where battered women have killed to protect themselves and prosecution does not clearly serve the interests of justice, discretion should be exercised against prosecution and the consequent re-victimization of battered women by the legal system.

LEGAL ADVOCACY.

Victim advocacy is a key component in the Domestic Violence Intervention System. Battered women who find themselves abruptly thrust into the legal system because of the violence of their partners, while often simultaneously seeking emergency shelter to protect themselves and their children, are swamped with new information and the demands for family management in these acute crisis situations. Many people who are not terrorized by violence would find it difficult to address all of the issues impinging upon a battered women dislocated and endangered by violence. (Campbell, 1990) It is not surprising that victims may appear less invested in successful prosecution than law enforcement and prosecutors. Therefore, it is critical that advocates are available to battered women to help them understand legal process and to develop effective strategies for participation in the justice system. Legal advocacy for battered women includes:

- **Outreach.** When a battered woman has entered the legal arena, whether pursuant to police action or by her own initiation, her safety will be enhanced by discreet outreach and advocacy. Since many battered women do not know about domestic violence services, are not acquainted with the particular activities of legal advocacy, or believe that they are ineligible for services, domestic violence programs have begun to engage in outreach to battered women to provide legal advocacy.

- **Safety planning.** Each battered woman needs to construct a safety plan. Although victims are certainly competent to design plans independently of advocates, experience often lends substantial enrichment to any plan. Safety planning is an on-going process. Batterers continue to pose risks potentially forever and certainly until they believe the consequences of their violence outweigh the benefits.

- **Options counseling.** Victim advocacy includes informing battered women of the array of legal options and the procedures for exercising those options. Victim advocacy does not include giving

legal advice. Battered women are referred to the prosecutor, legal services attorneys and the private bar for substantive legal advice.

- **Case investigation/preparation.** Law enforcement and the district attorney are sometimes not able to devote the time and energy needed to comprehensively develop the evidence in criminal matters. The same is true for the private sector in civil matters. Therefore, it is very helpful for battered women to gather information and provide these justice system actors with a detailed chronology of events and circumstances.

- **Court accompaniment.** Court appearances are dangerous and terribly frightening experiences for battered women. Desperate batterers may assault battered women at the courthouse. This has happened all too often. Court accompaniment by informed advocates serves to enhance the victim's physical safety, to provide emotional support, and to afford back-up consultation to justice system personnal, when necessary.

- **Systems advocacy.** Where there are inadequacies in any component of the legal system, systems advocacy may be necessary. For example, if statutory law is basically deficient on a point, advocates may draft and urge the adoption of legislation. If a prosecutor does not have the resources to provide assistant district attorneys at preliminary hearings, the victim advocate may expose the inadequate level of funding of the district attorney's office and urge local government to increase resources. Where a judge continues to place batterers in diversion programs when they have histories of criminal violence, the advocate may be able to persuade the bench to adopt local rules to eliminate this practice. If crime victim's compensation is not awarded promptly, advocates can seek administrative change to expedite awards. Without systems advocacy the problems of the legal system may cause such discouragement of victims and resentment in other intervention system components that the system will fail. Systems advocacy is essential to improve justice system response to battered women.

JUDICIAL PARTICIPATION.

The judiciary plays a crucial role in a Domestic Violence Intervention System.* Judicial recognition of the gravity of domestic violence sends a clear and compelling message to the perpetrator, the public and to other actors in the justice system. (Goolkasian, 1986)

> *"The judge told him, in no uncertain terms, that the law doesn't allow him to assault me just because I'm his wife. He said that he'll send him to jail if he's brought back for another offense. Right here in the courtroom... you should have seen the look on his face. I think he knew the judge wasn't kidding, and that's when he decided to do something about it."*
> *-- a formerly battered woman (Goolkasian, 1986, pg. 1)*

When the bench is serious about domestic violence, the rest of the justice system cooperates.

Criminal matters

- **Pre-trial restrictions/requirements/recommendations.** District justices and judges, recognizing the danger to battered women throughout the pre-trial period, during which time batterers

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*The National Council of Juvenile and Family Court Judges recently produced comprehensive recommendations for upgrading judicial practice in domestic violence cases. See **Family Violence, Improving Court Practice -- Recommendations From the National Council of Juvenile and Family Court Judges**, 1990. A copy of this report can be obtained from the Council at P.O. Box 8970, Reno, Nevada 89507, 702/784-6012.

routinely harass and threaten victims for cooperation with prosecution or retaliate with life-threatening violence, are fashioning conditions on release to safeguard the victim and compel the lawful behavior of defendants prior to trial. One important method of victim protection is limiting the defendant's access to the victim either through bail conditions or "no-contact" orders. District justices and judges should terminate the practice of releasing defendants on their own recognizance in domestic cases where they would require cash bail of perpetrators of stranger violence. Arraigning judges should require the appearance of the defendant at arraignment in those jurisdictions where an appearance might otherwise be excused; the appearance will serve as a reminder of the potential consequences of future violence and may, therefore, deter pre-trial violence directed at the victim. The most effective method of victim protection is pre-trial detention which should be imposed for specific felonies and for violations of conditions on bail, of victim intimidation §4954 orders, or of civil protection orders.

Some batterers are receptive to judicial referrals to drug and alcohol or batterer treatment programs during the pre-trial phase when participation is recommended by the court. However, batterers sometimes enter a treatment program in order to gain leniency at sentencing in the event that they are convicted.

- **Expert testimony.** The general public, including jurors, harbor many misconceptions about domestic violence, and this information shapes their participation on the jury. In order to fairly weigh the evidence presented to them, jurors must be educated about the false notions which they hold as truth. Expert testimony can describe the dynamics of domestic violence and the complexities of that experience so that the jurors have the opportunity of informing their deliberations with data acquired through scientific inquiry.

  Often the defense strategy in domestic violence cases is to challenge the credibility of the victim-witness by asking -- "If he was so dangerous and she was so afraid, why didn't she leave?" Even when instructed by the court that the question is not relevant and must not be considered, jurors report that it is often a pivotal question. An expert can address the question of the consistency between abject terror and remaining with the batterer. For example, they could describe the phenomenon of "separation violence" and its increased potential for lethality; thus, demonstrating it may be reasonable for a battered woman to conclude that it may sometimes be more dangerous to leave or to appear to be leaving than it is to stay and accommodate the batterer. (Mahoney, 1990; Ellis, 1987)

- **Sentencing.** Judges have been reluctant to incarcerate batterers. Men who injure and terrorize their families have not been recognized as engaging in criminal conduct nor have they been viewed as dangerous. Despite irrefutable data to the contrary, they have not been identified as recidivists. Further, with jail overcrowding, cells have been saved for offenders committing stranger violence and property crimes. (Fagan, 1988) Batterers commit upwards of 50% of all female homicides. Seventy percent of the serious child abuse is committed by fathers or father surrogates, as is 80% of child homicides. (Bergman et al, 1986) Violence unchecked, escalates in severity. (Browne and Williams, 1987)

  Sentencing should be carefully tailored to enhance victim protection. If the foremost goal of an intervention system is to protect victims, then incarceration ought to be utilized. It is the best method for denying a perpetrator access to a victim and deterring his violence. It must be acknowledged that there has been no research undertaken on the efficacy of shock detention or protracted incarceration as deterrence to recidivism of batterers. However, investigation of the merits of incarceration coupled with treatment could be undertaken by the Courts of Common

Pleas in the Commonwealth.* There is no reason that batterers should be exempt from incarceration, and there may be value in short-term incarceration for some.

If a batterer is addicted to alcohol or other drugs, he will need to complete detox and inpatient treatment before he is capable of consistent non-violence. Drug and alcohol treatment for batterers should be built into conditions on probation or parole.

Restitution to victims is often neglected. Courts should award generous restitution to victims and should institute systems to assure prompt collection and distribution. (See **Victim-Witness Advocacy** above, for a delineation of potential victim restoration through restitution.)

Community service might be also be an element in a comprehensive sentence. Since most batterers represent little risk to anyone other than their family members, service at a homeless shelter, at a food bank, at the children's home, on recycling projects, on landscaping crews, at youth athletic leagues, at nursing homes, etc. might provide the batterer with a reminder of the importance of refraining from his violence and perhaps even provide him with motivation for change. It should be noted that this list does not include community service to the domestic violence program. Any community service to assist programs for battered women and children should be tailored to protect the safety and confidentiality of recipients. Community service programs should be designed in consultation with the local domestic violence program. There may be work that a domestic violence program would like to undertake through community service, but often the risks outweigh the benefits.

Finally, sentencing should expose the batterer to regular and consistent monitoring by probation or parole staff. Experience across the country has demonstrated that batterers who must report regularly, often weekly, to a probation or parole agent are less likely to recidivate during a period of probation or parole than those who are under minimal scrutiny. Thus, a system for regular reporting and monitoring should be imposed. (Pence, 1985)

Protection from abuse orders

- **Comprehensive relief.** The Protection From Abuse Act was drafted to afford victims of domestic violence the critical relief needed to escape the physical assaults and terrorism inflicted by batterers. Commonwealth legislators recognized that it was not merely enough to enjoin the perpetrator from further abuse. Batterers should be denied access to family and household members that they abuse. Eviction of the perpetrator from the family home, prohibitions against communication with the victim, provisions limiting the batterer's geographical mobility, awards of temporary custody and support, all were incorporated to minimize batterer access. Each of these access limitations is a compliment to the other and is an essential component of a protection plan authorized by the court. With all of these carefully incorporated in protection orders, the batterer has virtually no legitimate reason for communicating with or contacting the battered woman. These provisions provide victims the best protection. (Ellis, 1987)

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*One sentencing intervention experiment might be: All batterers convicted of simple assault as first time offenders could be incarcerated for 14 days followed by mandated treatment in the community, or incarcerated for 14 days subject to 2 hours of batterer education seminars daily, or placed in a post-conviction diversion program which mandates 14 weeks of batterer education or subjected to 14 day shock detention or post-conviction diversion without any treatment. At the anniversary of the batterer's conviction, the court could require that the probation office provide information on recidivism as reflected in police reports and victim statements. Subsequent inquiry about recidivism could be conducted at the second and fourth anniversaries. This intervention experiment would give courts valuable information about effective sentencing with first offense batterers.

The Protection From Abuse Act further authorizes courts to protect victims from batterer access. It specifically directs courts not to disclose the address of domestic violence programs or of victims. When battered women apprehend that their husband/partner is desperate and may be contemplating homicide, they often seek to keep the location of their residence confidential. Courts of Common Pleas can direct that court personnel, law enforcement and school districts not disclose the address of the battered woman or children to any third party. If this confidentiality is maintained, battered women will have some additional relief against batterer access.

Post-separation violence -- that which is potentially the most life-threatening -- routinely occurs when perpetrators are exercising visitation rights. Protective measures to avert this violence can include temporary suspension of visitation, protected exchanges of children, or professionally supervised visitation.

Protection orders should not be entered against the victim/plaintiff absent a cross-petition filed by the alleged batterer, with timely service made upon the plaintiff, and a finding that the victim/plaintiff has committed acts of abuse upon the defendant. Mutual orders, restraining both parties, are virtually unenforceable and thus leave those vulnerable to abuse unprotected.

Finally, protection orders should never include language directing the plaintiff not to "entice or invite" the defendant to violate the protection order. The decision to abuse (and the decision to disobey a court order) is one exclusively made by the abuser. The victim can neither make the batterer cease or commence violence. The batterer is solely responsible for his actions. Any provision in a protection order to the contrary provides a batterer with excuses and rationale for continued violation of family members.

- **Instructions on enforcement.** Research reveals that protection orders work best in jurisdictions where police consistently enforce protection orders and arrest for violations. (Finn & Colson, 1990) In many jurisdictions it has been useful to include specific directions to police in protection orders that they arrest a batterer upon a determination that probable cause exists to believe he/she has violated a protection order and/or committed other substantive crimes. While the authority and mandate for arrest may be in statutes, law enforcement seems to respond more uniformly to specific directions from the judiciary to enforce protection orders. Beyond this, specific instructions notify batterers of the ramifications of violation of protection orders. When consequences are certain and swift, batterers maintain better compliance with protection orders. (Pence, 1985)

PROBATION AND PAROLE.

The role of probation and parole offices in a domestic violence intervention system has yet to be fully realized. The probation or parole officer is the person in the intervention system who may have the greatest number of contacts with the batterer for the longest time period. Therefore, it is critical that probation and parole personnel are unequivocal in their intolerance for domestic violence crimes and in support of victim safety. Work undertaken by probation and parole offices might include:

- **Domestic violence assessment.** Since the mandate of the probation and parole office is to help those on their caseload to avoid any violation of probation or parole, every participant should be assessed for a history of domestic violence. Those probationers or parolees who use domestic violence are likely to be program failures. Those who are victims may experience obstacles to successful participation because of domestic violence. Therefore, a history of domestic violence should be explored.

- **Sentencing investigation.** When the presenting conviction is for a domestic violence crime, sentencing investigation should gather the information about the history of domestic violence. This can probably best be acquired from the victim. Screening should also obtain information from the police or the victim regarding aggravating circumstances, including the frequency and pattern of domestic violence, any criminal record for either stranger or domestic violence, injuries sustained by this or other victims, and threats directed against victims during the pendency of prosecution. During the investigation phase, the victim impact statement should be completed and the pre-sentence investigator should explore the propriety of imposing various conditions on probation or parole to enhance victim safety. These might include excluding the offender from the marital or partnership domicile; a directive against interference with the victim's use of marital property for the duration of probation/parole; a condition directing that the perpetrator refrain from harassing his wife/partner by physical force, mail, telephone or third parties; and/or a "no-contact" order. Besides considering conditions to facilitate victim safety, the officer might consider the merits of batterer education/treatment programs and community service for the offender.

- **Specialized Services.** A specialized program for work with batterers should be set up in each office. A protocol should be designed to facilitate the rehabilitation of batterers and the safety of battered women. Staff should be particularly trained for working with this population. For example, besides batterer education/treatment programs, offenders might be subjected to close scrutiny involving regular reporting to the probation and parole office to complete reading and written assignments on domestic violence. Periodic and unannounced home visits may improve batterer compliance. Specialized staff should be trained in dangerousness assessment and crisis telephone communication with battered women. They should know about emergency mental health commitments when someone on their caseload appears to be experiencing a mental health emergency, whether it is acute depression or homicidal ideation. Officers should not be reluctant to involve law enforcement in responding to reports of on-going domestic violence. New charges should be filed for any substantive crime committed in violation of the conditions of probation/parole. Probation and parole officers should take care for their own safety when intervening with a batterer who is alleged to be using violence again.

- **Revocation.** Technical and substantive probation/parole revocation should be pursued where a batterer represents a clear and present danger to his partner. Wherever possible, the perpetrator should be detained prior to the revocation hearing. If the victim is not cooperative with the revocation, probation/parole might seek to proceed through independent testimony/evidence.

- **Victim assistance.** Partners of offenders should be fully acquainted with the benefits and limitations of probation/parole services, and staff should be prepared to give informed referrals to domestic violence programs. Each time that an officer has contact with a partner of a batterer, an assessment of dangerousness should be made. Officers should encourage battered women to continue with development of safety plans throughout the period of probation/parole. Although domestic violence programs should provide the primary services for victims, officers should be prepared to provide emergency services to assist the victim to safe shelter and advocacy services.

SYSTEMS COORDINATION.

An intervention system is experimental in nature. It needs to be tested and revamped periodically. As case and statutory law are modified, policy and procedures must be modified in agencies in the intervention system. Changes cause ripple effects throughout the system and require parallel modifications. In most effective domestic violence intervention systems there is a coordinator or

manager who works to maintain the efficacy of coordinated agency intervention. Without this coordinator, research informs us that systems begin to revert to prior practices, endangering battered women. (Fagan, 1988; Berk, 1982) Typically, this coordination function has been performed by the local domestic violence program.

CONCLUSION.

We have learned that the conjoint and parallel efforts of all the components of a domestic violence intervention system are essential for justice and safety to be achieved. We are hopeful that the legal system in many communities in Pennsylvania will strategically expand efforts in the coming year to implement comprehensive intervention in domestic violence situations. The Pennsylvania Coalition Against Domestic Violence welcomes feedback from justice system participants. We are willing to provide consultation upon request. Please contact Margaret Innes of PCADV, 524 McKnight Street, Reading, PA 19601, 215/373-5697.

Barbara J. Hart, Esq.
1990

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INVESTIGATION,

PROBABLE CAUSE DETERMINATION,

ARREST DECISION

INTERVENTION AND INVESTIGATION

This section focuses on the on-scene investigation of domestic violence crimes. Please respond to the following questions.

A. IMPORTANCE OF COLLECTION AND DOCUMENTATION

Why is the collection of evidence and the documentation to the investigation so important in family violence crimes?

B. OBJECTIVES OF A DOMESTIC VIOLENCE CRIME INVESTIGATION

The five main objectives of a family crime investigation are listed below as objectives 1-5. For some of the objectives, we have included questions. Please respond to these questions.

Objective 1. **Identify the offender**

Objective 2. **Locate the offender**

a. What questions would you ask that would assist in locating and apprehending the offender?

Objective 3. **Identify Innocent Persons**

a. When is an injury to another person not a crime ?

b. What are the elements of "self defense" in Pennsylvania law?

Objective 4. **Collection and preservation of evidence**

a Statements

b. Injuries

c. Clothing

d. Weapons

e. Crime Scene

f. Other Information

1. History of previous calls
2. Who called the police
3. Neglected/Abused children
4. Use of alcohol or other drugs

Objective 5. **Establish probable cause**

C. INVESTIGATION EXERCISE

The following exercises consist of a fact pattern involving a domestic disturbance and a number of questions to be answered. Consider the two officers in the scenario to be two officers you have trained.

Please focus on the fact-finding, investigative skills of the officers. Ask yourself if they are effective in determining what has happened, if a crime has been committed, if there was probable cause to make an arrest, and what may or may not constitute self-defense. As you read, consider what statements and observations are important, what things you would want an officer you trained to document.

Two officers from your department respond to a call of a family disturbance. When they arrive, they overhear shouts and crying. After knocking on the door they are admitted by a 12- year old boy. Upon entering the house, a woman comes out of the kitchen holding a dish towel to her mouth.

The lead officer asks the woman if she would like to sit down, which she does. While he stays with her, his partner enters the kitchen and sees a man running his hand under the kitchen faucet. The man has a small gash on the middle knuckle of his right hand. He shakes his head in apparent disgust. The officer acknowledges this with a statement that the man should just remain calm, and offers to assist him with the cut on his hand.

As the officer in the kitchen helps the man wrap his hand with some gauze, the lead officer asks the woman in the living room what happened. She explains that they had just been eating dinner when a discussion about money led to an argument, and that her husband had thrown a glass of iced tea in her face. (The officer noticed that her blouse was wet.) She further stated that she left the table and threw a dish towel at her husband demanding that he wipe up the mess. He threw the dish towel back at her and ordered her to sit down and shut up. When she didn't respond, the husband got up and grabbed her hair pulling her toward her chair. She scratched his forearm trying to get him to release her hair. He in turn, hit her with the back of his hand, splitting her lip and gashing his knuckle.

The lead officer inquired about the seating arrangement at the table, and how the police were called. The woman described who was sitting where, and said that her son ran into the bedroom during the melee in the kitchen and called 911. The son quietly told his mother that he had called the police; neither had told the husband.

The two officers then conferred in the doorway between the kitchen and the living room and discussed what each had surmised. Then, while the officer who was with the husband remained in the doorway, the lead officer entered the kitchen and observed the following: there was iced tea on the floor and on the table where the wife stated she was sitting; the wife's chair had been overturned; there were heel skid marks between the sink and table; and the dish towel was on the floor.

The lead officer then returned to the living room while his partner stayed with the husband. The lead officer asked the son at what point he had called the police. The son stated that as soon as his father had grabbed his mother by the hair, he ran to the phone.

The lead officer then indicated to his partner that he intended to arrest husband. He quietly explained to the wife his duty and intentions, and asked her to remain calm. He then, assisted by his partner, placed the husband under arrest, handcuffed him and read him his rights. The husband's only remark was that he acted in self-defense.

1. Statements -- Indicate the statements that were the most important to the officers.

   a. Statements of victim:

   b. Statements of offender:

   c. Statements of eye witnesses:

2. Injuries -- What injuries did the officers observe?

   a. Husband

   b. Wife

   c. "Medical examination often makes invisible injuries visible" How would this be accomplished?

3. Clothing -- What articles of clothing could be evidence in this case?

4. Weapons -- What weapons were used?

5. Crime scene -- What facts/observations help you reconstruct the crime scene?

6. Other Information -- What other information would you want to obtain in your investigation?

7. Self-Defense -- Based on the facts presented, would you consider the wife's scratching of her husband a criminal act or self-defense? Explain.

Evidence Chart

Please study the chart below and list additional ways of documenting evidence in column 3.

Evidence Category	Nature of Evidence	Documentation of Evidence
Statements Victim's Offender's Other's	Type of Statements Interview Spontaneous Overheard Allegation Confession	Crime Report _____ _____ _____
Injuries Victim's Offender's	Type of Injury Typical assault wound Defensive Offensive Multiple wounds over time	Crime report _____ _____ _____
Clothing Victim's Offender's	Nature of Damage Ripped, torn Bloodstained Punctured	Crime Report _____ _____ _____
Weapons Firearm Knife Household Objects Anything used to bind victim	How Used Fired Pointed Thrown Stabbed Struck	Crime Report _____ _____ _____
Crime Scene Actual location Adjacent areas	Condition Overturned furniture Broken items Damage to walls, doors Signs of forced entry Telephone damage Bloodstains	Crime Report _____ _____ _____
Other Information History of previous calls. Who called the police? Are the children abused or neglected? Does the batterer and/or victim use drugs?	How obtained 911 records Domestic Violence Location List Hospital records Officer observations Child Protective Services reports	Crime Report _____ _____ _____

Crime Report

The crime report is probably the most important police tool used to document the occurrence of a crime. In the space below please list three techniques for writing the narrative section of the crime report.

