

The background of the entire page is a dark, high-contrast photograph of the Minnesota State Capitol building in Saint Paul. The building's iconic dome and classical architectural details are visible. Overlaid on this image is a light-colored, semi-transparent grid of geometric lines, resembling a technical blueprint, which covers the entire scene.

The Saint Paul

**blueprint**  
*for* safety

An Interagency Response to  
Domestic Violence Crimes

**For more information and to download materials:**

**Saint Paul Domestic Abuse Intervention Project:**

[www.stpaulblueprintspip.org](http://www.stpaulblueprintspip.org)

**Saint Paul Police Department:**

[www.stpaul.gov/police](http://www.stpaul.gov/police)

**Praxis International:**

email: [Blueprint@praxisinternational.org](mailto:Blueprint@praxisinternational.org)



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Domestic Violence Crimes

# Acknowledgements

| <b>Participating Agencies</b>  |  |  |
|--|--|--|
| <p><b>Second Judicial District, Ramsey County</b><br/>Hon. Kathleen Gearin, Chief Judge</p> <p><b>Second Judicial District Court Administration</b><br/>Larry Dease, Court Administrator</p> <p><b>Saint Paul Police Department</b><br/>John Harrington, Chief of Police<br/>Amy Brown, Grant Administrator</p>  | <p><b>Saint Paul City Attorney's Office</b><br/>John Choi, Saint Paul City Attorney</p> <p><b>Ramsey County Attorney's Office</b><br/>Susan Gaertner, Ramsey County Attorney</p> <p><b>Ramsey County Community Corrections</b><br/>Carol Pender-Roberts, Director</p> <p><b>Project Remand</b><br/>Mary Pat Maher, Director</p>  | <p><b>Ramsey County Emergency Communications Center</b><br/>Scott Williams, Director</p> <p><b>Ramsey County Sheriff's Office</b><br/>Bob Fletcher, Ramsey County Sheriff</p> <p><b>Saint Paul Domestic Abuse Intervention Project</b><br/>Shelley Johnson Cline, Executive Director</p> |
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- Casa de Esperanza
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- Project Peace
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- Someplace Safe
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- Women of Nations

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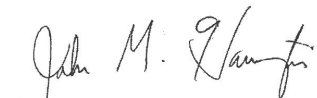
We are proud to convey to you the collective work of ten agencies that took up the challenge to write a blueprint for every Minnesota community struggling with the destruction caused by violence in our homes. Our work was made possible by the generous support of the Minnesota Legislature. The “Saint Paul Blueprint for Safety” is limited in that it addresses the roles and functions of criminal justice practitioners only. It is expansive in that it goes beyond what any community has yet been able to fully achieve.

When writing policies and protocols for so many agencies we often heard people say, “Well, this isn’t a policy it’s just what we do” or, “No need to write that down; everybody knows to do that.” Indeed, over ninety percent of what is in the Blueprint is done by at least some practitioners some of the time. The Blueprint is the only document like it in the country, however, for two reasons. First, it is written as one document, with a chapter for each agency and each chapter inextricably linked to the whole. It is not a collection of good policies, but a collective policy. Second, the Blueprint operates on three levels simultaneously: on the level of (1) what victims need to be safe, (2) what practitioners need from each other to do their jobs, and (3) what is required by each worker and agency to hold the offender accountable.

Crafting the Blueprint was no small feat; implementing it will require even more commitment on the part of agencies, their leaders, and the countless practitioners that make up this massive entity called the criminal justice system. That commitment begins with a reading of the Blueprint that is motivated by a good faith attempt to make it come alive and realize its very ambitious goal: namely, to fulfill Saint Paul’s commitment to reducing homicide and making our homes places of refuge rather than incubators for more suffering, crime, and violence. The Blueprint envisions a response that holds that every victim is worth fighting for and every abuser must be held to account. We hope that the Blueprint inspires other Minnesota communities to make a similar commitment to its goals and process of review and change.

We are grateful for the opportunity to have created the Blueprint and humbled by the prospects of what now lies ahead to fully implement its promise.