1. _____

2. _____

3. _____

Please refer to the investigation scenario. Please write the narrative section of the crime report in the space below, as if you were one of the officers on the scene.

Narrative Section of Crime Report.

_____

Used with permission
Victim Services Agency

VSA and NOBLE, **The Law Enforcement Response to Family Violence: The Training Challenge,** 1989.

INTERVIEWING THE BATTERED WOMAN

Interview Techniques.

Officers should *separate the victim and suspect* as soon as safely possible and *interview them separately*. Take the victim out of hearing range and away from eye contact with the suspect. This will greatly decrease the likelihood that she will be intimidated by him. It also increases the likelihood of her cooperation with the officers.

In making decisions about when and how to separate the parties *and* while conducting the interviews, *do not* jeopardize officer safety. Safety for the officers and parties involved requires the officers to *maintain control* of the parties during the interviews.

Officers should use the same information gathering and interviewing strategies used in any other criminal investigation. The following suggestions and strategies have proven effective in obtaining information in domestic violence cases.

- Make your questions *specific and direct,* and ask them in a *supportive and matter-of-fact* tone of voice.
- Be calm and direct.
- Be aware of body language.
- Be patient.
- Question statements indicating that the injuries were caused by an accident.
- Don't get bogged down in trying to ascertain motives.
- Do not ask accusing or hostile questions.
- Do not ask ambiguous or rhetorical questions.

In handling domestic violence incidents, your general approach should reflect the seriousness of the offense and its consequences for both the suspect and the victim. To convey this seriousness officers should impress upon the parties involved that domestic violence is a crime and investigate the incident as thoroughly as any crime not involving family members

Gathering Information.

Detailed knowledge of the present incident and past incidents will increase the officers' ability to make appropriate decisions about their arrest options and to correctly advise victims on follow-up procedures. This information can best be acquired through carefully interviewing the battered woman. Research reveals that battered women are the best source of reliable information about domestic violence.

Gather All Relevant Background Information.

- Are there weapons in the house?
- Were there witnesses?
- Was the reporting party someone other than the victim? (If so, have you spoken with that person?)
- Are there children likely to be endangered by the incident or did children witness the incident?

Gather Information About Presenting Incident.

- Can you tell me what happened?
- You have an injury. It looks like someone hit you. Who hit you?
- Has this person ever hit you before?
- What did the person hit you with?
- Were you hit with an open or closed hand?
- Where on your body were you hit?
- How many times were you hit?
- Was any instrument used? A shoe? A knife? A gun? A telephone? A fist?
- Where any threats made against you?

Gather Relevant Historical Information.

Officers will often be walking into a situation in which the relationship between the suspect and victim has been characterized by a history of domestic violence. In order to respond effectively to the present incident, you will need to know about past incidents, and therefore, you should also interview for relevant historical information. Questions asked of the battered woman might include:

- Has this ever happened before?
- What was the worst incident? Has a weapon ever been used?
- Has the suspect ever been arrested for hurting you before?
- Have you ever been treated by a doctor or hospitalized. for injuries inflicted by the offender?

By inquiring about past violence episodes, you may gain information that will aid you in evaluating:

- How dangerous the situation is.
- Whether to arrest the suspect.
- What charges to file.
- Whether or not the children are safe.
- Whether emergency housing should be sought for the victim's safety.

Excerpted from: Martin, S. & McNeill, M. **Domestic Violence: A Training Curriculum for Law Enforcement, Vol. I: Curriculum.** Family Violence Project, San Francisco, 1988.

Follow-Up Visit.

Officers should routinely make a follow-up visit with the victim. Investigation will be enhanced during the second contact, both because injuries may now be visible that were not immediately after the incident and because the victim, somewhat removed from the crisis, may be able to recall information that will aid in the investigation. Beyond this, the follow-up visit can be used to emphasize referral information to the local domestic violence program or to other community supports. Finally, the officer can again evaluate the safety of the victim and make recommendations for expanded conditions on pre-trial release or for the imposition of a § 4954 protective order.

Repeat Call Information Gathering.

Domestic violence perpetrators almost always engage in further violence. Unfortunately, the severity of the violence often escalates over time. The more calls previously made in response to the violence of a batterer, the more likely that the current call may involve life-terminating assault. (Saltzman, et al, 1990) Therefore, it is critical that the responding officer obtain all of the information available from the Risk File and from prior incident reports. Based on this information, the dispatcher should seek detailed information from the caller. Once on the scene, the responding officer should verify data and identify changes or supplemental information; never assuming that the data on file continues to be accurate. The responding officer should also check to ascertain if a valid protection order is on file.

WRITTEN REPORT AND DATA COLLECTION

1. A written report clearly identified as a domestic incident report must be completed by the officer responding to any call covered by this protocol. The report should include the following information:

   (a) Names, addresses, and phone numbers of the victim, the accused, any witnesses, and the caller.
   (b) A second permanent address and telephone number for the victim (such as a close family member or a friend).
   (c) A statement of the relationship between the victim and the accused.
   (d) A narrative for the incident (including the date, time, and whether the accused appeared intoxicated or under the influence of a controlled substance).
   (e) What, if any, weapons were used or threatened to be used.
   (f) A description of any injuries observed by the officer.
   (g) A description of any injuries described by the victim but not observed by the officer and an indication that the injury was not observed.
   (h) Documentation of any evidence that would tend to establish that a crime was committed.
   (i) An indication of what arrest decision was made: a warrantless arrest; an arrest with a warrant; or no arrest.
   (j) Whether the accused actually was arrested or whether there is an outstanding arrest warrant.
   (k) The crimes with which the accused was charged.
   (l) If the accused was arrested and arraigned, whether bail was set and any conditions of bail imposed.
   (m) If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest.
   (n) The names and ages of any children present in the household; their address and phone number if children were relocated.
   (o) Notation of previous incidents of which the officer is personally aware.
   (p) Notation of previous incidents reported by the victim or witnesses.
   (q) If an officer was injured in the incident, the nature and circumstances of the injury.

2. Data collection.

   (a) All written reports on the same person should be kept together or cross-referenced so that repeat domestic violence can be monitored.
   (b) The written report, or another document (such as an index card) or computer entry generated from the written report, should become a domestic violence tracking report.
   (c) To the extent possible, the domestic violence tracking report should be accessible to dispatchers and police officers.

Excerpted from Attorney General's Family Violence Task Force, **Domestic Violence: Model Protocol for Police Response**, pp. 36-37, 1989.

Document! Document! Document!

DEPARTMENT OF CORRECTIONS
PROGRAMS AND SERVICES FOR BATTERED WOMEN

DOMESTIC ABUSE CASES
LAW ENFORCEMENT DATA COLLECTION

OFFICER INFORMATION:

You are required by Minnesota Statutes 629.341, Subd. 4, to make a written police report on all alleged incidents of domestic abuse to which you are called whether or not an arrest is made. This statute covers spouses, former spouses and people who are residing together or have resided together in the past. Please complete this form and submit it to your supervisor or other person to whom your employer's rules require reports to be made.

SUPERVISOR INSTRUCTIONS:

According to Minnesota Statutes 611A.36, all law enforcement agencies are required to collect data on women who have been assaulted and/or threatened with assault by their spouses, male relatives or males with whom they reside or have resided in the past. *Retain copy 1 for your files. Forward copy 2 to the Minnesota Department of Corrections for every female victim over 18 and male assailant. Fold form in half, staple the edge, and mail to return address printed on reverse side.*

LOCATION OF CALL

LOCATION OF INCIDENT

Date of Incident (1-6) Mo. Day Year

Time of Incident (7-10)

(11) A.M. (1) P.M. (2)

VICTIM NAME

VICTIM ADDRESS

Victim Zip Code (12-16)

Victim D.O.B. (17-22)

Sex (23) 1. ☐ M 2. ☐ F

Victim Race (24) 1. ☐ Am. Indian 2. ☐ Black 3. ☐ Hispanic 4. ☐ White 5. ☐ Other (specify) 6. ☐ Asian

ASSAILANT NAME

ASSAILANT ADDRESS

Assailant Zip Code (25-29)

Assailant D.O.B. (30-35)

Sex (36) 1. ☐ M 2. ☐ F

Assailant Race: (37) 1. ☐ Am. Indian 2. ☐ Black 3. ☐ Hispanic 4. ☐ White 5. ☐ Other (specify) 6. ☐ Asian

NARRATIVE (Describe incident including injuries, property damage, etc.)

Relationship of victim to assailant (38)

1. ☐ Spouse living together
2. ☐ Spouse or ex-spouse not living together
3. ☐ Relative
4. ☐ Friend (living together)
5. ☐ Ex-spouse (living together)
6. ☐ Friend (formerly living together)
7. ☐ Other (specify) _____

Alleged assault

(39) ☐ Threatened with a dangerous weapon
(40) ☐ Use of dangerous weapon
(41) ☐ Assault with physical signs of injury or impairment
(42) ☐ Assault without physical signs of injury or impairment
(43) ☐ Threats of immediate bodily harm
(44) ☐ Other (specify) _____

Alleged Order Violation

(45) ☐ Violation of OFP/Exclusion
(46) ☐ Violation of OFP/Restraint
(47) ☐ Violation of OFP/Other
(48) ☐ Violation of other restraining order

Action taken

(49) ☐ Arrest by officer
(50) ☐ Citation
(51) ☐ Separation
(52) ☐ Mediation
(53) ☐ Citizen's Arrest

Offense

(54) ☐ 1st Degree Assault
(55) ☐ 2nd Degree Assault
(56) ☐ 3rd Degree Assault
(57) ☐ 4th Degree Assault
(58) ☐ 5th Degree Assault
(59) ☐ Violation of OFP
(60) ☐ Disturbing the peace
(61) ☐ Outstanding warrant
(62) ☐ Other (specify) _____

If no arrest made, indicate reason

CASE NO.

REPORTING OFFICER(S)

DATE

(1) ☐ Yes (2) ☐ No (63) Did officer arrive within 4 hours of incident?
(1) ☐ Yes (2) ☐ No (64) Did officer inform victim of services and legal remedies as required by law?
(1) ☐ Yes (2) ☐ No (65) Was an order for protection in effect?
(1) ☐ Yes (2) ☐ No (66) Was officer injured?

Agency ORI # M N O

Law Enforcement Agency & City

Officer License #

CR-00145-04

PROBABLE CAUSE ASSESSMENT

When an officer responds to a domestic violence call where a crime may have been committed, he/she must make three important decisions. *Please review the following information and fill in the blanks.*

First decision: Do I have probable cause?

YES NO

Probable cause is based on facts:

a. _____
b. _____
c. clothing
d. weapons
e. crime scene
f. other

Second decision: Do I make an arrest?

YES NO

Why "YES"?

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Why "NO"?

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Third decision: Do I charge the offender with a misdemeanor or a felony?
What is this decision based on? _____

_____

What is this decision not based on? _____

_____

DEFINITIONS OF PROBABLE CAUSE

New York City Police Department:

Probable Cause - A combination of facts, viewed through the eyes of a police officer, which would lead a person of reasonable caution to believe that a crime is being or has been committed. ***The "probable cause" standard applied in domestic violence offenses is no different from the standard applied in other offenses.***

Black's Law Dictionary:

Probable Cause - Reasonable cause; having more evidence for than against;... an apparent state of facts found to exist upon reasonable inquiry... which would induce a reasonable, intelligent and prudent man to believe, in a criminal case, that the accused person had committed the crime charged...."

U.S. Supreme Court:

The probable cause standard is an objective one; that is, it is not whether a particular police officer thought the suspect had committed a crime, but rather whether a reasonably prudent person under the "totality of the circumstances" would have concluded that a specific crime had occurred and that the suspect was the person committing the crime. (Terry v. Ohio, 392 U.S. 1, 1986.)

Pennsylvania Attorney General's Model Protocol:

The responding officer should arrest the assailant whenever arrest is authorized. Police should arrest and pursue criminal remedies appropriate to the crime that the police have probable cause to believe the accused has committed. If the officer decides not to arrest, he must include in his report of the incident a detailed explanation of the reasons why an arrest was not made. (Sections B and F of the ***Model Protocol.****)*

The following is taken from an article in ***The Exchange****, published by the Nat'l Woman Abuse Prevention Project, Vol. 3, No. 1, Fall/Winter 1988-89.*

DOWNPLAYING DOMESTIC VIOLENCE MAY RESULT IN POLICE LIABILITY

Arrest statistics and a police department's special handling of domestic violence cases may establish a "custom or policy" of discriminating against the victims of such violence, the U.S. Court of Appeals for the Tenth Circuit held September 14. The court reversed a grant of summary judgement to a city and several police officers on an abused wife's claim that the police department violated her equal protection rights by failing to protect her from her husband. (*Watson v. Kansas City, Kan.*, CA 10, No. 86-2501, 9/14/88.)

The wife presented statistics that out of 608 non-domestic assault cases in the city for a certain period, there were 186 arrests, for an arrest rate of 31 percent. Out of 369 domestic assaults, there were only 69 arrests, for a rate of 16 percent.

The police department argued that these statistics are irrevelant because they don't take into account whether there was probable cause to arrest. But the court said this argument fails because officers' assessment of whether probable cause exists, like the decision to arrest, may be based on whether the disturbance is domestic or non-domestic.

The court cautioned that statistics alone would not be sufficient to establish a municipal policy or custom of affording less protection to domestic assault victims than to other assault victims. But in this case the wife also presented evidence that the police officers receive training in handling domestic violence, and that such training encourages officers to attempt to "defuse" domestic distrubances and to use arrest as a last resort. These allegations are sufficient, the court said, to support a jury finding that the city and police department followed a policy or custom of affording less protection to victims of domestic violence than to victims of non-domestic attacks.

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1. Is there a danger of a "probable cause double standard" existing within your department?

Yes _____ No _____ Maybe _____

2. If you were going to write a domestic violence policy, what would you include to minimize the risk of an officer abusing his discretion when it comes to interpreting "probable cause?"

3. Are there other ways to minimize a probable cause double standard?

PROBABLE CAUSE AND ARREST DECISIONS EXERCISE

Please place yourself in the scenario and answer the questions that follow:

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You and a backup officer respond to a family fight call. You knock on the front door, step to the side, and wait. A woman opens the door. Her lip is cut and puffy. Her neck has several red marks on it. She points to a gash on her arm. "He cut me with a bottle. He's crazy."

You enter the house and see a large chair lying on its side. The telephone has been pulled from the wall and is on the floor. A man is sitting on the couch with his head in his hands. You walk over to him and ask, "What happened?"

"A fight," he answers. "That's what happened."

"You hit her?"

"Maybe."

"What does that mean?" you ask.

He raises his right arm and points to the inside of his forearm. "See what she did to me?"

You see several scratches.

"And look at this," he continues. "See this?" He raises his left arm and points to what looks like a bite mark on the inside of his forearm.

The woman says, "I was trying to get him off me. He was choking me...I couldn't breathe...he was choking me."

"Hey," explains the man, "I'm hurt and she's hurt. If I go, she goes."

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First decision: Do you have probable cause?

Yes_____ No_____ Maybe_____

Second decision: Do you make an arrest?

Yes_____ No_____ Maybe_____

If yes, who do you arrest?

The husband_____ The wife___ Both_____

(In this scenario, it's important to distinguish between an _____injury and a _____injury.)

Do I charge the offender(s) with a felony or a misdemeanor?

Felony_____ Misdemeanor_____

Based on what I have learned from this lesson, the one thing I'm definitely going to do when I return to work is_____
_____
_____
_____

Edmund Stubbing

ARREST AUTHORITY

UNDER CURRENT PENNSYLVANIA LAW, ARREST IS AUTHORIZED IN THE FOLLOWING CIRCUMSTANCES:

- When the officer has probable cause to believe that the suspect has committed a felony.

- When the officer observes the commission of a felony or a misdemeanor.

- When the officer has probable cause to believe that the suspect has committed a domestic violence misdemeanor as specified in 18 Pa. C.S. §2711, which authorizes warrantless arrest when the misdemeanor is involuntary manslaughter (18 Pa. C.S. §2504), simple assault (18 Pa. C.S. §2701), or recklessly endangering another person (18 Pa. C.S. §2705), and the officer observes recent physical injury or other corroborative evidence, and the victim is the spouse of the suspect or a person with whom the suspect resides or has formerly resided. The domestic violence misdemeanor need not have been committed in the officer's presence.

- When a misdemeanor not included among those in the paragraph above has been committed and the officer has filed charges and obtained an arrest warrant.

- When the officer has probable cause to believe that the suspect has violated a valid protection from abuse order. The violation need not have occurred in the officer's presence, and no corroborative evidence is required.

Attorney General's Family Violence Task Force,
Model Protocol, F. 2(a-e), 1989.

PROBABLE CAUSE ARREST STATUTES

§2711. Probable cause arrests in domestic violence cases.

(a) General rule. - A police officer shall have the same right of arrest without a warrant as in felony whenever he has probable cause to believe the defendant has violated section 2504 (relating to involuntary manslaughter), 2071 (relating to simple assault), or 2705 (relating to recklessly endangering another person) against his spouse or other person with whom he resides or has formerly resided although the offense did not take place in the presence of the police officer. A police officer may not arrest a person pursuant to this section without first observing recent physical injury to the victim or other corroborative evidence.

(b) Seizure of weapons. - The arresting police officer shall seize all weapons used by the defendant in the commission of the alleged offense.

(c) Bail. -

(1) A defendant arrested pursuant to this section shall be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay. In no case shall the arresting officer release the defendant from custody rather than taking the defendant before the issuing authority.

(2) In determining whether to admit the defendant to bail, the issuing authority shall consider whether the defendant poses a threat of danger to the victim. If the issuing authority makes such a determination, it shall require as a condition of bail that the defendant shall refrain from entering the residence or household of the victim and the victim's place of employment and shall refrain from committing any further criminal conduct against the victim and shall so notify the defendant thereof at the time the defendant is admitted to bail. Such condition shall expire at the time of the preliminary hearing or upon the entry or the denial of the protection of abuse order by the court, whichever occurs first. A violation of this condition may be punishable by the revocation of any form of pretrial release or the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding him to custody or a modification of the terms of the bail. The defendant shall be provided a hearing on this matter.

(d) Notice of rights. -

Upon responding to a domestic violence case, the police officer shall, orally or in writing, notify the victim of the availability of a shelter, including its telephone number, or other services in the community. Said notice shall include the following statement: "If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to the act of October 7, 1976 (P.L. 1090, No. 218), known as the Protection from Abuse Act, which could include the following:

(1) An order restraining the abuser from further acts of abuse.

(2) An order directing the abuser to leave your household.

(3) An order preventing the abuser from entering your residence, school, business or place of employment.

(4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.

(5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

(Added by L. 1986, Act. 10 eff. 4/16/86.)

§ 3904. Arrest Without Warrant.

A law enforcement officer shall have the same right of arrest without a warrant for any grade of theft as exists or may hereafter exist in the case of the commission of a felony.

PROBABLE CAUSE
IN DOMESTIC VIOLENCE MISDEMEANORS
Pa. C.S. § 2711

The officer answering a domestic violence call that involves a misdemeanor enumerated in 18 Pa. C.S. §2711* is assisted by the statute in identifying the elements of probable cause. When the following two factors are present, probable cause is met:

1. Confirmation by the victim, complainant or witness that the suspect committed one or more of the three enumerated misdemeanors.

   Enumerated misdemeanors. It is critical that the officer be familiar with the elements of each of the three enumerated misdemeanors. For example, in the first and third paragraphs of the simple assault statute (§ 2701) the alleged perpetrator need only *attempt* bodily injury or *attempt* to place the victim in fear of imminent serious bodily injury. The alleged perpetrator need not even succeed. Only through careful questioning will an officer be able to determine if an attempt has been made because it may not be obvious.

   Careful investigation may reveal that the alleged perpetrator has committed both simple assault and the crime of recklessly endangering another person when the perpetrator engages in reckless driving with the victim as a passenger, using the erratic driving as a ploy to scare and control the victim while also placing that victim in the position of being killed or seriously injured.

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* 18 Pa. C.S. §2701 - *Simple Assault*
(a)(1) Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury. (Defined as "impairment of physical condition or substantial pain.")
(a)(2) Negligently causing bodily injury to another with a deadly weapon.
(a)(3) Attempts by physical menace to put another in fear of imminent serious bodily injury. (Defined as bodily injury which creates a substantial risk of death, which causes serious, permanent disfigurement, or which causes protracted loss or impairment of the function of any bodily member or organ.)
§2705 - *Recklessly Endangering Another Person*
Recklessly engaging in conduct which places or may place another person in danger of death or serious bodily injury.
§2504 - *Involuntary Manslaughter*
Causing the death of another as a direct result of a lawful or unlawful act done in a reckless or grossly negligent manner.

If an alleged perpetrator commits another misdemeanor, not enumerated in the statute, even though there is probable cause, the officer may not make a warrantless arrest unless the officer sees the alleged perpetrator committing the offense. Thus, if the perpetrator is in the residence of the victim in defiance of an order to leave personally communicated by the victim, the responding officer may arrest him as a defiant trespasser pursuant to 18 Pa. C.S. § 3503(b). However, if the perpetrator has left by the time the officer arrives and the officer concludes that a crime pursuant to 18 Pa. C.S. § 3503(b) (defiant trespass) has occurred, that officer has no authority to arrest under the enhanced probable cause specifications of 18 Pa. C.S. § 2711, but may file charges and seek an arrest warrant for defiant trespass. However, if there is an outstanding, valid protection order, the officer may pursue the defendant and arrest him for violation of the protection order *and also* charge him with the substantive crime of defiant trespass. This arrest is made under the authority of the Protection From Abuse Act, not under Crimes Code §2711.

Confirmation. Confirmation does not mean that the victim, complainant or witness signs the complaint. Confirmation need not be in writing. Confirmation does not mean that the victim, complainant or witness agrees with the arrest of the perpetrator. Confirmation is merely the allegation of the victim, witness or complainant that the suspect committed an enumerated misdemeanor.

2. Observation by the officer of recent physical injury to the victim **OR** other corroborative evidence.

   Recent Physical Injury. If there is physical injury of any sort, from strained muscles to scratches, bruises, broken bones, knife or bullet wounds, impaired breathing, these all meet the requirement of physical injury if they were recently inflicted.

   Other Corroborative Evidence. Corroborative evidence is that which tends to confirm the allegation that a crime has been committed and/or that the suspect committed the crime. It may include any of the following:

   - Broken furniture, windows or telephones;
   - Holes in the wall;
   - Presence of weapons in the room where the alleged misdemeanor occurred;
   - Unusual items in inappropriate places of the house, e.g. kitchen utensils found in the living room or bedroom;
   - Torn clothing;
   - Scratches or other injuries on the alleged perpetrator, consistent with acts of self-defense;

- Statements or excited utterances by the alleged victim, witness or perpetrator;
- Continuing threats made to the victim in the presence of the police;
- Apparent state of mind of the victim (including fear or anger) and children;
- Violation of a valid protection order;
- The fact of prior domestic violence calls regarding the suspect.

It must be emphasized that to establish probable cause the officer need only observe recent physical injury to the victim **OR** corroborative evidence.

Barbara J. Hart

PROTECTION FROM ABUSE ACT
INDIRECT CRIMINAL CONTEMPT

23 Pa.C.S.A. §§ 6101-17 (Effective 3/17/91)

§ 6113. Arrest for violation of order.

(a) General rule.--An arrest for violation of an order issued pursuant to this chapter may be without warrant upon probable cause whether or not the violation is committed in the presence of the police officer. The police officer may verify, if necessary, the existence of a protection order by telephone or radio communication with the appropriate police department, county registry or issuing authority.

(b) Seizure of weapons.--Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse. As soon as it is reasonably possible, the arresting officer shall deliver the confiscated weapons to the office of the sheriff. The sheriff shall maintain possession of the weapons until the court issues an order specifying the weapons to be relinquished and the persons to whom the weapons shall be relinquished.

(c) Procedure following arrest.--Subsequent to an arrest the defendant shall be taken by the police officer without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred. When that court is unavailable, the police officer shall convey the defendant to a district justice designated as appropriate by local rules of court, or, in counties of the first class, to the appropriate hearing officer.

(d) Preliminary arraignment.--The defendant shall be afforded a preliminary arraignment without unnecessary delay.

(e) Other emergency powers unaffected.--This section shall not be construed to in any way limit any of the other powers for emergency relief provided in this chapter.

(f) Hearing.--A hearing on a charge or allegation of indirect criminal contempt shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing on other criminal charges preclude a hearing on a charge of indirect criminal contempt.

(g) Notice.--Notice shall be given to the defendant, in orders issued pursuant to section 6108 (relating to relief), of the possible ramifications of resumption of residence in the family domicile contrary to court order. Resumption of co-residence on the part of the plaintiff and defendant shall not nullify the provisions of the court order directing the defendant to refrain from abusing the plaintiff or minor children.

§ 6114. Contempt for violation of order or agreement.

(a) General rule.--Upon violation of a protection order issued under this chapter or a court approved consent agreement, the court may hold the defendant in indirect criminal contempt and punish him in accordance with law.

(b) Trial and punishment.--A sentence for contempt under this chapter may include imprisonment up to six months or a fine not to exceed $1,000, or both, and may include other relief set forth in this chapter. The defendant shall not have a right to a jury trial on such a charge; however, the defendant shall be entitled to counsel.

Compiled by the Attorney General's Family Violence Task Force Staff

DOMESTIC VIOLENCE CRIMES

Note: All section references are to 18 Pa. C.S.A. unless otherwise stated.

CRIME	DESCRIPTION	CLASSIFICATION	STATUTORY SENTENCE	OFFENSE GRAVITY SCORE	SPECIAL PENALTIES
Criminal Homicide Sec. 2501	Intentionally, knowingly, recklessly, or negligently causing the death of another. Classified as: 1. Murder 2. Voluntary Manslaughter 3. Involuntary Manslaughter	See Specific Crime	See Specific Crime	See Specific Crime	See Specific Crime No
Murder Sec. 2502	1. Intentional Killing	1st Degree Murder	Death or Life Imprisonment Sec. 1102(a)	10	No
	2. Killing when defendant was a principal or accomplice or in commission of robbery, rape, deviate sexual intercourse, arson, burglary or kidnapping.	2nd Degree Murder	Life Imprisonment Sec. 1102(b)	10	No
	3. All other kinds of murder.	1st Degree Felony	Maximum of 20 years imprisonment Sec. 1103(1)	10	No

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DOMESTIC VIOLENCE CRIMES

Note: All section references are to 18 Pa. C.S.A. unless otherwise stated.

CRIME	DESCRIPTION	CLASSIFICATION	STATUTORY SENTENCE	OFFENSE GRAVITY SCORE	SPECIAL PENALTIES
Voluntary Manslaughter Sec. 2503	1. Killing under a sudden and intense passion resulting from serious provocation by the one killed or by another the actor intended to kill.	2nd Degree Felony	Maximum of 10 years Sec. 1103(2)	8	No
	2. Intentional or knowing killing committed by one who honestly, but unreasonably believes killing is justified.	2nd Degree Felony	Maximum of 5 years Sec. 1104(1)	8	No
Involuntary Manslaughter Sec. 2504	Causing the death of another as a direct result of a lawful or unlawful act done in a reckless or grossly negligent manner.	1st Degree Misdemeanor	When a 2nd Degree Misdemeanor, maximum 2 years Sec. 1104(2)	5	No
Simple Assault Sec. 2701(a)	1. Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury.*	All 3 types are 2nd Degree Misdemeanors, unless committed during a fight or scuffle; then it is a 3rd Degree misdemeanor	When a 3rd Degree Misdemeanor, maximum 1 year Sec. 1104(3)	For 2nd Degree Misdemeanors: 2	No
	2. Negligently causing bodily injury to another with a deadly weapon.			For 3rd Degree Misdemeanor: 1	No
	3. Attempting by physical menace to put another in fear of imminent serious bodily injury.**				

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DOMESTIC VIOLENCE CRIMES

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CRIME	DESCRIPTION	CLASSIFICATION	STATUTORY SENTENCE	OFFENSE GRAVITY SCORE	SPECIAL PENALTIES
	* Bodily injury is defined as "impairment of physical condition or substantial pain." Sec. 2301. ** Serious bodily injury is defined as bodily injury which creates a substantial risk of death, which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Sec. 2301.				
Aggravated Assault Sec. 2702(a)	1. Attempting to cause serious bodily injury to another, or causing such injury intentionally, knowingly, or recklessly under circumstances manifesting extreme indifference to the value of human life.	1st Degree Felony	Maximum of 20 years Sec. 1103(2)	7, if injury results; 6, if only an attempt	Yes. mandatory term of 2 years 42 Pa.C.S.A. Sec. 9717(a)
	4. Attempting to cause or intentionally or knowingly causing bodily injury to another with a deadly weapon.	2nd Degree Felony	Maximum of 10 years Sec. 1103(2)	6, if injury inflicted; 5, if injury	Yes. Mandatory term of 2 years 42 Pa.C.S.A.
Recklessly Endangering Sec. 2705	Recklessly engaging in conduct which places or may place another person in danger of death or serious bodily injury.	2nd Degree Misdemeanor	Maximum of 2 years Sec. 1104(2)	2	No
Terroristic Threats Sec. 2706	Threats to commit any crime of violence to terrorize another or to cause evacuation of a building or reckless disregard of the risk of either.	1st Degree Misdemeanor	Maximum of 5 years Sec. 1104(1)		

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DOMESTIC VIOLENCE CRIMES

Note: All section references are to 18 Pa. C.S.A. unless otherwise stated.

CRIME	DESCRIPTION	CLASSIFICATION	STATUTORY SENTENCE	OFFENSE GRAVITY SCORE	SPECIAL PENALTIES
Harassment Sec. 2709	With intent to harass, annoy, or alarm another person: (1) striking, shoving, kicking, or otherwise subjecting another to physical contact, or attempting or threatening to do the same; (2) following a person in or about a public place; (3) engaging in a course of conduct or repeatedly committing acts which alarm or seriously annoy another person and which serve no legitimate purpose.	Summary Offense	Maximum 90 Days Sec. 1105	None	No
Kidnapping Sec. 2901	By force, threat or deception, removing another a substantial distance or unlawfully confining another for a substantial period in a place of isolation with any of the following intentions: (1) to hold for ransom or reward, or as a shield or hostage; (2) facilitate commission of any felony or flight thereafter; (3) to inflict bodily injury on or to terrorize the victim or another; (4) to interfere with the performance by public officials of any governmental or political function.	1st Degree Felony	Maximum 20 years Sec. 1103(1)	8	No

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DOMESTIC VIOLENCE CRIMES

Note: All section references are to 18 Pa. C.S.A. unless otherwise stated.

CRIME	DESCRIPTION	CLASSIFICATION	STATUTORY SENTENCE	OFFENSE GRAVITY SCORE	SPECIAL PENALTIES
Unlawful Restraint Sec. 2902	Knowingly (i) restraining another unlawfully in circumstances exposing the other to risk of serious bodily injury; or, (ii) holding another in a condition of involuntary servitude.	1st Degree Misdemeanor	Maximum 5 years Sec. 1104(1)	3	No
False Imprisonment Sec. 2903	Knowingly restraining another unlawfully so as to interfere substantially with the other's liberty.	2nd Degree Misdemeanor	Maximum 2 years Sec. 1104(2)	2	No
Interference With Custody of Committed Person Sec. 2905	Knowingly or recklessly enticing any "committed person, person committed under judicial warrant,...mentally defective or insane person, or other dependent or incompetent person entrusted to the custody of another by or through a recognized social agency or otherwise authorized by law" away from lawful custody when he is not privileged to do so.	2nd Degree Misdemeanor	Maximum 2 years Sec. 1104(2)	2	No

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DOMESTIC VIOLENCE CRIMES

Note: All section references are to 18 Pa. C.S.A. unless otherwise stated.

CRIME	DESCRIPTION	CLASSIFICATION	STATUTORY SENTENCE	OFFENSE GRAVITY SCORE	SPECIAL PENALTIES
Criminal Coercion Sec. 2906	With intent unlawfully to restrict freedom of action of another to the detriment of the other, by threatening to: commit any criminal offense, accuse anyone of a criminal offense, expose any secret tending to subject any person to hatred, contempt or ridicule, take or withhold action as an official, or cause an official to take or withhold action.	2nd Degree Misdemeanor (unless the threat is to commit a felony or the intent of the act was felonious, then it is a 1st Degree Misdemeanor)	As 2nd Degree Misdemeanor, maximum 2 years Sec. 1104(2); as 1st Degree Misdemeanor, maximum 5 years Sec. 1104(1)	As 2nd Degree Misdemeanor: 2 As 1st Degree Misdemeanor: 3	No
Concealment of the Whereabouts of a Child Sec. 2909	Removal of child with intent to conceal whereabouts from a parent or guardian by: 1. Personally removing child from known residence. 2. Causing the child to be removed. 3. Preventing the child from returning in circumstances where reasonable expectation the child will be returned unless concealment is authorized by court order or is *reasonable response to domestic or child abuse*. (Italics for emphasis.)	3rd Degree Felony	Maximum 7 years Sec. 1103	4	No

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DOMESTIC VIOLENCE CRIMES

Note: All section references are to 18 Pa. C.S.A. unless otherwise stated.

CRIME	DESCRIPTION	CLASSIFICATION	STATUTORY SENTENCE	OFFENSE GRAVITY SCORE	SPECIAL PENALTIES
Luring a Child Into a Motor Vehicle Sec. 2910	Luring a child into motor vehicle without the consent of the child's parent or guardian, unless the child is in need of assistance.	1st Degree Misdemeanor	Maximum 5 years Sec. 1104(1)	3	No
Rape Sec. 3121	Engaging in sexual intercourse with non-spouse by forcible compulsion, threat of force, with one who is unconscious, or with one who is unable to give consent because of mental derangement or deficiency.	1st Degree Felony	Maximum 20 years Sec. 1103(1)	9	Yes. Mandatory 5 years imprisonment 42 Pa.C.S.A. Sec. 9717(a)
Involuntary Deviate Sexual Intercourse Sec. 3123	Engaging in deviate sexual intercourse (defined as sexual intercourse by mouth or anus between non-spouse or intercourse with an animal, Sec. 3101) with another, by force, threat of force, with someone who is unconscious, or with someone who is unable to consent because of mental derangement or deficiency.	1st Degree Felony	Maximum 20 years	9	Yes. mandatory 5 years imprisonment 42 Pa.C.S.A. Sec. 9717(a)

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DOMESTIC VIOLENCE CRIMES

Note: All section references are to 18 Pa. C.S.A. unless otherwise stated.

CRIME	DESCRIPTION	CLASSIFICATION	STATUTORY SENTENCE	OFFENSE GRAVITY SCORE	SPECIAL PENALTIES
Indecent Assault Sec. 3126	Having indecent contact (defined as any touching of the sexual or other intimate parts for the purpose of arousing or gratifying sexual desire, Sec. 3101) with a non-spouse or causing another to have indecent contact with the actor, if (1) it is without consent; (2) the victim is unable to know the nature of the conduct because of mental disease or defect; (3) the victim is unaware that indecent conduct is being committed; (4) the actor has substantially impaired the victim's power to know or control conduct per use of drugs, etc., or (5) the victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim.	2nd Degree Misdemeanor	Maximum 2 years Sec. 1104(2)	2	No
Indecent Exposure Sec. 3127	Exposing one's genitals under circumstances in which the actor knows the conduct is likely to cause affront or alarm if the act is done for the purpose of arousing or gratifying sexual desire of a non-spouse.	2nd Degree Misdemeanor	Maximum 2 years Sec. 1104(2)	2	No

Compiled by the Attorney General's Family Violence Task Force Staff

DOMESTIC VIOLENCE CRIMES

Note: All section references are to 18 Pa. C.S.A. unless otherwise stated.

CRIME	DESCRIPTION	CLASSIFICATION	STATUTORY SENTENCE	OFFENSE GRAVITY SCORE	SPECIAL PENALTIES
Spousal Sexual Assault Sec. 3128(a)	Engaging in sexual intercourse with spouse by force, threat of force, or with an unconscious spouse.	2nd Degree Felony	Maximum 10 years Sec. 1103(2)	7	No
Involuntary Spousal Deviate Sexual Intercourse Sec. 3128(b)	Engaging in deviate sexual intercourse with spouse by force, threat of force, or with an unconscious spouse.	2nd Degree Felony	Maximum 10 years Sec. 1103(2)	7	No
Arson Sec. 3301(a)(c)(d)(f)	Starting or causing a fire or explosion that recklessly places another person in danger of death or bodily injury or for the purpose of destroying or damaging either an inhabited or unoccupied building or structure. Reckless burning or exploding, as well as possession of explosive or incendiary materials or devices.	See Specific Crime	See Specific Crime	See Specific Crime	See Specific Crime

Other Crimes Involving Domestic Violence

The following additional crimes may be committed by a domestic violence perpetrator; they include but are not limited to:

§2505 -	Causing or Aiding Suicide
§2506 -	Drug Delivery Resulting in Death
§3301 -	Arson
§3302 -	Causing or Risking a Catastrophe
§3303 -	Failure to Prevent a Catastrophe
§3304 -	Criminal Mischief
§3502 -	Burglary
§3503 -	Criminal Trespass
§3701 -	Robbery
§3921 -	Theft by Unlawful Taking or Disposition
§3922 -	Theft by Deception
§3923 -	Theft by Extortion
§3925 -	Receiving Stolen Property
§3927 -	Theft by Failure to Make Required Disposition of Funds
§3928 -	Unlawful Use of Auto or Other Vehicle
§4101 -	Forgery
§4104 -	Tampering with Records or Identification
§4105 -	Bad Checks
§4106 -	Credit Cards
§4117 -	Securing Execution of Documents of Deception
§4906 -	False Report to Law Enforcement
§5503 -	Disorderly Conduct
§5504 -	Harassment by Communication or Address
§5506 -	Loitering and Prowling at Night Time
§5507 -	Obstructing Highways and Other Public Passages
§5511 -	Cruelty to Animals
§5703 -	Interception, Disclosure or Use of Wire, Electronic or Oral Communications
§5901 -	Open Lewdness
§5903 -	Obscene and Other Sexual Materials
§6103 -	Crime Committed with Firearms
§6106 -	Firearms Not to be Carried Without a License
§6106.1 -	Carrying Loaded Weapons Other Than Firearms
§6312 -	Sexual Abuse of Children
§6501 -	Scattering Rubbish
§6504 -	Public Nuisances

MISCELLANEOUS CRIMINAL STATUTES

Missing Children
Section 2908

Law enforcement agencies have the following duties with respect to missing children. 1. To investigate a report *immediately* when received regardless of the age of the child. 2. To record all information relevant to the missing child and circumstances surrounding the disappearance. 3. To make an entry of the missing child in the Missing Persons File through the Commonwealth Law Enforcement Assistance Network (CLEAN). 4. To cancel any entry once the child is returned or located.

Protective Orders
Section 4954

A court with jurisdiction over a criminal matter may, after a hearing and on its discretion with evidence which may include hearsay or the declaration of the prosecutor that the witness or victim has been intimidated, or is reasonably likely to be intimidated, issue protective orders including the following: 1. An order that the defendant may not violate any provision of this sub-chapter. 2. An order that a person other than a defendant, including, but not limited to, a subpoenaed witness, may not violate any provision herein. 3. An order that any person in 1. or 2. maintain a prescribed geographic distance from any specified victim or witness. 4. An order that the person have no communication whatsoever with the victim or witness.

Violation of Protective Orders
Section 4955

Any person violating any order made in 4954 (relating to protective orders) may be punished in either or both of the following ways:

1. For any substantive offense in the Crimes Code.

2. As a contempt of the court.

ARREST EXERCISE

John and Sara are married. Sara left John and rented an apartment of her own last month. This afternoon John went to Sara's place of employment and asked her to talk with him about reconciliation. Sara agreed to talk. She got into John's car. When she did not agree to John's proposal and concluded that no further conversation would be productive, she attempted to get out of his car. John restrained her. He then took off at a high rate of speed. Sara demanded that he stop and let her out. He laughed and told her that he would kill her before she'd get a divorce. He asked her if she would like to die in a car wreck and swerved the car toward a bridge abutment, bringing the car back into the driving lane seconds before impact with the bridge.

A. Suppose you are a patrol officer who observes the swerving of the car and the excessive speed, and you pull John over. He appears not to be intoxicated. Sara tells you all of the above.

- What crimes do you have probable cause to believe John has committed?

- Do you have the authority to arrest John without obtaining a warrant? Why or why not?

B. Suppose, instead, you did not observe John's driving, but when Sara eventually got out of the car that she called and reported the above to you.

- Do you have the authority to arrest John without obtaining a warrant? Why or why not?

C. Suppose, instead again, that Sara had obtained a protection order against John previously, and that when you responded to her call, you verified that there was a current, valid protection order issued against John in Sara's favor.

- What crimes do you have probable cause to believe that John has committed?

- Do you have the authority to arrest John without obtaining a warrant? Why or why not?

D. Suppose Sara tells you, pursuant to the scenario described in Paragraph C., that she believes that John has several guns in his car.

- Do you have the authority to seize those guns?

E. Suppose, instead, that Sara told you about the weapons in the scenario in Paragraph A.

- Do you have the authority to seize the weapons? Why or why not?

F. Suppose, instead, again, that Sara had not obtained a protection order and that John eventually dropped her off at her apartment. He demanded to come in. She told him that he did ***not*** have her permission to enter. He took her keys and entered the apartment, dragging her behind him. The neighbors see this and call the police. You investigate and believe that above occurred as reported in this account.

- What crimes do you have probable cause to believe that John has committed?

- Do you have authority to arrest John without a warrant? Why or why not?

G. Suppose in Paragraph F that Sara tells you that she does not want to have John arrested; she just wants you to make him give her keys back, remove him from her home, and tell him to stay away.

- Should you arrest and charge John anyway? Why or why not?

- Would your decision be any different if when you arrive you discover that Sara is bleeding from the ear and tells you that John hit her there? She still does not want him arrested.

H. Suppose in each of the scenarios identified below that John was not present when you responded to the call. Which is the better practice? -- 1.) To advise Sara to go the district justice and file a private criminal complaint? **OR** 2.) To pursue John and make an arrest? **OR** 3.) To file criminal charges and request an arrest warrant?

Paragraph B. _____
Paragraph C. _____
Paragraph F. _____

OFFICER SAFETY

WHAT ARE THE MOST DANGEROUS CALLS FOR A POLICE OFFICER?

According to the FBI booklet **Law Enforcement Officers Killed and Assaulted in 1988**, police officers were killed in the ten year period from 1979 through 1988 as follows:

KILLED IN THE LINE OF DUTY

1.		123
2.		118
3.		116
4.	Investigating suspicious persons/circumstances	114
5.	Man with gun or bar fight	85
6.	Ambush:	76
7.	Drug related arrest	65
8.		52
9.	Burglary arrests	44
10.	Handling Prisoners	31
11.	Mentally deranged	16
12.	Civil Disorder	1

ACCIDENTAL LINE OF DUTY DEATH

1.		289
2.	Struck by vehicles (directing traffic, helping motorists)	88
3.	Aircraft accidents	88
4.	Struck by vehicles (traffic stops, road blocks)	71
5.	Motorcycle accidents	52
6.	Accidental shootings (crossfire, mistaken identities, firearm mishaps)	45
7.	Other (falls, drownings)	39
8.	Accidental shootings (training sessions)	10
9.	Accidental shootings (self-inflicted)	

If we were to combine the murders with the accidental deaths, the most dangerous assignments would be:

1.		289
2.		123
3.		118
4.		116
5.	Investigating suspicious persons/circumstances	114
6.	Directing traffic, helping motorist (struck by vehicle)	88
7.	Flying a police aircraft	88
8.	Responding to a man with a gun or bar fight	85
9.	Being ambushed	76
10.	Making a traffic stop or setting up a road block	71
11.	Making a drug related arrest	65
12.		52
13.	Driving a motorcycle	52
14.	Being shot in a crossfire or mistaken identity	45
15.	Responding to a burglary	44
16.	Other accidental (falls, drownings)	39
17.	Handling or transporting a prisoner	31
18.	Handling a mentally deranged person	16
19.	Attending a training session for shooting the weapon	10
20.	Cleaning a weapon or other accidental with weapon	10
21.	Responding to a civil disorder	1

DOMESTIC VIOLENCE CALLS RESULTING IN POLICE OFFICER HOMICIDES

1985 - 7 officers killed responding to domestic violence calls
1986 - 4 officers killed responding to domestic violence calls
1987 - 13 officers killed responding to domestic violence calls
1988 - 3 officers killed responding to domestic violence calls
Total - 27 officers killed

Deceased officers time on the job:

0 to 5 years:	7
6 to 10 years:	5
11 to 15 years:	4
16 to 20 years:	5
21 +:	2

Ages of assailants:

teens:	0
twenties:	9
thirties:	7
forties:	3
fifties:	3
sixties:	2

Sex of assailants:

male:	24
female:	0

Weapons used against the officers:

handgun:	18 times (6 times it was the officer's own weapon)
shotgun:	4 times
rifle:	2 times

Tours of duty:

12 a.m. to 8 a.m.	9 officers killed (4 between 1 & 2 a.m.)
8 a.m. to 4 p.m.	2 officers killed
4 p.m. to 12 p.m.	13 officers killed (4 between 9 & 10 p.m.)

Other Circumstances:

Assailants arrested:	10
Assailants who committed suicide	7
Assailants killed by officer:	5
Assailants not apprehended:	1
Assailants who killed wife or another:	4
Assailants who were intoxicated	3

When it comes to domestic violence calls, the one safety tactic I always try to use is:

_____

_____

One insight I had from this lesson is: _____

_____

OFFICER SURVIVAL
REDUCING THE RISK OF THE DOMESTIC VIOLENCE CALL

At approximately 8:30 a.m. a police lieutenant with 18 years of law enforcement experience responded **alone** *to a domestic dispute at a residence. The officer was shot three times by an adult male who then shot his wife and himself, as well. All three died.*

A sheriff's deputy with nine years on the job arrived at a reported domestic disturbance at about 4 p.m., **parked in front** *of the residence involved, exited his car and was promptly shot dead by a male adult firing a rifle from the front door of the house.*

Two experienced patrol officers handling a domestic fight in a Southwestern state permitted the male half of the dispute to **leave their sight** *and enter the bathroom while carrying a small case. When an officer eventually entered the room to check on the man he was shot fatally with a handgun round through the heart.*

Domestic violence. To the numbers of spouses, children and elderly parents who are victimized by it each year in this country can be added a substantial toll of police victims. Every year police officers are murdered at the scenes of domestic violence calls. Every year many more officers are assaulted and injured, some seriously. As a survival-conscious police officer, the message for you in all this is both simple and direct: domestic violence dispute calls are dangerous. Dangerous to YOU.

Frequently police officers get hurt at family beef calls because a domestic abuser decided that the "nosy" officer was "interfering" in his home, his affairs and his personal relationships. By the nature of your peace-keeping duties, *you must* be nosy about domestic violence. If you are to protect the innocent, you must interfere. The key for you is that you do your professional interfering in a safe as well as effective manner.

Although in recent years law enforcement has been taking a well-advised, tougher enforcement posture towards domestic abusers, the violence level of some domestic battlers towards peace officers does not appear to have dropped significantly. Indeed, it would look to be possible that some domestic abusers, now realizing that they are very likely to go to jail if the cops are called, may be even more apt to attack officers in an attempt to avoid arrest. That factor can make these offenders even more dangerous for you.

Fortunately, however, the threat level for you on a domestic disturbance run can become unacceptably high only if you let it. Trial and error experience, some of it literally painful, has taught a great deal over the years about the best (and worst) ways to handle a domestic dispute call. As a result of this hard-won knowledge it is possible to set down a short list of guidelines of sorts for safely defusing a domestic violence episode. These simple, common sense "domestic survival rules" include the following advice:

1. PRESERVE THE ELEMENT OF SURPRISE. Get there promptly but be quiet about it. Park around the corner or several houses away and approach on foot. Keep your portable radio turned low and silence any jangling equipment on your belt or in your pockets. The idea is for you to locate and check out the subjects involved before they know you are around. It's a lot safer for you that way.

2. REMAIN AWARE OF COVER. Even as you approach the location of the dispute stay alert for good cover possibilities just in case you are fired on. While outside, try and stay out of the open as much as possible. Walk through the yards of adjoining addresses rather than on the sidewalk or down

the middle of the street. Inside apartment buildings and similar structures remember that recesses created by individual unit doors can offer some cover in many cases, even if the door is closed.

3. ADVISE COMMUNICATIONS. Be sure your dispatcher--your lifeline to the outside world--knows where you are and what you are doing. Let the dispatch know when things are firmly under control--and when more help is needed. Don't keep secrets from your dispatcher. It could be fatal!

4. ACCESS FROM OUTSIDE. Don't be in too big a hurry to contact the disputants unless it is obvious somebody is getting badly hurt in your presence. Size the situation up as much as possible by what your eyes and ears tell you. Does it sound like you'll need more help than the *mandatory* one backup officer? Simply listening at a door or window will often tell you who the main aggressor is (and who may consequently be the most dangerous to you) as well as whether or not weapons are currently involved. If at all possible, do not commit yourself until a partner officer is in position to help you and you have at least an initial "feel" for what is happening.

5. CONTACT WITH CAUTION. Watch your positioning. Don't stand in front of a door or window. When you and your partner are safely in position, announce yourselves as "the Police" in a voice that is firm and authoritative but doesn't sound like you want trouble. Be ready to defend yourself instantly, if need be. Be equally prepared to beat a retreat to better cover if weapons appear or are threatened.

6. CHECK OUT EVERYBODY--QUICKLY. Look over everyone present for obvious weapons or injuries. Ask if anyone is hurt. Ask if a weapon is involved. (Someone may even tell you the truth!) Look at their hands. Visually inspect their clothes for suspicious bulges. Get more help if what you detect tells you more assistance may be needed. Call paramedics if you need them.

7. GET AS MUCH HELP AS YOU NEED. Remember: You need to have a minimum of one backup with you on every domestic violence call. There should be no exceptions to this basic, officer safety "rule of thumb." Don't cancel your backup or wave him off as he arrives unless you are absolutely positive you will not need him. (It's mighty rare you'll be that certain.) The fact that the aggressor has left the scene, for instance, doesn't mean that he cannot return and take you on.

It's wise to have more help than you need on hand. If help is NOT there and you suddenly need assistance in a big hurry it's unlikely you are going to get it as fast as you'd like--or need. Be survival smart. Get all the assistance you need and keep it with you until the danger is neutralized.

8. SEPARATE AND ISOLATE. Get the disputants out of each other's reach, if at all possible, get a wall between them, as in one inside and one outside or one in a room with you and the other in another room with your backup. Get their stories and compare notes. Stay alert. If it is practical, try to position the combatants so they are facing away from each other while you and your partner are facing one another during your interviews. Continue to keep them apart until you have taken whatever action you are going to take and are departing the scene.

9. REMOVE THE EXTRA PEOPLE. Try to get uninvolved friends, relatives, supporters, etc. out of the disputants' immediate area. Try to talk them into going down the hall, taking a walk down the street or whatever. The point here is that you do not want any extra hands getting involved if you have to take enforcement action. It is doubtful that any of those hands will be all that helpful to *you*. Get this potential interference out of the picture if you can. If you cannot, keep them under visual surveillance while you are handling the call. If there are a number of potential problem people on scene you may need an additional backup or two just to watch them.

10. GET THE FACTS. Truly listen to what each domestic participant has to say about what happened. As you listen, determine whether or not a crime has occurred and if enforcement action is warranted. Listen carefully but do not lower your defenses against a surprise attack. Remain alert for

situational changes going on around you, such as a subject becoming steadily more volatile or someone slipping out of your view. (Is he going to get a weapon?) Keep in close touch with your partner and share your information. Don't become too widely separated.

11. MAKE A DECISION AND ACT ON IT. If you are unsure of yourself or what you are going to do, there is a good chance that your potential opponents will pick up on your uncertainty. Be fair but firm. Decide what you are going to do and then act with authority. Be sure your backup knows what you are planning to do before you act so he won't be surprised and out of position to aid you if trouble starts. You might want to use some mutually understood hand signals or code words so that the domestic participants are not tipped in advance of your intent.

Don't make idle threats or promises ("I'm taking all 12 of you to jail!"). And don't set up your fellow officer ("The next cop that comes out here is going to bust you!"). Do, however, mean what you say and take whatever steps you have said you would. Your credibility is one of the most valuable tools you have for working the street. Do not damage it through needless bluff and bluster.

If your decision to act includes making a full-custody arrest, *always* handcuff your prisoner (hands *behind* the back) and search carefully for weapons. Search your subject again before you put him or her in a vehicle for transport and yet a third time when you reach your destination. Check the car seat your subject was belted into for discarded contraband or weapons.

12. BREAK IT OFF--CAREFULLY. Once you have handled the problem and taken whatever action you plan to take, don't waste any time exiting the area. Literally watch your partner's back and make sure he understands that he's supposed to watch yours. Keep an eye on *everybody* until you are well out of harm's way.

If you have paperwork to do on the case go somewhere else to do it. The last place you want to stand or park is near the address where you have just taken enforcement action. Ticketed offenders and their friends have been known to hunt down and attack the officers who thusly abused their dignity. Keep a sharp lookout for trouble until you are well away from the area. And then keep looking a little bit more.

13. SURVIVE MENTALLY, TOO. There is one more aspect of officer survival to concern yourself with in the process of handling the domestic disturbance call. It's your continued good *emotional* health. There are probably few calls you will answer that are as mentally taxing and personally frustrating as the domestic fight. Many of the offenders you will deal with will attack you verbally. Others will go further yet. Even the victims you aid sometimes will criticize and oppose you. In sum, you may not get more praise and applause for your careful resolution of a domestic squabble, particularly not from the participants.

The point for you to remember in all of this is to concentrate on drawing your inner satisfaction from *knowing* that you did a good job of what you had to do. Instead of expecting praise from your "clients" try to pick up your "positive strokes," if you will, from your peers as well as from within. *You* know you handled a difficult situation and handled it safely and effectively. Your peers and perhaps your supervisor probably know it, too. It is the praise and respect of these people that should mean the most to you, anyhow. Don't waste time and emotional energy worrying about who else did or did not sing your praises.

Keeping a mentally healthy attitude about handling domestic disputes also means recognizing that in spite of your best efforts people are still going to get hurt from time to time by domestic participants that you have dealt with previously. That remains a sad reality of the domestic violence relationship between some victims and abusers. It's not your fault. Do your best. Take enforcement action where indicated and mentally prepare yourself to live with the rest.

Even as you take all the necessary precautions it is vital that you keep in mind the reality that domestic violence calls remain a potential hazard for you. They are risky because you may be entering for the first time a violent cycle that has been carried on in a relationship for many months--or years. They are risky because they frequently involve distractions and side issues, either in the form of other people present or because old issues that have been irritating the participants for years yet have no relation to the present squabble may nonetheless be dredged up and aired once again.

Domestics are hazardous for you because in many if not most instances one or more of the parties involved is drinking or outright drunk. As you already know, the intoxicated individual is one who often has lost whatever judgment or personal inhibitions he may have when sober. The person who wouldn't even speak harshly to a police officer when sober may now be willing to take you on physically. The bad guy who might fight with you but never use a weapon when straight may go for a gun when under the influence. Indeed, intoxication means more trouble for you on the scene of a domestic "beef".

Finally, your job may be made harder by an abuse victim who is so thoroughly emeshed in the webb of violence cycle that she (or he) is unable or unwilling to help you bring a case against the batterer. In such situations you may need to call upon all your abilities as a counselor, social worker, authority figure and friend to get the job done and secure the filing of deserved charges against a violently abusive and dangerous (to you!) offender.

Domestic violence intervention appears destined to remain among the least-favorite and potentially most-hazardous assignments you will receive as a street officer. By preparing yourself mentally and physically to handle them, planning your response in advance, using tactically sound approach and positioning on scene and applying all the skills of basic officer survival, as you defuse the altercation you CAN reduce the risk of the domestic violence call. In so doing you best serve the interests of the community you protect, the peers you support and, perhaps most important of all, yourself.

That's officer survival in its most basic and vital form.

Gerald W. Garner

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HOME SWEET HOME? *Casting New Light on Domestics*

by

Sgt. T. S. Duncan

During the 10-year period from 1979 through 1988, there were 841 law enforcement officers killed in all types of cases, 69 of whom were killed during domestic disturbances. But the FBI reports that 52 officers were killed during "family quarrels" during this period. The difference between the numbers is due to cases that were precipitated by domestics but reclassified by the FBI because of ambushes or arrests. My goal was to look at *all* cases precipitated by a domestic disturbance; the officers involved may have been ambushed or attempting an arrest, but the type of case was always a domestic.

By definition, the word "domestic" means *of or relating to the household or family.* Thus we usually envision a domestic occurring inside a residence, as the officer arrives and makes entry, contacts the combatants and attempts to restore order. Our training and experience tell us to constantly be on guard while inside the residence, and to keep the combatants out of the "danger" areas like the kitchen and bedrooms to reduce access to weapons.

As good as all of these precautions may be, they are misleading -- because we perceive the threat as being indoors. **But the majority of officers killed in domestics are killed out-of-doors. In fact, 74 percent of the officers killed in domestics between 1979-1988 were killed *before ever getting into the residence.*** Our approach to these cases now takes on a whole new perspective.

...Consider the time lag between when dispatch receives a complaint, and when the officer arrives on the scene. We need to realize that much can happen during this 5-10 minute period. Time is not frozen for the combatants; the disturbance continues, often intensifying, and sometimes resulting in a shooting before the first officer arrives.

If a crime has been committed or if the aggressor sees the arrival of the police as threatening, he may be outside ready to take offensive action. **Thus domestics have a very high percentage of ambushes, and even in non-ambush cases the officers are fired upon soon after arrival and contact.**

Other reasons for the combatants being outside are easy to understand. Both parties usually know the police are en route, and each wants to be the first to influence the officers with their side of the story. The victim may also have fled the residence out of fear, hoping to get a few seconds of extra protection by being outside when the police arrive; but the aggressor usually follows the victim outside.

The implication for police tactics is obvious: Our approach techniques are critical, since the risk starts as soon as we are anywhere near the scene. The basic rules of parking away from the scene, and surveying the scene as you approach, are vital. The worst thing an officer can do is park directly in front of the scene, walk up to the front door and start knocking. You should make your arrival as unobtrusive and as unexpected as possible.

Many would guess the arrest phase is the most dangerous phase of handling a domestic, but once again we are surprised. **Eighty-seven percent of the officers killed in domestics were killed before even getting to the arrest phase.**

Specifically, **41 percent were killed on the arrival/approach phase. Many of these killings were ambushes; which explains why so many occurred outside. Of the officers killed in domestics, 23 percent were ambushed -- of those killed in all types of circumstances, only 9 percent.**

The emotional content of a domestic runs especially high, the assailant having a much different motivation: He is seeking revenge -- or at the very least emotional satisfaction -- and often loses complete control prior to the officer's arrival. If the assailant is in an emotional rage, he lacks the self-control found in other perpetrators; and the bottom line is he just doesn't care what happens.

Once the officer arrives and finds the combatants, the contact phase, **46 percent of the officers were killed. Many of these killings occurred outside soon after contact was made.**

Almost 90 percent of officer deaths in domestics occurred *before* the arrest phase, which seems to demonstrate that the assailant was out of control and beyond being manageable. This supports the "pro-arrest" philosophy as a way of improving officer safety. When a combative subject has committed an offense, it's time to go to jail. You owe it to yourself, and you owe it to the victim, or potential victim.

...

Only 10 percent of the officers killed in domestics were killed during the arrest phase. While it is clear that the time leading up to the arrest is the most dangerous, domestics can be difficult because a hostile *victim* may assault an officer during an arrest. Therefore, should an officer move to make an arrest, it is important to keep the victim in view as much as possible. The best way to do this is to keep the assailant between you and the victim. This way, if the victim becomes hostile (especially if they are armed), you have some protection with the assailant obstructing the victim's path to you.

...

Departure from the scene of a domestic is generally not a dangerous time. Only 3 percent of the officers killed in domestics were attacked during this stage. One indicator of trouble when departing is if one of the combatants is still highly emotional and angry with the officers. In one case, the subject of the complaint -- who had left prior to the officer's arrival -- returned and ambushed the officer while he sat in his car doing paperwork. **When it's time to leave, leave. Remaining at the scene only increases your chances of being victimized.**

Weapons. Since about half the homes in the United States contain at least one firearm, the danger from these weapons is very real in domestics. **Of the 69 officer deaths in this study, 68 involved firearms and one officer was killed with a knife. Only 35 percent of the assailants in these cases used handguns -- 21 percent less than the percentage of handguns used to kill officers in other types of cases.**

In domestics, officers were killed with long guns, particularly rifles, at twice the rate they were in other cases (forty-nine percent versus only twenty-four percent in other cases). The increased use of long guns in residences is understandable, since few offenders will carry a firearm on the street that is not easily concealed.

...Of the 10 officers killed indoors during domestics over the past 10 years, eight were killed with their own weapons. Proximity to the combatants becomes of major concern; and when it comes to weapons retention, a greater distance between officers and combatants means a better change of survival.

...

Shooting Aspects. **It appears that many of the officer-involved shootings occur within a short period of time -- perhaps two minutes -- after the the officer arrives on the scene.** The suddenness of the attack seems to catch many officers off guard because only 17 percent were able to return fire. Fifty-seven percent of the officers killed were assisted by other officers at the time of the shooting, and in many cases it was the other officers who were responsible for returning fatal fire at the assailant.

The necessity of assessing and acting on a case quickly is clear. Patience may be a virtue, but in a deteriorating domestic, control of the combatants is needed immediately. When a combative subject continues to test the officer, second warnings only give that combatant time and opportunity. Making an arrest takes away both.

Other Victims. **In 17 percent of the domestics in which officers were killed, someone else was also murdered; and in about an equal number of cases someone else was also shot. Most of the other victims were killed after the officer arrived, and most were female.**

One would think once an officer is killed, the assailant would find it easy to continue to shoot others, but is doesn't happen. This may be due to the psychological principle of transference. The assailant builds up a tremendous amount of anger and frustration prior to the officer's arrival, but because he still has affection for the complainant, he is prevented from following through and committing a murder. However, all of those pent-up emotions have an outlet when the officer arrives. The assailant couldn't care less what happens to the officer. So instead of releasing his anger on a loved one, he directs his frustrations toward a stranger -- the police officer.

The emotional recklessness of subjects in a domestic is further demonstrated by evidence that assaults involving strangers are less likely to result in injuries than assaults involving non-strangers. This brings new meaning to the old saying, "You only hurt the ones you love."

Assailants. A basic tenet of police work is that you can't trust anybody. This is particularly true in domestics, because of the number of false or exaggerated reports and the hostile victims that are sometimes encountered. Yet, even with this in mind, **during the past 10 years not one police officer was killed by a female during a domestic disturbance...**

There are a variety of reasons for the predominance of male assailants; one of which is that men are simply more likely to own and be experienced with firearms. Even early on in life, boys play with imitation guns.

The implications are obvious. **During a domestic disturbance, males are a much greater threat to the police than females, and we need to adapt our tactics accordingly. The primary threats in these cases are males and firearms, not females.**

Offender Disposition. We already know how emotional these cases can become, and their emotional intensity is why they are often so violent and so hard to prevent. **The key to survival is an understanding of how deeply emotional the assailants can become, and that as they become more emotional we have a slimmer chance of reasoning with or coercing them.** We need not agree with or even understand why the assailant is so emotionally violent, but it is essential to realize that their outrage is enough that they don't even care what happens to themselves. And an assailant who doesn't care about his survival will be more violently aggressive.

...

Those who kill officers are 12 times more likely to commit suicide than assailants in other types of cases. Combined with the number of assailants killed at the scene, we find that 45 percent of all combatants who kill police officers during a domestic, also die at the scene. *(See: "Assessing Whether Batterers Will Kill," pg. 103.)*

The uncontrollable rage, frustration and combativeness of these assailants is obvious. The important thing for us to remember is that these uncontrollable emotions do exist and there is little we can do to prevent or restrict them once they are displayed.

Summary. **Having all of this knowledge on domestics and acting on it are not the same thing. There is a real danger of becoming complacent with domestics, because so many of them result in no substantial police action. The information contained here can allow every officer to handle domestics in a safer manner by modifying their tactics to meet the real threats.**

Duncan, T.S. (1990) "Home Sweet Home? Casting New Light on Domestics." **Police.**

For further information on dispatch and response techniques, please see: "Domestic Violence Model Protocol for Police Response," pg.13.

MORALE

Who are the victims of domestic violence?

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

Are some domestic violence homicides preventable homicides?

Yes _____ No _____

If yes, why?

If no, why?

Is there a potential for job satisfaction when handling domestic violence calls?

Yes _____ No _____

If yes, why?

If no, why?

MURDER, HE WROTE

I've tried to banish certain memories -- memories a police officer too often collects. It's not good to dwell on them. Too destructive. They can kill the spirit. Still, they survive, resurfacing without fair warning.

Perhaps a police officer's memories serve a nobler purpose.

I remember the linoleum floor -- it was yellow. Red was smeared all over the yellow. I remember the colors well. They clashed.

Her body lay on the bed. She stared at the ceiling.

A framed photo on the bureau showed how happy she once may have been. The small boy on her lap and the baby on her husband's lap looked more like their father. He had a nice smile.

I was terrible at crime scenes. I got all caught up in the degradation. My partner, Brian, was stronger. He shook his head: "Why did she stay with this guy?" I struggled with my feelings and thoughts and said nothing. "Why do they stay?" repeated Brian.

I didn't like the question. I stared at her final stare. Seconds passed. Her faded face told me the answer. "She stayed... because she was scared of him," I said.

"Think so?" asked Brian. I nodded. There was something else, something that had happened recently. "Remember the guy who told his wife that ... if things didn't get better ... he was gonna kill her before Christmas?"

Brian nodded.

"Remember how scared she was?"

"Yeah."

"The woman was scared. They live in fear. That's why they stay."

We didn't say anything for a while. The death scene was taking its psychic toll. Forensic was never around when you needed them. We continued our sacrilegious vigil.

Desperation, a sense of drowning, compelled me to speak. "We always ask the wrong question." Brian looked at me. He knew when I was in trouble; it had happened before. "Take a break. No sense both of us staying here."

"'Why did she stay?' That's the wrong question. We should never ask that. It just ... makes it worse."

Brian nodded.

"The real question -- the one we never ask -- is, 'Why did he kill her?' He's the bad guy, not her. She's just been killed, murdered. Why do we still blame her?" Brian was a good man. "You're right," he said.

"And ... and why are we so screwed up? Why are we always the ones doing the killing? Why do we do things like this?"

"We?" asked Brian.

"We ... men. We ... kill." I stared at Brian, expecting him to have the answer. "Better take it easy," he said.

He was right. I had to get out of there. I drifted off to the kitchen and found myself staring at the refrigerator. The top was decorated with "things to do" notes that were now as much a part of eternity as the young woman who'd written them. The notes were held in place with pretty fruits -- a banana, an apple, two pears. The bottom of the refrigerator was covered with children's drawings. Perched in the middle was a highly decorated spelling test.

I closed my eyes. Who cares why she stayed? Staying isn't a crime! Killing is the crime! What can we do to stop the killing? What can we do to prevent men from killing? These are the right questions, but no one ever asks them.

I opened my eyes. Thomas J. Simpson, Jr., had received a 100 on his spelling test.

****

When I was a rookie some 20 long years ago, I worked in the East New York section of Brooklyn. Tough neighborhood; high poverty, higher crime. Four to midnight was crazy. The calls never stopped. You'd run from one crisis to the next, hoping the occasional "man with a gun" run would have a happy ending; you'd lock up the bad guy and he wouldn't kill you. It was a simple enough deal, but the stakes were high.

I remember responding to a family fight on a hot summer night. It was 3 a.m. The husband and wife were drunk. The apartment had almost no furniture. We asked the husband to leave and he did. My partner spent a few minutes talking with the woman. I noticed a light on in the next room and wandered in. It came from a bare bulb attached to an illegal wire hanging from a hole in the ceiling. Beneath it was the only furniture in the room -- a mattress, no sheet. Three boys, probably between 5 and 10 years old, lay sleeping. The smell of urine, even with the windows wide open, was strong. Several flies lolled around the naked bulb.

My training officer called me and we left.

Not long ago I told a friend about the three boys. He was shocked. "So what did you do?"

"Well, we settled the dispute. The husband left and his wife thanked us for getting rid of him."

"I don't mean that. The kids. What did you do for the kids?"

"The kids?"

"Yeah."

I thought about it. I could've lied. Maybe I should have. "Nothing."

He stared at me. I should have lied.

****

After 13 years on the street, I ended my career within the psychic safety of the police academy. Maybe my experiences, my mistakes, could help the rookies be better cops.

The topic of family violence gets high priority in our curriculum. We end the classroom training with a role-playing session. It is a test of the learned academics. Once, the two instructors who played the husband and wife and the two rookies who played the responding officers ... blew it. The four of them turned the role play into a grade Z sitcom. Two hundred recruits laughed at every line. Family violence could be lots of fun.

"Cut it!" I yelled, seething. They stared at an obviously crazed sergeant of police.

I glared at them for a long time. Everything was stone quiet. "So you think family fights are funny." No one laughed; I took that as a good sign. "I don't think they're so funny."

They stared.

"I think they're ugly. I think they're terrifying. But I know, after 13 years on the street, I know they're the jobs where we can do either the most good or the most harm. The way you handle a family fight can either save someone a trip to the emergency room or the morgue, or it can be the immediate cause of someone making that trip to the emergency room ... or the morgue. We're not playin' around on this one, folks. We're talkin' life or death. We're talkin' totally scarred kids or partially scarred kids." I looked down at the floor. It was so damn quiet. Two hundred rookies and it was as though the place were empty.

"When you were laughing, I thought of one job I responded to where my priority was none of the stuff you've been learning in class. My priority wasn't to get control of the situation, wasn't to defuse the potential for violence, wasn't to find out if a crime had been committed and if an arrest was called for. You know what my priority was at 338 West 138th Street, Apartment 4G?"

I waited. Nothing. Just the way it should have been.

"My priority was to make sure I didn't slip on the blood that was all over the place. That's what family violence is really like. It isn't all that funny. In fact, it's not funny at all. You probably wouldn't laugh if you slipped on blood, would you? That's not funny, it is?" I stopped and glared at the rookies. They stared back. They were hearing the truth and they knew it. I held it like that for a good while. I owed it to the memory of the victims I'd known -- and I owed it to the victims the rookies would come to know.

****

Each year 21,000 people are killed in this country; approximately 15,000 of the homicides are solved. Of those 15,000 victims, 4,400 are killed by someone in the family.

Yearly, 750,000 people are assaulted in this country. Half of these victims require hospital treatment. An estimated 200,000 of these victims are assaulted by someone in the family.

****

Perhaps a police officer's memories serve a nobler purpose.

Edmund Stubbing is a retired New York City Police officer and now trains police executives and responding officers on domestic violence. He is part of the PCADV training team.

Stubbing, E. "Murder, He Wrote." **Notre Dame Magazine**, Winter, 1988.

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Edmund Stubbing

LIABILITY

AVOIDING LIABILITY FOR POLICE FAILURE TO PROTECT

For years, law enforcement officers in the United States have been vulnerable to lawsuits initiated in response to something they have done; false arrest, illegal search and seizure, use of excessive force, civil rights violations and so on. Statistics indicate that many of these suits are frivolous, filed to harass officers in some kind of misguided attempt to "punish" them for doing their jobs.[1]

In recent years, a new class of lawsuits has arisen in which law enforcement officers (or the entities they represent) are sued by victims of crime for *not* doing their jobs, or for acting in such a negligent manner that death or injury resulted to the victim. These suits may be referred to generically as "failure to protect or failure to prevent crime" lawsuits.

Most of these actions are not frivolous. Grievous injury or death to the victims/plaintiffs (or their survivors) is the common denominator among such cases, and a review of such actions indicates that the victims almost invariably have had a legitimate complaint. Unfortunately, the numbers of such actions are increasing, and the problem is not going to go away.

The purpose of this article is to present a perspective of the law in failure to protect cases, using case examples to illustrate the major legal points involved, and to present suggestions on how to prevent liability in this area.

No court has held that a valid failure to protect claim has been stated upon the mere allegation that a crime was committed and the victim was injured. Logic and common sense support this. If the commission of a crime, standing alone, could create liability, the system would collapse of its own weight. There are more criminals at large than there are law enforcers and, obviously, the police cannot be everywhere at once. For this reason, the courts have required something in addition to the commission of crime in order to create liability for failure to protect.

This "something" is the legal doctrine that mandates that a "special relationship" must exist between law enforcement agencies or officers and the victim (or, on occasion, between entities or officers and the perpetrator) before liability will attach.

Another way of phrasing this is in terms of the "public duty rule," which holds that law enforcement officers owe a duty to the public in general, but they owe no duty to specific individuals injured by crime *unless* a "special relationship" has been created between the crime victim and the law enforcement authorities.

"Special relationships" have been found by courts in the following circumstances:

Failure to respond to calls for assistance. These cases arise where officers have reason to believe that persons are in imminent danger but take no action. Examples of cases in which recovery was allowed include:

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[1] *Survey of Police Misconduct Litigation*, 1966-1971, report by Americans for Effective Law Enforcement, Inc. (AELE), and the International Association of Chiefs of Police, 1972. Copies can be obtained from AELE, 5519 N. Cumberland Ave., Suite 1000, Chicago, IL 60656, Phone: 312-7673-2800.

1. *Thurman v. City of Torrington*[2]

An estranged wife had been continuously brutalized by her husband. The police refused to act on her complaints, even though she had obtained a court order of protection. One officer allegedly stood by and watched as her husband beat her while she was suffering from stab wounds inflicted by the husband. A jury awarded the victim/plaintiff $2.3 million.

2. *Sorichetti v. City of New York*[3]

An estranged husband of known dangerous tendencies repeatedly threatened his wife and daughter. A court order of protection had been issued. The police failed to investigate when the daughter did not return from a visitation with her father, despite evidence that the child was in serious danger. The father had attacked the child with a knife and had tried to saw off her leg. The New York Court of Appeals, that state's highest court, upheld a $2 million award to the daughter.

Failure to arrest or restrain persons who are committing, or about to commit, violent crimes. If victims can show that officers stood by when crimes were committed -- or threatened -- in their presence, some courts have held that there was a "special relationship." For example:

1. *Jones v. County of Herkimer*[4]

A young woman had been threatened and assaulted by one Benedict DiPiazza over a period of years but received no protection. On August 27, 1967, DiPiazza, the son of a county judge, pursued his victim into the village hall and shot her to death. Nothing was done to protect her or to restrain DiPiazza. The court found that a "special relationship" had been created.

2. *Baker v. City of New York*[5]

The plaintiff was shot by her estranged husband, a police officer, in the waiting room of the Domestic Relations Court. The police had disregarded a court order of protection, telling the victim that it was "only a piece of paper." A probation officer, knowing that the husband was dangerous, did nothing to restrain him and ordered the victim to share the waiting room with her husband. The court found a "special relationship" to exist in this factual situation.

Liability where a duty to protect has been assumed, or appears to have been assumed, and the victim relied on it. Assumption of a duty to protect may be expressed or implied. *Some* courts have held that the publication of "911" as an emergency police referral number may imply a duty to respond, especially if the victims rely on it to their detriment. For example:

1. *Delong v. County of Erie*[6]

A woman heard a burglar in her house. She called 911 and was told that help was on its way. She relied on this and did not attempt to escape, even though there was a police station nearby. The dispatcher gave officers the wrong address and she was murdered. Her survivors received a large judgment.

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[2] 595 F. Supp. 1521 (D. Conn. 1984.)

[3] 482 N.E. 2d. 70 (N.Y. 1985).

[4] 272 N.Y.S. 2d. 925 (1966).

[5] 269 N.Y.S. 2d. 515 (1966).

[6] 459 N.E. 2d. 717 (N.Y. 1983).

Examples of express assumption of a duty to protect include:

1. *Zibbon v. Town of Cheektowaga*[7]

Police learned that a demented ex-boyfriend of a resident of their town was going to harm her. They promised her full protection, which she relied on. Through a bureaucratic mix-up, the full protection was withdrawn and the ex-boyfriend murdered the woman and her husband. Her estate recovered a large judgment.

2. *Morgan v. County of Yuba*[8]

Police arrested a man who had been threatening to kill the victim. They promised to tell her if and when he was released on bail, but failed to warn her when he was later released. The releasee murdered the victim. The court held that a "special relationship" had been created.

Failure to protect persons whom the authorities have brought into contact with the assailants or those who have assisted law enforcement officers. It stands to reason that when law enforcement officers have knowingly brought persons into contact with assailants, or have failed to protect persons who have assisted the police, a "special relationship" would be created. While a few courts have denied recovery in such cases, usually on technical grounds, most have allowed recovery. Examples include:

1. *Lubelfeld v. City of New York*[9]

Some off-duty New York police officers poured a drunken colleague into a taxicab that Lubelfeld was driving, despite his protests. The intoxicated passenger shot Lubelfeld. The court held that a "special relationship" had been created.

2. *Schuster v. City of New York*[10]

A citizen spotted the fugitive bank robber, Willie Sutton, on the streets of New York. Because of Schuster's alertness, Sutton was apprehended. Schuster was acclaimed by the city as a hero; however, when he began receiving death threats, the city refused to protect him. Schuster was murdered; his family was allowed to recover under the "special relationship" doctrine.

Failure to investigate. The courts, quite properly, have kept a "hands-off" attitude towards the investigative state of police work. Cases are usually resolved against the victim/plaintiff, on the theory that courts should not involve themselves in day-to-day police activities in investigating crime;[11] however, when a failure to investigate can be attributed to alleged racial motivations on the part of the authorities, courts -- especially federal courts -- will assume jurisdiction of the issues.[12]

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[7] 322 N.Y.S. 2d. 152 (App. Div. 1976); *app. dism'd.* 355 N.E. 2d 318 (N.Y. 1976).

[8] 938 Cal. Rptr. 508 (Cal. Ct. App. 1964).

[9] 151 N.E. 2d. 862 (N.Y. 1958).

[10] 154 N.E. 2d. 534 (N.Y. 1958).

[11] See *Crouch v. Hall*, 408 N.E. 2d. 303 (Ill. App. 1980); *Porter v. City of Urbana*, 88 Ill. App. 3d. 443, 410 N.E. 2d. 610 (1980).

[12] *NAACP v. Levy*, 418 F.Supp. 1109 (1976).

In February of 1989, the United States Supreme Court decided a case that may have a major impact on failure to protect cases. In *City of Canton v. Harris,*[13] the police arrested a woman and took her to the station, where she kept falling to the floor. Finally, the police just left her on the floor, apparently aggravating pre-existing trauma. None of the officers had any medical training (except first aid).

For the first time, the court held that, in certain limited circumstances, liability might exist under the Federal Civil Rights Act (42 U.S.C. 1983) for failure to train. The limiting circumstances are:

1. the failure to train must amount to "deliberate indifference" to the constitutional rights of persons who come into contact with the police;

2. a municipality's "policy" or "custom" must be a moving force behind the violation; and

3. the training deficiency must be closely related to the injury.

It is possible to conceive of situations where the *Harris* case might have a bearing in the failure to protect area. Consider, for example, the 911 case *(Delong v. County of Erie)* cited above. The facts in that case *might* have sustained a civil rights complaint if it could have been shown that the dispatchers, one of whom gave the police the wrong address, were not trained or were inadequately trained, and that this lack of training was a product of "deliberate indifference" on the part of the municipality.

Certainly, the *Harris* case points out the absolute necessity of adequate training of law enforcement officers and support personnel. This is as it should be, because the surest way to prevent liability for failure to protect is to enhance the quality of police training and supervision.

PREVENTING LIABILITY

Legal Analysis. The first step in preventing liability in a given area is to become familiar with the law, both as it is at present and as it appears to be developing. Law enforcement officials would be ill-advised to rely on the fact that the "duty at large" rule states the current status of the law in their jurisdiction. In the past few years, a number of states have, by court decision, either abolished that rule[14] or modified it greatly by finding "special relationships" in order to justify a holding of liability.[15]

Relevant sections of the law should be reviewed by departmental legal advisors; district, county and U.S. attorneys; state attorney generals' offices; and/or directors of training within the departments.

Training. Once a legal analysis is made, training programs can be developed to deal with future contingencies in the "failure to protect" area. A few examples, taken from the cases cited herein, will illustrate various aspects of the form such training might take:

> *Sorichetti* and *Thurman* stand for the proposition that when officers know, or have reason to know, that specific individuals are in a position of foreseeable danger, a duty to protect may be established.
>
> *Zibbon* and *Morgan* teach that if specific promises of protection (or warning) are made, such promises must be kept, or liability may result.

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[13] 109 S. Ct. 1197, 57 L.W. 4270 (2/28/89).

[14] *Ryan v. State,* 656 P.2d. 597 (Ariz. 1982).

[15] See *Chambers-Castanes v. King County, Washington,* 669 P.2d. 451 (Wash. 1983); *Schear v. Board of County Commissioners* 687 P.2d. 728 (N.Mex. 1984).

Delong indicates that even an implied promise of protection, e.g., the publication of "911" emergency numbers, may generate a duty to protect if the victim reasonably relied on the implied promise.

Lubelfeld and *Schuster* held that a duty to protect will almost certainly arise when the police put individuals in a position of potential danger or when individuals assist law enforcement officers.

These concepts are not difficult to grasp and, in fact, they lend themselves rather easily to well-structured training (and supervision) programs designed to prevent future liability.

One might ask whether or not the already overburdened resources (in both time and money) of law enforcement agencies should be further stretched to deal with anticipated problems in the failure to protect area. The answer to this is twofold. First, law enforcement has reached a *very* high degree of professionalism in this country and professionalism, almost by definition, encompasses a willingness and ability to be proactive and to anticipate future problems.

Second, on a practical level, the rather small expenditure of time and money that would be necessary to implement a program of training and supervision pales in comparison with awards such as were made to the victims/plaintiffs in *Sorichetti* ($2 million) or *Thurman* ($2.3 million) -- not to mention the costs incurred by government entities in defending such cases.

In almost every case cited herein, liability could have been prevented through training and supervision with regard to failure to protect situations. If such training and supervision had prevented the victimizations described herein, then the question of liability on the part of the government obviously would never have arisen.

Carrington, F., "Avoiding Liability for Police Failure to Protect", **The Police Chief**, September, 1989.

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National Victim Center
Crime Victims Litigation Project

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TERRY L. COFFMAN	: CIVIL ACTION
v.	:
WILSON POLICE DEPARTMENT BOROUGH OF WILSON, and RICHARD D. NACE	: NO. 90-1479

STATEMENT OF FACTS

Terry L. Coffman, a Pennsylvania resident, was often physically and mentally abused by her husband, Wayne P. Barber. She filed a petition for a temporary protective order pursuant to the Pennsylvania Protection From Abuse Act and was granted an order. Service was made upon the husband and the Wilson Police Department.

Thereafter, the husband broke into Ms. Coffman's apartment, restrained her, threatened her, and committed "other unpleasant acts." Ms. Coffman reported this incident to the chief of police two weeks later; he told her that she had waited too long for him to take action against the batterer.

Immediately after the attack, the batterer, who had a history of psychiatric difficulties known to the Wilson police, telephoned Ms. Coffman at least once each day. He threatened to appear if she hung up the receiver. The plaintiff often reported these calls to the Department. When telephone calls arrived while Wilson Police Department officers were at Ms. Coffman's home, the officers stated that they would try to find and arrest the batterer. They also told her that they would ask the Easton Police Department to enforce the order since the batterer resided in that jurisdiction. They told her that the Easton force was shorthanded and might not act.

About one month later Ms. Coffman was warned that her husband was heading toward her home. She telephoned the Wilson Police Department immediately. They did not return her call for 30 minutes. She was told that the Department would investigate. It appears they did nothing.

Ms. Coffman filed a contempt petition for violation of the protection order and a contempt order was granted by the trial court. Her attorney called the Wilson Police Department to tell them that an order had been entered and to advise them of their responsibility for enforcement. The attorney was told that no officer was in, but that the order could be delivered to police headquarters. It was delivered that day. Five hours after the telephone notice to the Wilson Police Department and 45 minutes after the order was hand delivered, the husband assaulted Ms. Coffman in a bank in a nearby township. He then shot her in the chin and throat. Ms. Coffman suffered

permanent harm, both physical and psychological. She cannot engage in her earlier employment or function as she had in everyday life.

From the time of the first protection order entry to the shooting, the Wilson Police Department never arrested or restrained Barber.

SHOULD THE WILSON POLICE DEPARTMENT BE LIABLE FOR FAILURE TO PROTECT MS. COFFMAN BY RESTRAINING HER BATTERER/HUSBAND EVEN THOUGH THE INJURIES SHE SUSTAINED OCCURRED IN A JURISDICTION BEYOND THE AUTHORITY OF THE WILSON POLICE DEPARTMENT?

ORDER OF THE DISTRICT COURT

Judge Edward Cahn entered an order on June 4, 1990 denying the Wilson Police Department's Motion to Dismiss the federal case brought against them by Ms. Coffman. Judge Cahn found that since Ms. Coffman had both the protection and contempt orders and the Wilson Police Department had notice of both, the department had a duty to protect Ms. Coffman and that the failure to protect may be a violation of her substantive due process or equal protection rights. He also stated that if Ms. Coffman can show that the Wilson Police Department failed to train police officers on domestic violence and that the failure to train amounts to deliberate indifference to her rights, she could be successful in her suit against Wilson.

The case will now go to trial on the issue of whether the Wilson Police Department's failure to protect rendered them liable for the injuries inflicted upon Ms. Coffman by her husband in another police jurisdiction.

"DAMNED IF YOU DON'T"

The Federal Civil Rights Act, 42 U.S.C. 1983, allows suits against municipalities and municipal officers by persons who allege that their federal civil rights were violated by such things as excessive force, false arrest, illegal search and seizure, etc. Such suits are not common in failure to protect/prevent situations because the general rule is that there must have been some kind of state *action*, as opposed to mere inaction. *(DeShaney v. Winnebago County Dept. of Social Services*, 109 S. Ct. 988 (1989); social service workers who did nothing to protect a 4-year old child, whom they knew was being beaten by his father, were not liable under the Federal Civil Rights Act.)

There are exceptions to the rule requiring state *action* before liability can be imposed. One was created by the Supreme Court of the United States in *City of Canton v. Harris*, 109 S. Ct. 1197 (1989). The Court held that in certain circumstances a municipality could be held liable for *failure to train* law enforcement officers. A recent case applied this holding:

> *Dudosh v. City of Allentown*, 722 F. Supp. 1233 (U.S. District Court, E.D. Pa. 1989). Kathleen Dudosh's former boyfriend had assaulted her in the past and threatened to kill her. The police had failed to protect her from the man despite the existence of a court order of protection. On the day of her death Kathleen learned that the former boyfriend had broken into her apartment. She went to the premises with two policeman who told her to open the door of the apartment and go in ahead of them while they stood aside. The intruder fatally shot Kathleen and then killed himself. In a civil rights action against the municipality and officers, brought by Kathleen's estate, the court held that the plaintiffs would be allowed to go to trial on the issue of whether a failure to train the officer led to her death in violation of her civil rights.

Another exception to the "action only" requirement arises when the victim is already in lawful custody and there is a failure by authorities to protect from injury through inaction. A recent federal case illustrates this:

> *Horton v. Charles*, 889 F.2d. 454 (3d Cir. 1989). Powdrill, an employee of a private club, was accused of theft and apparently beaten. A police detective was summoned to the club which was run by an ex-policeman. The city had a written policy letting the personnel of private clubs handle "trouble" themselves. The detective left the employee in "the good hands" of the club owner; the employee was beaten to death at the club. In a civil rights suit against the city and the involved officers, the court held that a cause of action was stated; *DeShaney v. Winnebago County*, 109 S. Ct. 998 (1989) was inapplicable because the city had a policy that delegated investigation to the club owners which in effect placed the victim in state "custody."

In yet another federal civil rights case, based on somewhat similar facts, liability was found:

> *Wood v. Ostrander*, 851 F.2d 1212 (9th Cir. 7/13/89). Plaintiff alleged that a state trooper arrested the person driving the car in which she was a passenger, impounded the car and left her by the road, late at night in a high crime area, and that when she accepted a ride home from a stranger she was abducted and raped by the stranger. Plaintiff stated a federal civil rights cause of action against the trooper for knowingly placing her in a position of danger.

These cases show the absolute necessity of proper training and supervision. In each case liability might have been avoided had the officers involved been trained in the area of failure to protect or prevent crime. In none of the cases did the officers themselves injure the victims; indeed, there is no evidence whatever that they even *desired* that the victims be hurt. Nonetheless, liability was found because victims were placed in positions of danger that the officers should have anticipated. Training will be of major importance in helping officers to understand and anticipate such situations.

Addendum to the training materials for "DAMNED IF YOU DON'T" produced by the National Victim Center, Frank Carrington, Attorney at Law, Legal Consultant.

SEVEN STEPS TO MINIMIZE THE RISK OF LIABILITY FOR LAW ENFORCEMENT AGENCIES

1. **Learn the relevant law,** paying close attention to state law and civil rights cases.

2. **Review your department's current policy** and eliminate illegal or inappropriate portions.

3. **Adopt a legal and appropriate policy,** always making sure you treat domestic violence as you would any other crime.

4. **Provide ongoing training** to all officers and document the content of the training (lesson plans); the training time spent on family violence compared to other topics; and the date and number of hours each officer was trained.

5. **Monitor policy compliance:** Review officers' actions and reports and discipline officers who fail to follow the policy.

6. **Build a strong data collection and analysis system.** Document the number of arrests and homicides and compare those to non-family violence statistics.

7. **Review legislation,** watch for changes in the law and communicate them through policy and procedural changes immediately.

Nancy Ver Steegh, Esquire

POLICE WHO THINK FAMILY HOMICIDE IS PREVENTABLE ARE POINTING THE WAY

The signals are coming in -- perhaps not loud and clear, perhaps in cautious whispers, but they are constant and they are encouraging. For the first time, family homicide is being recognized as a preventable crime. Indeed, it is probably the most preventable of all the homicide categories.

In Newport News, Virginia, family homicides dropped from nine in 1984 to two in 1988. In Albuquerque, New Mexico, family homicides dropped from 13 in 1985 to an average of 8 per year for the last 3 years. Not luck, not a fluke. Creative policing and hard work. That's what saved lives. Both departments believed they could stop the killing; here's how they did it.

1. ***They had people of vision who were willing to follow their convictions.*** Newport News had Sgt. Marvin Evans who, five years ago when such thoughts were considered radically flaky, told his captain that family homicides could be prevented. The captain reiterated the conventional wisdom: Police can't prevent homicides. Robberies perhaps; burglaries maybe; but never homicides. Sgt. Evans continued up the chain of command and endured the skepticism: "no way," "impossible," "you're a dreamer." Sgt. Evans didn't stop until he had reached the last stop. Chief Darryl Stevens listened and the idea became reality.

   Chief Sam Baca of Albuquerque paid attention to the Minneapolis Experiment, which suggested that when police made an arrest, they were less likely to be called back to a violent home. Chief Baca invited the local battered women advocates to his office and asked them how his department could be most helpful to battered women. He listened to the experts and included their suggestions in his department's policy.

2. ***Both departments wrote a family violence policy*** -- one that emphasized arrests, the training of officers and supervisors, and an evaluation component that made change an integral part of the policy.

   Arrest became the preferred response to family violence calls. Mediation was out. It didn't work. Why should anyone expect it to? Mediation is effective only when the disputants have equal power, and equality has no place in family violence.

   Besides, enforcing the law is what the police are trained to do, not mediate disputes.

Each department took a different approach to the use of arrest in family violence disputes. Albuquerque adopted a broad policy and arrested the perpetrator in 26 percent of domestic disputes. Newport News chose selective enforcement. Officers were instructed to arrest in all felonies, any misdemeanor assault where there was evidence of alcohol or drug abuse, the officer was aware of previous assaults, or the officer believed further violence was likely. Newport News made arrests in 5 percent of their total calls, 58 percent of those calls where a crime had been committed.

The training of officers and supervisors focused on breaking the attitudinal bias that results from frustration dealing with family calls. Former victims explained the terror that locked them into a no-win world. Former batterers admitted they were out of control and looked back on their arrests as the turning point in their lives. Children told of praying to God that the officers would take the batterer away. Police attitudes shifted, behaviors changed.

3. ***Both departments initiated court-mandated counseling programs.*** Sgt. Evans and Chief Baca chaired meetings with the prosecutor, the legal aid, and the judge. The results were profound. In a time of limited jail space, Sgt. Evans' insight is refreshing:

   > Having the batterer do time is a low priority. Getting him to change his behavior -- that's the priority. In most cases, the arrest, coupled with mandated counseling -- he'll do time if he doesn't attend -- this combination will change that violent behavior.

4. ***Both departments initiated family violence task forces.*** Chief Baca believes the multidisciplinary task force is the primary catalyst for progressive change in his department's policy. The task force also changed the court's policies and procedures.

   Newport News and Albuquerque are whispering to the 16,000 police departments around the nation, they are whispering to the state legislators of the 50 states, and their quiet message is loud and clear: "Look at what we've done. Family homicides can be prevented."

Used with permission
Edmund Stubbing
1990

Stubbing, E. (1990). "Police Who Think Family Homicide is Preventable Are Pointing the Way," *Response*, Vol. 13, No. 1.

VICTIM SAFETY

ASSESSING WHETHER BATTERERS WILL KILL

Some batterers are life-endangering. While it is true that all batterers are dangerous, some are more likely to kill than others and some are more likely to kill at specific times. Regardless of whether there is a protection from abuse order in effect, officers should evaluate whether an assailant is likely to kill his* partner or other family members and/or police personnel and take appropriate action.

Assessment is tricky and never full-proof. It is important to conduct an assessment at every call, no matter how many times an officer has responded to the same household. The dispatcher and responding officer can utilize the indicators described below in making an assessment of the batterer's potential to kill. Considering these factors may or may not reveal actual potential for homicidal assault. But, **the likelihood of a homicide is greater when these factors are present.** The greater the number of indicators that the batterer demonstrates or the greater the intensity of indicators, the greater the likelihood of a life-threatening attack.

Use all of the information you have about the batterer, current as well as past incident information. A thorough investigation at the scene will provide much of the information necessary to make this assessment. However, law enforcement will not obtain reliable information from an interview conducted with the victim and perpetrator together or from the batterer alone.

1. **Threats of homicide or suicide.**
The batterer who has threatened to kill himself, his partner, the children or her relatives must be considered extremely dangerous.

2. **Fantasies of homicide or suicide.**
The more the batterer has developed a fantasy about who, how, when, and/or where to kill, the more dangerous he may be. The batterer who has previously acted out part of a homicide or suicide fantasy may be invested in killing as a viable "solution" to his problems. As in suicide assessment, the more detailed the plan and the more available the method, the greater the risk.

3. **Weapons.**
Where a batterer possesses weapons and has used them or has threatened to use them in the past in his assaults on the battered woman, the children or himself, his access to those weapons increases his potential for lethal assault. The use of guns is a strong predictor of homicide. If a batterer has a history of arson or the threat of arson, fire should be considered a weapon.

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* We have assumed that the victim is a woman and the abuser is a man. It may be that the victim is a man and the abuser a woman or that the abuser and the victim are the of the same sex. Assessment is basically the same despite these gender differences. The only additional indicator to be assessed in a lesbian or gay relationship is whether the abuser has been firmly closeted and is now risking exposure as a lesbian or gay person in order to facilitate their severe, life-threatening attacks. When a person has been desperately closeted, losing the protection of invisibility in order to abuse potentially suggests great desperation and should be included in the assessment.

4. "Ownership" of the battered partner.
The batterer who says "Death before Divorce!" or "You belong to me and will never belong to another!" may be stating his fundamental belief that the woman has no right to life separate from him. A batterer who believes he is absolutely entitled to his female partner, her services, her obedience and her loyalty, no matter what, is likely to be life-endangering.

5. Centrality of the partner .
A man who idolizes his female partner, or who depends heavily on her to organize and sustain his life, or who has isolated himself from all other community, may retaliate against a partner who decides to end the relationship. He rationalizes that her "betrayal" justifies his lethal retaliation.

6. Separation Violence.
When a batterer believes that he is about to lose his partner, if he can't envision life without her or if the separation causes him great despair or rage, he may choose to kill.

7. Depression.
Where a batterer has been acutely depressed and sees little hope for moving beyond the depression, he may be a candidate for homicide and suicide. Research shows that many men who are hospitalized for depression have homicidal fantasies directed at family members.

8. Access to the battered woman and/or to family members.
If the batterer cannot find her, he cannot kill her. If he does not have access to the children, he cannot use them as a means of access to the battered woman. Careful safety planning and police assistance are required for those times when contact is required, e.g. court appearances and custody exchanges.

9. Repeated outreach to law enforcement.
Partner or spousal homicide almost always occurs in a context of historical violence. Prior calls to the police indicate elevated risk of life-threatening conduct. The more calls, the greater the potential danger.

10. Escalation of batterer risk.
A less obvious indicator of increasing danger may be the sharp escalation of personal risk undertaken by a batterer; when a batterer begins to act without regard to the legal or social consequences that previously constrained his violence, chances of lethal assault increase significantly.

11. Hostage-taking.
A hostage-taker is at high risk of inflicting homicide. Between 75% and 90% of all hostage takings in the US are related to domestic violence situations.

If an officer concludes that a batterer is likely to kill or commit life-endangering violence, extraordinary measures should be taken to protect the victim and her children. This may include providing transportation and conducting meticulous follow-up. The victim should be advised that the presence of these indicators may mean that the batterer is contemplating homicide and that she should immediately take action to protect herself and should contact the local battered woman's program to further assess lethality and develop safety plans.

Hart, B.; **"Assessing Whether Batter's Will Kill,"** © PCADV, 1990.

PROTECTION FROM ABUSE ACT

23 Pa.C.S. § 6101-6117 (Effective 3/17/91)

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

6101. Short title of chapter.
6102. Definitions.
6104. Registration of order.
6105. Responsibilities of local law enforcement agencies.
6106. Commencement of proceedings.
6107. Hearings.
6108. Relief.
6109. Service of orders.
6110. Emergency relief by minor judiciary.
6111. Domestic violence counselor/advocate.
6112. Disclosure of addresses.
6113. Arrest for violation of order.
6114. Contempt for violation of order or agreement.
6115. Reporting abuse and immunity.
6116. Confidentiality.
6117. Procedure and other remedies.

§ 6101. Short title of chapter.

This chapter shall be known and may be cited as the Protection From Abuse Act.

§ 6102. Definitions.

(a) General rule.--The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Abuse." The occurrence of one or more of the following acts between family or household members, sexual or intimate partners or persons who share biological parenthood:

(1) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, spousal sexual assault or involuntary deviate sexual intercourse with or without a deadly weapon.

(2) Placing by physical menace another in fear of imminent serious bodily injury.

(3) The infliction of false imprisonment pursuant to 18 Pa.C.S. § 2903 (relating to false imprisonment).

(4) Physically or sexually abusing minor children, including such terms as defined in Chapter 63 (relating to child protective services).

"Adult." An individual who is 18 years of age or older.

"Confidential communications." Information, whether written or spoken, transmitted between a victim and a domestic violence counselor or advocate in the course of the relationship and in confidence by a means which, insofar as the victim is aware, discloses the information to no third person other than to those who are present to further the interest of the victim in the consultation or assistance, to those who are coparticipants in the counseling service or to those to whom disclosure is reasonably necessary for the transmission of the information or an accomplishment of the purpose for which the domestic violence counselor or advocate is consulted. The term includes information received or given by the domestic violence counselor or advocate in the course of the relationship, as well as advice, reports or working papers given or made in the course of the relationship.

"Domestic violence counselor/advocate." An individual who is engaged in a domestic violence program, who provides services to victims of domestic violence, who has undergone 40 hours of training and who is under the control of a direct services supervisor of a domestic violence program, the primary purpose of which is the rendering of counseling or assistance to victims of domestic violence.

"Domestic violence program." A nonprofit organization or program whose primary purpose is to provide services to domestic violence victims which include, but are not limited to, crisis hotline; safe homes or shelters; community education; counseling systems intervention and interface; transportation, information and referral; and victim assistance.

"Family or household members." Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

"Hearing Officer." A district justice, judge of the Philadelphia Municipal Court, bail commissioner appointed under 42 Pa.C.S. § 1123 (relating to jurisdiction and venue) and master appointed under 42 Pa.C.S. § 1126 (relating to masters).

"Minor." An individual who is not an adult.

"Victim." A person who is physically or sexually abused by a family or household member.

(b) Other terms.--Terms not otherwise defined in this chapter shall have the meaning given to them in 18 Pa.C.S. (relating to crimes and offense).

§ 6103. Effect of departure to avoid abuse.

The court shall have jurisdiction over all proceedings under this chapter. The right of plaintiff to relief under this chapter shall not be affected by plaintiff leaving the residence or household to avoid further abuse.

§ 6104. Registration of Order.

(a) Registry.--The prothonotary shall maintain a registry in which it shall enter certified copies of orders entered by courts from other jurisdictions in this Commonwealth pursuant to this chapter.

(b) Registration of order in any county.--A plaintiff who obtains a valid order under this chapter may register that order in any county within this Commonwealth where the plaintiff believes enforcement may be necessary. ***A court shall recognize and enforce a valid order under this chapter which has been issued by another court but properly registered with a county within the judicial district of the court where enforcement is sought.***

(c) Certified copy.--A valid order under this chapter may be registered by the plaintiff in a county other than the issuing county by obtaining a certified copy of the order of the issuing court endorsed by the prothonotary of that court and presenting that certified order to the prothonotary where the order is to be registered.

(d) Proof of registration.--Upon receipt of a certified order for registration, the prothonotary shall provide the plaintiff with a copy bearing the proof of registration to be filed with the appropriate law enforcement agency.

§ 6105. ***Responsibilities of local law enforcement agencies.***

The police department of each municipal corporation shall insure that all its officers and employees are familiar with the provisions of this chapter. Instruction concerning protection from abuse shall be made a part of the training curriculum for all trainee officers.

§ 6106. Commencement of proceeding.

(a) General rule.--An adult or an emancipated minor may seek relief under this chapter for that person or any parent, adult household member or guardian ad litem may seek relief under this chapter on behalf of minor children, or a guardian of the person of an adult who has been declared incompetent under 20 Pa.C.S. Ch. 51 Subch. B (relating to appointment of guardian) may seek relief on behalf of the incompetent adult, by filing a petition with the court alleging abuse by the defendant.

(b) Affidavit of insufficient funds for fees.--If the plaintiff files an affidavit stating that plaintiff does not have funds available to pay the fees for filing and service, the petition shall be filed and service shall be made without payment of fees, and leave of court to proceed in forma pauperis shall not be required.

(c) Determination of indigency.--When the petition is filed without payment of fees, the court shall determine at the hearing on the petition whether the plaintiff is able to pay the costs of filing and service. If the plaintiff is unable to pay the costs of filing and service, the court may waive the payment of costs or, if the plaintiff prevails in the action, assign them to the defendant. This subsection and subsection (b) apply to courts of common pleas and hearing officers.

(d) Court to adopt means of service.--The court shall adopt a means of prompt and effective service in those instances where the plaintiff avers that service cannot be safely effected by an adult individual other than a law enforcement officer or where the court so orders.

(e) Service by sheriff.--If the plaintiff files an affidavit stating that the plaintiff does not have funds available to pay the costs of filing and service or if the court so orders, the sheriff or other designated agency or individual shall serve the petition and order without prepayment of costs.

(f) Service of petition and orders.--The petition and orders shall be served upon the defendant, and orders shall be served upon the police departments with appropriate jurisdiction to enforce the orders. Orders shall be promptly served on the police. Failure to serve shall not stay the effect of a valid order.

(g) Assistance and advice to plaintiff.--The courts and hearing officers shall:

(1) Provide simplified forms and clerical assistance in English and Spanish to help with the writing and filing of the petition for a protection order for an individual not represented by counsel.

(2) Advise a plaintiff not represented by counsel of the right to file an affidavit stating that the plaintiff does not have funds available to pay the costs of filing and service and assist with the writing and filing of the affidavit.

§ 6107. Hearings.

(a) General Rule.--Within ten days of the filing of a petition under this chapter, a hearing shall be held before the court, at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall advise the defendant of the right to be represented by counsel.

(b) Temporary orders.--If a plaintiff petitions for a temporary order for protection from abuse and alleges immediate and present danger of abuse to the plaintiff or minor children, the court shall conduct an ex-parte proceeding. The court may enter such a temporary order as it deems necessary to protect the plaintiff or minor children when it finds they are in immediate and present danger of abuse.

(c) Continued hearings.--If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

(d) Costs.–If the plaintiff prevails, the court shall assign costs to the defendant unless the parties agree otherwise. If the defendant is indigent, costs shall be waived.

§ 6108. Relief.

(a) General rule.–The court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement may include:

(1) Directing the defendant to refrain from abusing the plaintiff or minor children.

(2) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff when the residence or household is jointly owned or leased by the parties, is owned or leased by the entireties or is owned or leased solely by the plaintiff.

(3) When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff or, by consent agreement, allowing the defendant to provide suitable, alternate housing.

(4) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children. A defendant shall not be granted custody or partial custody where it is alleged in the petition, and the court finds after a hearing under this chapter, that the defendant abused the minor children of the parties or where the defendant has been convicted of violating 18 Pa.C.S. § 2904 (relating to interference with custody of children) within two calendar years prior to the filing of the petition for protection order. If a plaintiff petitions for a temporary order under section 6107(b) (related to hearings) and the defendant has partial, shared or full custody of the minor children of the parties by order of court or written agreement of the parties, the custody shall not be disturbed or changed unless the court finds that the defendant is likely to inflict abuse upon the children or to remove the children from the jurisdiction of the court prior to the hearing under section 6107(a). Nothing in this paragraph shall bar either party from filing a petition for custody under 23 Pa.C.S. Ch. 53 (relating to custody) or under the Pennsylvania Rules of Civil Procedure. The court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children from abuse.

(5) After a hearing in accordance with Section 6107(a), directing the defendant to pay financial support to those persons the defendant has a duty to support. The support order shall be temporary, and any beneficiary of the order must file a complaint for support under the provisions of Chapters 43 (relating to support matters generally) and 45 (relating to reciprocal enforcement of support orders) within two weeks of the date of the issuance of the protection order. If a complaint for support is not filed, that portion of the protection order requiring the defendant to pay support is void. When there is a subsequent ruling on a complaint for support, the portion of the protection order requiring the defendant to pay support expires.

(6) Prohibiting the defendant from having any contact with the plaintiff, including, but not limited to, restraining the defendant from entering the place of employment or business or school of the plaintiff and from harassing the plaintiff or plaintiff's relatives or minor children.

(7) Ordering the defendant to temporarily relinquish to the sheriff the defendant's weapons which have been used or been threatened to be used in an incident of abuse against the plaintiff or the minor children. The court's order shall provide for the return of the weapons to the defendant subject to such restrictions and conditions as the court shall deem appropriate to protect the plaintiff or minor children from further abuse through the use of weapons.

(8) Directing the defendant to pay the plaintiff for reasonable losses suffered as a result of the abuse, including medical, dental, relocation and moving expenses; counseling; loss of earnings or support; and other out-of-pocket losses for injuries sustained. In addition to out-of-pocket losses, the court may direct the defendant to pay reasonable attorneys fees.

(b) Duration and amendment of order or agreement.--A protection order or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(c) Title to real property unaffected.--No order or agreement under this chapter shall in any manner affect title to any real property.

§ 6109. *Service of orders.*

(a) Issuance.--A copy of an order under this chapter shall be issued to the plaintiff, the defendant and the police department with appropriate jurisdiction to enforce the order or agreement in accordance with the provisions of this chapter or as ordered by the court or hearing officer.

(b) Placement in county registry.--Upon receipt of an order, the police department shall immediately place the order in a county registry of protection orders. The police department shall assure that the registry is current at all times and that orders are removed upon expiration thereof.

§ 6110. Emergency relief by minor judiciary.

(a) General rule.--When, in counties with less than four judges, the court is unavailable during the business day by reason of duties outside the county, illness or vacation, and when, in counties with at least four judges, the court deems itself unavailable from the close of business at the end of each day to the resumption of business the next morning or from the end of the business week to the beginning of the business week, a petition may be filed before a hearing officer who may grant relief in accordance with section 6108(a)(1) and (2) or (1) and (3) (relating to relief) if the hearing officer deems it necessary to protect the plaintiff or minor children from abuse upon good cause shown in an ex-parte proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section.

(b) Expiration of order.--An order issued under subsection (a) shall expire as of the resumption of business of the court at the beginning of the next business day, at which time the court shall schedule hearings on protection orders entered by hearing officers under subsection (a) and shall review and continue in effect protection orders that are necessary to protect the plaintiff or minor children from abuse until the hearing, at which time the plaintiff may seek a temporary order from the court.

(c) Certification of order to court.--An emergency order issued under this section and any documentation in support thereof shall be immediately certified to the court. The certification to the court shall have the effect of commencing proceedings under section 6106 (relating to commencement of proceedings) and invoking the other provisions of this chapter. If it is not already alleged in a petition for an emergency order, the plaintiff shall file a verified statement setting forth the abuse of defendant at least five days prior to the hearing. Service of the verified statement shall be made subject to section 6106.

(d) Instructions regarding the commencement of proceedings.--Upon issuance of an emergency order, the hearing officer shall provide the plaintiff instructions regarding the commencement of proceedings in the court of common pleas at the beginning of the next business day and regarding the procedures for initiating a contempt charge should the defendant violate the emergency order. The hearing officer shall also advise the plaintiff of the existence of programs for victims of domestic violence in the county or in nearby counties and inform the

plaintiff of the availability of legal assistance without cost if the plaintiff is unable to pay for them.

§ 6111. Domestic violence counselor/advocate.

A domestic violence counselor/advocate may accompany a party to a hearing under this chapter.

§ 6112. Disclosure of addresses.

During the course of a proceeding under this chapter, the court or hearing officer may consider whether the plaintiff or plaintiff's family is endangered by disclosure of the permanent or temporary address of the plaintiff or minor children. Neither in the pleadings nor during proceedings or hearings under this chapter shall the court or hearing officer require disclosure of the address of a domestic violence program.

§ 6113. *Arrest for violation of order.*

(a) General rule.--An arrest for violation of an order issued pursuant to this chapter may be without warrant upon probable cause whether or not the violation is committed in the presence of the police officer. The police officer may verify, if necessary, the existence of a protection order by telephone or radio communication with the appropriate police department, county registry or issuing authority.

(b) Seizure of weapons.--Subsequent to an arrest, the police officer shall seize all weapons used or threatened to be used during the violation of the protection order or during prior incidents of abuse. As soon as it is reasonably possible, the arresting officer shall deliver the confiscated weapons to the office of the sheriff. The sheriff shall maintain possession of the weapons until the court issues an order specifying the weapons to be relinquished and the persons to whom the weapons shall be relinquished.

(c) Procedure following arrest.--Subsequent to an arrest, the defendant shall be taken by the police officer without unnecessary delay before the court in the judicial district where the contempt is alleged to have occurred. When that court is unavailable, the police officer shall convey the defendant to a district justice designated as appropriate by local rules of court or, in counties of the first class, to the appropriate hearing officer.

(d) Preliminary arraignment.--The defendant shall be afforded a preliminary arraignment without unnecessary delay.

(e) Other emergency powers unaffected.--This section shall not be construed to in any way limit any of the other powers for emergency relief provided in this chapter.

(f) Hearing.--A hearing on a charge or allegation of indirect criminal contempt shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing on other criminal charges preclude a hearing on a charge of indirect criminal contempt.

(g) Notice.--Notice shall be given to the defendant, in orders issued pursuant to section 6108 (relating to relief), of the possible ramifications of resumption of residence in the family domicile contrary to court order. *Resumption of co-residence on the part of the plaintiff and defendant shall not nullify the provisions of the court order directing the defendant to refrain from abusing the plaintiff or minor children.*

§ 6114. Contempt for violation of order or agreement.

(a) General rule.--Upon violation of a protection order issued under this chapter or a court approved consent agreement, the court may hold the defendant in indirect criminal contempt and punish him in accordance with law.

(b) Trial and punishment.--A sentence for contempt under this chapter may include imprisonment up to six months or a fine not to exceed $1,000, or both, and may include other relief set forth in this chapter. The defendant shall not have a right to a jury trial on such a charge; however, the defendant shall be entitled to counsel.

§ 6115. ***Reporting abuse and immunity.***

(a) Reporting.--A person having reasonable cause to believe that a person is being abused may report the information to the local police department.

(b) Contents of report.--The report should contain the name and address of the abused person, information regarding the nature and extent of the abuse and information which the reporter believes may be helpful to prevent further abuse.

(c) Immunity.--A person who makes a report shall be immune from a civil or criminal liability on account of the report unless the person acted in bad faith or with malicious purpose.

§ 6116. Confidentiality.

Unless a victim waives the privilege in a signed writing prior to testimony or disclosure, a domestic violence counselor/advocate shall not be competent nor permitted to testify or to otherwise disclose confidential communications made to or by the counselor/advocate by or to a victim. The privilege shall terminate upon the death of the victim. Neither the domestic violence counselor/advocate nor the victim shall waive the privilege of confidential communications by reporting facts of physical or sexual assault under Chapter 63 (relating to child protective services), a Federal or State mandatory reporting statute; or a local mandatory reporting ordinance.

§ 6117. Procedure and other remedies.

Unless otherwise indicated in this chapter, a proceeding under this chapter shall be in accordance with applicable general rules and shall be in addition to any other available civil or criminal remedies.

EFFECTIVE — The 17th day of March, A.D. 1991. ROBERT P. CASEY

POLICE PROCEDURE WHEN RESPONDING TO DOMESTIC VIOLENCE CASES

1. General Rule:
   Police responding to a domestic violence case on or after April 16, 1986 have the right, pursuant to 18 Pa. C.S. §2711, to make a warrantless arrest where they have probable cause to believe an individual has violated the Pa. Crimes Code relating to involuntary manslaughter, simple assault, §§3, 4 and 5 of the Aggravated Assault Section or Recklessly Endangering Another Person perpetrated against his spouse or other family member with whom he resides or has formerly resided although the events did not take place in the presence of the police officer.
2. A police officer may not arrest a person without a warrant pursuant to 18 Pa. C.S. §2711 unless the officer has observed recent physical injury to the victim or other corroborative evidence of an assault upon the victim.
3. A police officer shall seize all weapons used by the defendant in the commission of the foregoing offenses.
4. A person arrested pursuant to 18 Pa. C.S. §2711 shall be afforded a preliminary arraignment without unnecessary delay before the proper issuing authority and in no case shall the police officer release the defendant from custody prior to taking him/her before the issuing authority.
5. When a police officer responds to a domestic violence case the police officer shall notify the victim of the rights.

NOTIFICATION OF RIGHTS BY A POLICE OFFICER TO A VICTIM OF DOMESTIC VIOLENCE

1. You, as a victim of domestic violence, have a right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to the Act of 1976 (P.L. 1090, No. 218), known and referred to as the "Protection From Abuse Act" and the following rights may be available to you under this Act:
   a) An order may be entered by the court restraining the perpetrator of the abuse from acts of abuse;
   b) An order directing the abuser to leave your household may be entered;
   c) An order preventing the abuser from entering your residence, school, business or place of employment may be entered;
   d) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children; and
   e) An order may be entered by the court directing the abuser to pay support to you and the minor children if the perpetrator of the abuse has a legal obligation to do so.
2. If the abuser threatens or intimidates you while criminal charges are pending against him for assaulting you, you may obtain a protective order pursuant to the Act of December 4, 1980 (P.L. 1097, No. 187) known as the Victim and Witness Intimidation Act. To do this, go to the District Attorney's Office.
3. You may be entitled to crime victim's compensation. For more information contact the office of the District Attorney or call your own Attorney.
4. In situations where no arrest is made, you may still be able to file a private criminal complaint against the assailant. The police officer can tell you where to do this.
5. You are notified that a shelter is available to you and your family members by contacting:

BAIL

RULE 4003. RELEASE OF DEFENDANT ON DEFENDANT'S OWN RECOGNIZANCE OR ON NOMINAL BAIL.

(a) The issuing authority or the court shall release a defendant on his own recognizance (R.O.R.) or on nominal bail when:

(1) the most serious offense charged is punishable by a maximum sentence of imprisonment of not more than three years, and

(2) the defendant is a resident of the Commonwealth, and

(3) the defendant poses no threat of immediate physical harm to himself or to others, and

(4) the issuing authority or the court has reasonable grounds to believe that a defendant will appear as required.

(b) In court cases when the most serious offense charged is punishable by a sentence of imprisonment of more than three years, the issuing authority of the court may release a defendant on his own recognizance (R.O.R.) or on nominal bail.

(c) A defendant released on his own recognizance (R.O.R.) or on nominal bail shall execute a bond as set forth in Rule 4014.

Comment: *Section (a) is designed to facilitate the release of persons charged with minor crimes. Many justices of the peace have been releasing defendants on nominal bail as a matter of course when the criteria set out in Section (a) were met, and the Philadelphia Municipal Court, in such cases, has released defendants on their own recognizance (R.O.R.) with the assistance of a special R.O.R. program. The intention of this section is to make such policy uniform throughout the Commonwealth.*

Section (b) is intended to continue the policy of permitting release on defendant's own recognizance or on nominal bail in any appropriate case.

Nominal bail may be used as an alternative to the system of releasing a defendant on his recognizance when it is desirable to have a surety. The purpose of the surety is to facilitate interstate apprehension of any defendant who absconds by allowing the nominal surety the right to arrest defendant without the necessity of extradition proceedings. See Frisbie v. Collins, 72 S.Ct. 509, 342 U.S. 519, 96 L.Ed. 541 (1952), rehearing denied 72 S.Ct. 768, 343 U.S. 937, 96 L.Ed. 1344 (1952), R.O.R. should be used when a defendant has a family and economic ties with the community, is not likely to flee the jurisdiction and does not appear to need a third party to assure his appearance.

RULE 4013. CONDITIONS OF BAIL.

When a person is admitted to bail, the conditions of the bail bond shall be that such person will:

(a) Appear before the issuing authority of court at all times required until full and final disposition of the case;

(b) Submit to all orders and process of the issuing authority or court;

(c) Give written notice to the issuing authority, the clerk of courts, the district attorney, and court bail agency or other designated court bail officer, of any change of address within forty-eight (48) hours of the date of such change;

(d) Comply with any specific requirement of release which may be reasonably imposed by the issuing authority or court to assure compliance with the conditions of bail, such as satisfactory participation in a designated program;

(e) Neither do, nor cause to be done, nor permit to be done on his or her behalf, any act proscribed by Crimes Code section 4952 (relating to intimidation of witnesses or victims) or section 4953 (relating to retaliation against witnesses or victims) (18 Pa. C.S. §§4952, 4953); and

(f) Obey such other conditions as the issuing authority or court may impose, or any reasonable conditions as the court bail agency or other designated court bail officer may impose with leave of court.

Note: *Adopted July 23, 1973, effective sixty (60) days hence; amended November 9, 1984, effective January 2, 1985.*

Comment: *Whenever the issuing authority is referred to in this Rule, it applies only when the issuing authority has jurisdiction over the case.*

Paragraph (e) was added to comply with Section 4956 of the Crimes Code, 18 Pa. C.S. §4956 (Supp. 1981), which was added to the Code by the Act of December 4, 1980, No. 187, P.L. 1097, §4.

Pennsylvania Rules of Criminal Procedure, 1990

APPENDIX A

HOTLINE NUMBERS

PENNSYLVANIA DOMESTIC VIOLENCE PROGRAMS

HOTLINE NUMBERS
BY COUNTY

COUNTY NUMBER	PROGRAM/CITY	TELEPHONE
Adams	Survivors, Inc. Gettysburg	717/633-6005
Allegheny	Women's Center & Shelter of Greater Pittsburgh	412/687-8005
	Crisis Center North Allison Park	412/487-4700
	Womansplace McKeesport	412/678-4616
	Alle-Kiski Area HOPE Center New Kensington	412/224-4673 800/435-7249
Armstrong	HAVIN Kittanning	412/548-8888
Beaver	Women's Center of Beaver County Beaver	412/775-0131
Bedford	Bedford County Abuse Center Bedford	814/623-5682
Berks	Berks Women in Crisis Reading	215/372-9540
Blair	Domestic Abuse Project of Blair County Altoona	814/944-3585
Bradford	Abuse and Rape Crisis Center Towanda	717/265-9101
Bucks	A Woman's Place Doylestown	800/220-8116 (hotline) 215/343-9421 (admin.)
Butler	Volunteers Against Abuse Center Evans City	412/282-3672
Cambria	Women's Help Center Johnstown	814/536-5361 800/999-7406

Cameron	C.A.P.S.E.A. Ridgway	814/772-1227
Carbon	Carbon County Women in Crisis Lehighton	215/377-0880 800/424-5600
Centre	Center County Women's Resource Center State College	814/234-5050
Chester	Domestic Violence Center of Chester County West Chester	215/431-1430
Clarion	S.A.F.E. Clarion	814/226-7233
Clearfield	DuBois Women's Help Center DuBois	814/371-1223
Clinton	Clinton County Women's Center Castanea	717/748-9509
Columbia	Women's Center, Bloomsburg Bloomsburg	717/784-6631
Crawford	Women's Services/The Greenhouse Meadville	814/333-9766
	Titusville Women's Center Titusville	814/827-9777 800/828-7474
Cumberland	Domestic Violence Services of Cumberland and Perry Counties Carlisle	800/852-2102
Dauphin	YWCA of Greater Harrisburg Harrisburg	800/654-1211
Delaware	Domestic Abuse Project/Delaware County Media	215/565-4590
Elk	C.A.P.S.E.A. Ridgway	814/772-1227
Erie	Hospitality House for Women, Inc. Erie	814/454-8161
Fayette	Fayette County Family Abuse Council Uniontown	412/439-9500
Forest	Women's Center of Warren Warren	814/726-1030 800/338-3460
Franklin	Women in Need, Inc. Chambersburg	717/264-4444 800/621-6660

Fulton	Women in Need, Inc. Chambersburg	800/621-6660
Greene	Fayette Family Abuse Council Uniontown	412/966-2200
Huntingdon	Huntingdon House Huntingdon	814/643-1190
Indiana	Alice Paul House Indiana	412/349-4444 800/435-7249
Jefferson	Crossroads Punxsutawney	814/849-1617 800/648-3381
Juniata	Mifflin County Abuse Network Lewistown	717/242-2444
Lackawanna	Women's Resource Center Scranton	717/346-4671
Lancaster	Lancaster Shelter for Abused Women Lancaster	717/299-1249
	Domestic Violence Legal Clinic Lancaster	717/291-5826
Lawrence	Women's Shelter of Lawrence County New Castle	412/652-9036
Lebanon	YWCA of Greater Harrisburg Harrisburg	800/654-1211
Lehigh	Turning Point of Lehigh Valley Allentown	215/437-3369
Luzerne	Domestic Violence Service Center Wilkes-Barre Hazelton	 717/823-7312 717/455-9971
Lycoming	Wise Options for Women Williamsport	800/624-4636
McKean	Domestic Violence Program Bradford	814/368-6325
Mercer	AW/ARE, Inc. Sharon	412/981-1457
Mifflin	Mifflin County Abuse Network Lewistown	717/242-2444

Monroe	Women's Resources/Monroe County, Inc. Stroudsburg	717/421-4000
Montgomery	Women's Center of Montgomery County Jenkintown	215/885-5020
	Laurel House Norristown	215/643-3150
Montour	Women's Center, Bloomsburg Bloomsburg	717/784-6631
Northampton	Turning Point of Lehigh Valley Bethlehem	215/437-3369
Northumberland	Susquehanna Valley Women in Transition Lewisburg	717/523-6482 800/544-8293
Perry	Domestic Violence Services of Cumberland and Perry Counties Carlisle	800/852-2102
Philadelphia	Women Against Abuse Legal Center Philadelphia	215/386-7777 215/686-8253
	Women in Transition Philadelphia	215/922-7500
	Lutheran Settlement House Philadelphia Hispanic	215/739-9999 215/235-9992
Pike	Women's Resources/Monroe County, Inc. Milford	717/296-4357
Potter	Clinton County Women's Center Castanea	814/274-0240
Schuylkill	Schuylkill Women in Crisis Pottsville	717/622-6220 800/282-0634
Snyder	Susquehanna Valley Women in Transition Lewisburg	717/523-6482
Somerset	Women's Help Center Johnstown	814/536-5361 800/999-7406
Sullivan	Wise Options for Women Williamsport	800/624-4636
Susquehanna	Women's Resource Center Scranton	717/278-1800

Tioga	Tioga County Women's Coalition Wellsboro	717/724-3554 800/332-6718
Union	Susquehanna Valley Women in Transition Lewisburg	717/523-6482
Venango	Titusville Women's Center Titusville	814/827-9777 800/828-7474
Warren	Women's Center of Warren Warren	814/726-1030 800/338-3460
Washington	Washington Women's Shelter Washington	412/223-9190
Wayne	Victims Intervention Program Honesdale	717/253-4401
Westmoreland	Women's Services of Westmoreland Co., Inc. Greensburg	412/836-1122
	Alle-Kiski Area HOPE Center Tarentum	412/224-4673
Wyoming	Victims Resource Center Wilkes-Barre	717/836-5544 800/331-3261
York	ACCESS-York, Inc. York	717/845-8179 800/262-8444

APPENDIX B

ARREST EXERCISE

ARREST EXERCISE

John and Sara are married. Sara left John and rented an apartment of her own last month. This afternoon John went to Sara's place of employment and asked her to talk with him about reconciliation. Sara agreed to talk. She got into John's car. When she did not agree to John's proposal and concluded that no further conversation would be productive, she attempted to get out of his car. John restrained her. He then took off at a high rate of speed. Sara demanded that he stop and let her out. He laughed and told her that he would kill her before she'd get a divorce. He asked her if she would like to die in a car wreck and swerved the car toward a bridge abutment, bringing the car back into the driving lane seconds before impact with the bridge.

A. Suppose you are a patrol officer who observes the swerving of the car and the excessive speed, and you pull John over. He appears not to be intoxicated. Sara tells you all of the above.

- What crimes do you have probable cause to believe John has committed?

- Do you have the authority to arrest John without obtaining a warrant? Why or why not?

B. Suppose, instead, you did not observe John's driving, but when Sara eventually got out of the car that she called and reported the above to you.

- Do you have the authority to arrest John without obtaining a warrant? Why or why not?

C. Suppose, instead again, that Sara had obtained a protection order against John previously, and that when you responded to her call, you verified that there was a current, valid protection order issued against John in Sara's favor.

- What crimes do you have probable cause to believe that John has committed?

- Do you have the authority to arrest John without obtaining a warrant? Why or why not?

D. Suppose Sara tells you, pursuant to the scenario described in Paragraph C., that she believes that John has several guns in his car.

- Do you have the authority to seize those guns?

E. Suppose, instead, that Sara told you about the weapons in the scenario in Paragraph A.

- Do you have the authority to seize the weapons? Why or why not?

F. Suppose, instead, again, that Sara had not obtained a protection order and that John eventually dropped her off at her apartment. He demanded to come in. She told him that he did ***not*** have her permission to enter. He took her keys and entered the apartment, dragging her behind him. The neighbors see this and call the police. You investigate and believe that above occurred as reported in this account.

- What crimes do you have probable cause to believe that John has committed?

- Do you have authority to arrest John without a warrant? Why or why not?

G. Suppose in Paragraph F that Sara tells you that she does not want to have John arrested; she just wants you to make him give her keys back, remove him from her home, and tell him to stay away.

- Should you arrest and charge John anyway? Why or why not?

- Would your decision be any different if when you arrive you discover that Sara is bleeding from the ear and tells you that John hit her there? She still does not want him arrested.

H. Suppose in each of the scenarios identified below that John was not present when you responded to the call. Which is the better practice? -- 1.) To advise Sara to go the district justice and file a private criminal complaint? **OR** 2.) To pursue John and make an arrest? **OR** 3.) To file criminal charges and request an arrest warrant?

Paragraph B. _____
Paragraph C. _____
Paragraph F. _____

ARREST EXERCISE
Answer Sheet

John and Sara are married. Sara left John and rented an apartment of her own last month. This afternoon John went to Sara's place of employment and asked her to talk with him about reconciliation. Sara agreed to talk. She got into John's car. When she did not agree to John's proposal and concluded that no further conversation would be productive, she attempted to get out of his car. John restrained her. He then took off at a high rate of speed. Sara demanded that he stop and let her out. He laughed and told her that he would kill her before she'd get a divorce. He asked her if she would like to die in a car wreck and swerved the car toward a bridge abutment, bringing the car back into the driving lane seconds before impact with the bridge.

A. Suppose you are a patrol officer who observes the swerving of the car and the excessive speed, and you pull John over. He appears not to be intoxicated. Sara tells you all of the above.

- What crimes do you have probable cause to believe John has committed?

  Motor vehicle violations, false imprisonment, recklessly endangering, terroristic threats, and harassment.

- Do you have the authority to arrest John without obtaining a warrant? Why or why not?

  Yes, he can be arrested under 18 Pa. C.S. § 2711 -- a.) because the victim is someone with whom he formerly resided; b.) if you believe Sara's allegations, then you have probable cause to believe that John has recklessly endangered Sara by his driving; c.) you observed corroborative evidence of her allegations in that you witnessed his erratic driving. John can also be arrested outside of the authority of § 2711 on the basis of an "in-view" misdemeanor, if your observations, independent of the statements of Sara lead you to believe that his erratic driving recklessly endangered her.

B. Suppose, instead, you did not observe John's driving, but when Sara eventually got out of the car that she called and reported the above to you.

- Do you have the authority to arrest John without obtaining a warrant? Why or why not?

  No. The arrest authority under § 2711 requires corroboration ***OR*** *observation of recent physical injury. Unless Sara can produce an eye-witness or can produce a tape-recording of the incident, there is no arrest authority based on these facts. Sara should be advised that she can file a private criminal*

complaint alleging the crimes above. And then again, you could go to the district justice to file charges and seek an arrest warrant if you conclude there is probable cause to believe that a crime has been committed.

C. Suppose, instead again, that Sara had obtained a protection order against John previously, and that when you responded to her call, you verified that there was a current, valid protection order issued against John in Sara's favor.

- What crimes do you have probable cause to believe that John has committed?

  Indirect criminal contempt, plus all the substantive crimes listed in Paragraph A.*

- Do you have the authority to arrest John without obtaining a warrant? Why or why not?

  *Yes. You have the authority to arrest him for violation of the protection order if you conclude that there is probable cause to believe that a violation has occurred. The charge for a violation is indirect criminal contempt. You may **ALSO** charge him with all the substantive crimes involved in the incident above.*

D. Suppose Sara tells you, pursuant to the scenario described in Paragraph C., that she believes that John has several guns in his car.

- Do you have the authority to seize those guns?

  Probably. When there is a violation of protection order, law enforcement has the authority to seize all weapons used or threatened to be used in the current incident of violence or any prior incident of violence. If you conclude that the guns were not used in this incident, but determine that weapons have been used in the past, you have the authority to seize the weapons. Even if John only used one particular firearm in the past incident(s) of domestic violence, all firearms may be seized. 35 Pa. C.S. § 10190 C.1 until 3/17/91 and 23 Pa.C.S. § 6113(b) thereafter. Further, upon investigation, you may discover a violation of 18 Pa.C.S. § 6106 or 6106.1 and seize firearms pursuant to an arrest on one or both of these.

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* The legislature has re-located the Protection From Abuse Act, moving it from Title 35 to Title 23. The effective date of that change is not until 3/17/91, however. Thus, until that date, indirect criminal contempt should be cited as 35 Pa.C.S. § 10190(a), but on that date and after, it should be cited as 23 Pa.C.S. § 6114(a). Furthermore, authority to arrest for a violation of protection order is now found at 35 Pa.C.S. § 10190(c), but after the effective date it will be found at 23 Pa.C.S. § 6113(a).

E. Suppose, instead, that Sara told you about the weapons in the scenario in Paragraph A.

- Do you have the authority to seize the weapons? Why or why not?

  No. There is no authority to seize these weapons under these circumstances because they were not used in the commission of the crimes alleged, and there are no allegations of any violation of Chapter 61 of the Crimes Code -- Firearms and Other Dangerous Materials.

F. Suppose, instead, again, that Sara had not obtained a protection order and that John eventually dropped her off at her apartment. He demanded to come in. She told him that he did ***not*** have her permission to enter. He took her keys and entered the apartment, dragging her behind him. The neighbors see this and call the police. You investigate and believe that above occurred as reported in this account.

- What crimes do you have probable cause to believe that John has committed?

  Same as in A., including the motor vehicle violations; plus criminal trespass, burglary and theft by unlawful taking.

- Do you have authority to arrest John without a warrant? Why or why not?

  Yes. Probable cause exists that John has committed several felonies. You have authority to arrest for these even though you did not witness the commission of these crimes since they are felonies. You also have authority under 18 Pa.C.S. § 3904, related to theft.

G. Suppose in Paragraph F that Sara tells you that she does not want to have John arrested; she just wants you to make him give her keys back, remove him from her home, and tell him to stay away.

- Should you arrest and charge John anyway? Why or why not?

  Yes. He has committed several felonies and there is at least one eye witness.

- Would your decision be any different if when you arrive you discover that Sara is bleeding from the ear and tells you that John hit her there? She still does not want him arrested.

  You should arrest to deter John from further violence, to protect Sara, and to protect yourself and the department against potential liability and to protect yourself or other officers against the increased risk to officer safety if John is not stopped in his escalating pattern of violence.

H. Suppose in each of the scenarios identified below that John was not present when you responded to the call. Which is the better practice? -- 1.) To advise Sara to go the district justice and file a private criminal complaint? **OR** 2.) To pursue John and make an arrest? **OR** 3.) To file criminal charges and request an arrest warrant?

Paragraph B. *3 or 1*
Paragraph C. *2*
Paragraph F. *2*

WHAT ARE THE MOST DANGEROUS CALLS FOR A POLICE OFFICER?

According to the FBI booklet **Law Enforcement Officers Killed and Assaulted in 1988**, police officers were killed in the ten year period from 1979 through 1988 as follows:

KILLED IN THE LINE OF DUTY

1.		123
2.		118
3.		116
4.	Investigating suspicious persons/circumstances	114
5.	Man with gun or bar fight	85
6.	Ambush:	76
7.	Drug related arrest	65
8.		52
9.	Burglary arrests	44
10.	Handling Prisoners	31
11.	Mentally deranged	16
12.	Civil Disorder	1

ACCIDENTAL LINE OF DUTY DEATH

1.		289
2.	Struck by vehicles (directing traffic, helping motorists)	88
3.	Aircraft accidents	88
4.	Struck by vehicles (traffic stops, road blocks)	71
5.	Motorcycle accidents	52
6.	Accidental shootings (crossfire, mistaken identities, firearm mishaps)	45
7.	Other (falls, drownings)	39
8.	Accidental shootings (training sessions)	10
9.	Accidental shootings (self-inflicted)	

If we were to combine the murders with the accidental deaths, the most dangerous assignments would be:

1.		289
2.		123
3.		118
4.		116
5.	Investigating suspicious persons/circumstances	114
6.	Directing traffic, helping motorist (struck by vehicle)	88
7.	Flying a police aircraft	88
8.	Responding to a man with a gun or bar fight	85
9.	Being ambushed	76
10.	Making a traffic stop or setting up a road block	71
11.	Making a drug related arrest	65
12.		52
13.	Driving a motorcycle	52
14.	Being shot in a crossfire or mistaken identity	45
15.	Responding to a burglary	44
16.	Other accidental (falls, drownings)	39
17.	Handling or transporting a prisoner	31
18.	Handling a mentally deranged person	16
19.	Attending a training session for shooting the weapon	10
20.	Cleaning a weapon or other accidental with weapon	10
21.	Responding to a civil disorder	1

Answer Sheet

WHAT ARE THE MOST DANGEROUS CALLS FOR A POLICE OFFICER?

According to the FBI booklet **Law Enforcement Officers Killed and Assaulted in 1988**, police officers were killed in the ten year period from 1979 through 1988 as follows:

KILLED IN THE LINE OF DUTY

1.	Robbery in progress	123
2.	Other Arrests	118
3.	Traffic pursuits, stops	116
4.	Investigating suspicious persons/circumstances	114
5.	Man with gun or bar fight	85
6.	Ambush:	76
7.	Drug related arrest	65
8.	Family Quarrels	52
9.	Burglary arrests	44
10.	Handling Prisoners	31
11.	Mentally deranged	16
12.	Civil Disorder	1

ACCIDENTAL LINE OF DUTY DEATH

1.	Auto accidents	289
2.	Struck by vehicles (directing traffic, helping motorists)	88
3.	Aircraft accidents	88
4.	Struck by vehicles (traffic stops, road blocks)	71
5.	Motorcycle accidents	52
6.	Accidental shootings (crossfire, mistaken identities, firearm mishaps)	45
7.	Other (falls, drownings)	39
8.	Accidental shootings (training sessions)	10
9.	Accidental shootings (self-inflicted)	

If we were to combine the murders with the accidental deaths, the most dangerous assignments would be:

1.	Driving a car	289
2.	Responding to a robbery in progress	123
3.	Making an arrest (**not** burglary, robbery or drug related)	118
4.	Pursuing a car	116
5.	Investigating suspicious persons/circumstances	114
6.	Directing traffic, helping motorist (struck by vehicle)	88
7.	Flying a police aircraft	88
8.	Responding to a man with a gun or bar fight	85
9.	Being ambushed	76
10.	Making a traffic stop or setting up a road block	71
11.	Making a drug related arrest	65
12.	Responding to a family quarrel	52
13.	Driving a motorcycle	52
14.	Being shot in a crossfire or mistaken identity	45
15.	Responding to a burglary	44
16.	Other accidental (falls, drownings)	39
17.	Handling or transporting a prisoner	31
18.	Handling a mentally deranged person	16
19.	Attending a training session for shooting the weapon	10
20.	Cleaning a weapon or other accidental with weapon	10
21.	Responding to a civil disorder	1

7 pages

THE IMPROPERLY HANDLED DOMESTIC VIOLENCE CASE OF TODAY BECOMES THE HOMICIDE INVESTIGATION OF TOMORROW OR NEXT WEEK. IN APPROXIMATELY 70% OF THE NATION'S HOMICIDES, THE VICTIM KNEW THE ASSAILANT. MANY WERE DOMESTIC VIOLENCE-RELATED CASES.

A WELL-DESIGNED PROTOCOL OR PROCEDURE FOR RESPONDING TO DOMESTIC VIOLENCE INCIDENTS IS IMPERATIVE. JUST AS IMPORTANT IS THE TRAINING OF POLICE OFFICERS SO THAT THEY KNOW HOW TO MAKE AN APPROPRIATE RESPONSE TO SUCH INCIDENTS. THERE ARE MANY ASPECTS AND STAGES TO DOMESTIC VIOLENCE INVESTIGATIONS AND IF THEY POLICE FAIL TO APPROPRIATELY RESPOND AT THE INITIAL STAGE, THERE IS NO WAY THAT THE CRIMINAL JUSTICE SYSTEM CAN APPROPRIATELY ADDRESS THE MATTER.

FIRST AND FOREMOST TO BE CONSIDERED IS THE VICTIM. FOR TOO LONG THE POLICE AND OTHERS HAVE NOT FACED THE REALITY THAT PHYSICAL ABUSE OF ONE'S MATE IS A CRIME AND THAT ARREST IS THE BEST MEANS OF BREAKING THE CYCLE OF VIOLENCE. IF POLICE FAIL TO DO THEIR DUTY, THE SYSTEM FAILS.

THE YORK CITY POLICE DEPARTMENT BEGAN TO DRAFT A PROTOCOL IN 1984. THIS UNDERTAKING WAS A RESULT OF THE DEPARTMENT'S RECOGNITION OF THE ESCALATION IN DOMESTIC VIOLENCE COMPLAINTS, COUPLED WITH OUR EXTREMELY GOOD RELATIONSHIP WITH ACCESS/YORK, OUR SHELTER FOR BATTERED WOMEN AND CHILDREN, AS WELL AS OUR LOCAL VICTIMS' ASSISTANCE CENTER.

OUR INITIAL PROTOCOL WAS DEVELOPED IN COOPERATION AND CONJUNCTION WITH THE AFOREMENTIONED AGENCIES. WE REALIZED AT THAT PARTICULAR TIME THAT IF AN OFFICER DID NOT WITNESS THE ACTUAL ASSAULT, HE OR SHE COULD NOT MAKE AN ARREST WITHOUT FIRST OBTAINING A WARRANT. HOWEVER, IN THOSE CASES WHICH AN AGGRAVATED ASSAULT WASN'T COMMITTED, OUR OFFICERS BEGAN ISSUING CITATIONS FOR HARASSMENT AND REFERRING THE VICTIM TO THE ACCESS SHELTER.

WE ALSO ADVISED THEM OF THEIR RIGHT TO OBTAIN A "PROTECTION FROM ABUSE" ORDER AGAINST THEIR ASSAILANT.

THE PROCEDURE WAS INITIALLY MET WITH SOME RESISTANCE AND RELUCTANCE ON THE PART OF OFFICERS. IN OUR FIRST YEAR WE ONLY ARRESTED APPROXIMATELY 50% OF THE BATTERERS WHEN CALLED TO THESE INCIDENTS. WE TRACKED THEM BY PUTTING A "D" SUFFEX ON ALL OUR COMPLAINT REPORTS. "D" BEING NATURALLY FOR DOMESTIC. IN 1986, OUR TRACK RECORD BEGAN TO IMPROVE SOMEWHAT. WE RECEIVED 583 COMPLAINTS AND ISSUED 403 CITATIONS FOR HARASSMENT, AND 44 OTHER CHARGES WERE BROUGHT ALONG WITH 8 SIMPLE ASSAULTS, 1 RECKLESSLEY ENDANGERING, AND 32 WARRANTS WERE OBTAINED. THE FOLLOWING YEAR WAS THE YEAR THAT CHANGES WERE MADE TO SECTION 2711 OF THE CRIMES CODE AND WE REEMPHASIZED THE IMPORTANCE OF MAKING ARRESTS WHEN RESPONDING TO DOMESTIC INCIDENTS. WE AGAIN REWROTE OUR PROTOCOL.

ALL SHIFT SUPERVISORS AND COMMANDERS WERE TO REVIEW EACH DOMESTIC COMPLAINT THAT CAME IN, AND IF AN ARREST WAS NOT MADE, THEY QUERIED THE OFFICER AS TO WHY HE OR SHE DID NOT MAKE AN ARREST.

IN YORK, I BELIEVE WE WERE SOMEWHAT FORTUNATE IN THAT WE HAD BEGUN MAKING SUMMARY ARRESTS FOR HARASSMENT AS EARLY AS 1984, THUS MAKING THE TRANSITION TO ENFORCING THE AMENDMENTS TO SECTION 2711, THE PENNSYLVANIA CRIMES CODE, VERY SMOOTH. THAT'S NOT TO SAY OUR POLICY WAS IMMEDIATELY AND READILY ACCEPTED, BUT THROUGH CLOSE MONITORING WE WERE EVENTUALLY ABLE TO CONVINCE OUR OFFICERS THAT THE DECISION TO ARREST THOSE RESPONSIBLE FOR DOMESTIC VIOLENCE, RATHER THAN TO SEPARATE OR MEDIATE WAS NOT ONLY THE BEST CHOICE, IT WAS THE ONLY CHOICE!!

I BELIEVE THAT THE ADOPTION OF OUR PROTOCOL MADE A TREMENDOUS DIFFERENCE IN THE NUMBER OF ARRESTS, AS WELL AS OFFICER SAFETY BECAUSE THERE WAS A CERTAINTY ON HOW THEY WERE GOING TO RESPOND AND THE PUBLIC, AT LEAST THOSE WHO WERE VICTIMIZED,BECAME MORE CONFIDENT IN THE POLICE AND THEIR ABILITY TO INTERECEDE ON THEIR BEHALF.

I ALSO BELIEVE OFFICER MORALE INCREASED SOMEWHAT BECAUSE THE OFFICERS HAD A POLICY TO FALL BACK ON TELLING BOTH VICTIM AND BATTERER THAT THEY HAD NO CHOICE BUT TO MAKE AN ARREST BECAUSE IT WAS DEPARTMENTAL POLICY. SOME OF THE BENEFITS TO A GOOD PROTOCOL ARE:

1) A REDUCTION, NOT ONLY IN REPEAT CALLS, BUT <u>ALL</u> CALLS IN DOMESTIC VIOLENCE.

ONCE THE BATTERERS GET THE MESSAGE THAT WE MEAN BUSINESS, INCIDENTS DECREASE.

2) OFFICERS ARE TAKEN "OFF THE HOOK" BY TELLING BOTH VICTIM AND ABUSER THAT THEY HAVE NO CHOICE BUT TO MAKE AN ARREST OR FACE POSSIBLE DISCIPLINARY ACTION FOR FAILING TO FOLLOW DEPARTMENTAL POLICY. (ALL YOU COMMANDING OFFICERS <u>KNOW</u> HOW SUBORDINATES LOVE TO BLAME THEIR SUPERIORS FOR THINGS!)
3) IT PROVIDES A UNIFORMED AND EFFICACIOUS METHOD OF DEALING WITH SUCH INCIDENTS.
4) IT LESSENS CHANCES OF CIVIL LITIGATION FOR FAILURE TO PROTECT OR PROPERLY RESPOND.
5) IT INCREASES OFFICER SAFETY BECAUSE THEY HAVE A KNOWN COURSE OF ACTION.
6) LAST, BUT CERTAINLY NOT LEAST, IT WILL ULTIMATELY PROTECT VICTIMS FROM SERIOUS INJURY OR DEATH.

IT'S VERY IMPORTANT TO NOTE THAT IN OUR PROTOCOL THE VICTIM DOES NOT HAVE THE FINAL SAY ON WHETHER THE ABUSER IS ARRESTED OR NOT. OFTEN THE VICTIM IS TERRORIZED OR TRAUMATIZED TO THE POINT THAT THEY ARE UNBLE TO MAKE RATIONAL DECISIONS.

WE HAVE HAD MANY SUCH INSTANCES IN OUR OWN COMMUNITY AND I RECEIVED A VERY NICE LETTER FROM ONE OF OUR VICTIMS APPROXIMATELY 3 WEEKS AFTER SHE HAD BEEN ASSAULTED BY HER HUSBAND. IN THAT LETTER, SHE STATED HER GRATITUDE FOR THE OFFICER WHO HAD RESPONDED AND MADE AN ARREST AGAINST HER WISHES AT THE TIME. SHE INFORMED ME IN HER LETTER THAT IT ACTUALLY TOOK HER SEVERAL WEEKS TO GATHER HERSELF AND REALIZE THAT THE OFFICER HAD ACTED APPROPRIATELY. IN ANOTHER INCIDENT, NOT IN THE CITY, BUT IN YORK COUNTY, A PA STATE TROOPER ARRESTED AN ASSAILANT AND THE VICTIM WAS VERY RECALCITRANT AND REFUSED TO TESTIFY AT THE SUBSEQUENT TRIAL. FORTUNATELY, THE ASSAILANT WAS CONVICTED IN SPITE OF THE VICTIM'S UNWILLINGNESS TO TESTIFY AGAINST HIM. THIS MERELY UNDERSCORES OUR PHILISOPHY OF ARREST.

OUR PROTOCOL WAS AGAIN REVISED AND PATTERNED AFTER THE MODEL PROTOCOL IN THE ATTORNEY GENERAL'S FAMILY VIOLENCE TASK FORCE MANUAL WHICH WAS ISSUED IN JANUARY, 1989. INCIDENTALLY, I HAD THE PRIVILEGE OF SERVING ON THAT TASK FORCE.

AS A RESULT OF OUR NEW PROTOCOL, WE HAVE A MUCH MORE UNIFORMED METHOD IN HANDLING OUR DOMESTIC VIOLENCE CASES.

LET ME JUST SHARE WITH YOU SOME OF OUR STATISTICS WHICH WE'VE BEEN ABLE TO TRACK AS A RESULT OF HAVING PUT THE "D" SUFFIX ON OUR INCIDENT NUMBER IN OUR CODING PROCESS.

IN 1988, THE YEAR BEFORE WE REVAMPED OUR PROTOCOL, WE HAD 591 DOMESTIC ASSAULTS AND THERE WERE ARRESTS MADE IN 428, OR 72% OF THESE CASES.

IN 1989, THERE WERE 519 DOMESTIC ASSAULTS WHICH WAS A DECREASE OF 12% IN THE ASSAULTS FROM 1988. THERE WERE ARRESTS MADE IN 391, OR 75% OF THESE CASES, AN INCREASE OF 3% OF THE ARRESTS.

FINALLY, IN 1990, THERE WERE 433 DOMESTIC ASSAULTS WHICH WAS A DECREASE OF AN ADDITIONAL 17% FROM 1989, AND A DECREASE OF NEARLY 27% FROM 1988. THERE WERE ARRESTS MADE IN 342 OF THESE CASES OR 79% OF ALL RESPONSES.

AS YOU CAN SEE, OVER THE 3 YEAR PERIOD OUR DOMESTIC ASSAULT REPORTS DECREASED BY OVER 26, NEARLY 27% AND THE PERCENTAGE OF CASES RESULTING IN ARRESTS CONTUNUE TO INCREASE TO A HIGH OF 79% IN 1990. I UNDERSCORE THAT IN THOSE CASES WHERE ARREST WAS NOT MADE, THE OFFICER MUST JUSTIFY IT TO HIS OR HER SUPERVISOR, AND HAVING FAILED TO DO SO IS SUBJECT TO DISCIPLINARY ACTION. THE POINT BEING THAT WE WANT TO SHOW THEM THAT WE ARE EXTREMELY SERIOUS ABOUT OUR POLICY.

IT IS OUR POSITION THAT THE ABUSER MUST BE HELD ACCOUNTABLE BY PROPER USE OF OUR CRIMINAL JUSTICE SYSTEM. THE JUSTICE SYSTEM PROVIDES ALTERNATIVES NOT OTHERWISE AVAIALBLE TO POLICE OFFICERS AND VICTIMS. INCARCERATION AND/OR COUNSELING FOR THE ABUSER ARE BUT A FEW OF THOSE OPTIONS. FURTHERMORE, VICTIMS OFTEN NEED SHELTER AND COUNSELING. SUCH PROVISIONS SHOULD BE MADE A PART OF YOUR PROTOCOL.

WE CANNOT LOSE FOCUS ON THE RIGHTS OF THE VICTIMS SIMPLY BECAUSE WE HAVE MADE AN ARREST IN A PARTICULAR INSTANCE. OFTEN TIMES THE VICTIMS ARE QUITE TRAUMATIZED AS A RESULT OF THE ORDEAL THAT THEY HAVE GONE THROUGH

AND ARE INCAPABLE OF A CLEAR THOUGHT PROCESS OR WEIGHING OUT THEIR OPTIONS. THAT IS WHY IT IS IMPORTANT FOR THE POLICE TO FOLLOW UP A DAY OR SEVERAL DAYS LATER AND IT'S ALSO IMPORTANT FOR THEM TO WORK VERY CLOSELY WITH ANY SHELTER THAT THEY MAY HAVE IN THEIR PARTICULAR COMMUNITY.

The City of York, Pennsylvania

POLICE DEPARTMENT

WILLIAM J. ALTHAUS
MAYOR

WILLIAM M. HOSE
CHIEF OF POLICE

NOTICE

VICTIMS OF DOMESTIC VIOLENCE

IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to the act of October 7, 1976 (P. L. 1090, No. 218), known as the Protection From Abuse Act, which could include the following:

(1) An order restraining the abuser from further acts of abuse.

(2) An order directing the abuser to leave your household.

(3) An order preventing the abuser from entering your residence, school, business, or place of employment.

(4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.

(5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.

Additionally, by this communication, you are hereby notified of the AVAILABILITY OF A SHELTER and/or other counseling services. Should you desire further assistance regarding this matter, please contact the agency listed below:

ACCESS SHELTER INC.
York, PA
Shelter for abused women and their children.

HOTLINE NUMBER (717) 846-5400

BELL FAMILY SHELTER
Shelter for women and children.

(717) 845-9536

This information is offered in fulfillment of the requirements set forth in Title 18 of the Pennsylvania Consolidated Statutes, Section 2711, subsection (d) Notice of Rights, as amended.

_____ _____
Victim Date

_____ _____
Investigating Officer Date