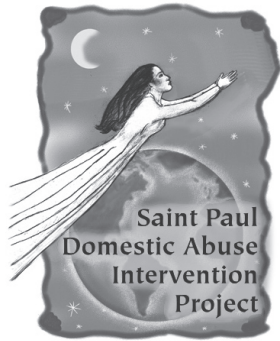
Sincerely,

  
Chief John Harrington

  
Saint Paul City Attorney John Choi



The Most Livable  
City in America



The Saint Paul Domestic Abuse Intervention Project, in partnership with Saint Paul public leaders and members of ISAIAH, requested support from the Minnesota Legislature to create a framework for the criminal justice system's response to domestic violence, from the 911 call to the bench. With support from the Legislature, the Saint Paul Domestic Abuse Intervention Project (SPIP) was one of two consultants hired by the City of Saint Paul to work on the "Saint Paul Blueprint for Safety." As a long-standing grassroots domestic violence program, SPIP was in a unique position to participate in this project. While Praxis International was contracted to coordinate the system participants and write the Blueprint, SPIP was contracted to bring the advocacy perspective and the voices of victims of domestic abuse to the process.

In developing the Blueprint we sought input from a variety of advocates and survivors of domestic abuse about their experiences within the criminal justice system, the problems that they have encountered, and the changes they would recommend to strengthen services and protection. We conducted focus groups and individual interviews with a variety of advocates from criminal justice intervention projects, shelters, community programs, culturally specific programs, and metro and rural programs in Minnesota. Over one hundred people participated in the victim/survivor groups and interviews, bringing to the discussion the diverse experiences of immigrants, elders, shelter residents, victims who were involved in the criminal justice system, women used in prostitution, non-English speaking women, and women from many different cultural, economic, and spiritual backgrounds.

We have written a separate companion piece to accompany the Blueprint, "The Distinct and Vital Role of a Legal and Systems Advocate." It delineates the role of community-based legal and systems advocacy programs have in working with battered women/victims of domestic abuse and impacting how the criminal justice system responds to domestic abuse. Although this piece is primarily based on our advocacy services in the City of Saint Paul, it is our hope that it can assist other advocacy programs statewide in developing or enhancing their work in the communities they serve. It is also hope that this piece will assist criminal justice system interveners in better understanding advocates' unique and vital roles in assisting victims of domestic abuse, and the ways in which we can work together to better ensure safety for all victims of domestic abuse.

Shelley Johnson Cline, Executive Director



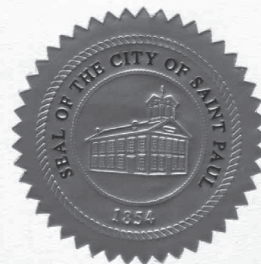
*In honor of this Blueprint for Safety and the hundreds of people, throughout Minnesota who respond to these cases everyday and by their actions give hope for an end to the violence, I hereby acknowledge and commend the*

**City of Duluth**

*for its vision and courage to confront this crime when few even acknowledged its presence. We hope this Blueprint will carry their vision forward and once again inspire our state to go further.*

*Therefore, it is with the appreciation and respect of the people of Saint Paul that Saint Paul's Blueprint for Safety is dedicated to the City of Duluth.*

September 1, 2009



A handwritten signature in black ink, appearing to read "Chris Coleman".

Christopher B. Coleman, Mayor  
City of Saint Paul

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Chapter 1

# Foundations

## Foundations of Effective Intervention<sup>[1]</sup>

Minnesota has long been regarded as a leader in the national efforts to end intimate partner violence. In 1974 Women's Advocates was one of the first shelters to open in the country and became a model for the thousands of shelters to open in the next three decades. The Domestic Abuse Project in Minneapolis was among a handful of batterers' programs to open in the early 1980s and remains a leader in the field of abuser treatment. Duluth was the site of the first interagency intervention project and in 1982 was the first city to mandate its police officers to arrest in domestic abuse cases. It has won international acclaim for its pioneering work in interagency collaboration. Beginning in the 1970s, the Minnesota Legislature has consistently produced what is considered one of the country's most comprehensive bodies of domestic violence legislation. All eleven tribes and every region of the state have advocacy programs for victims of domestic violence. The Minnesota Coalition for Battered Women is a strong voice for victims in every major public policymaking area affecting victims of battering. Programs in Olmsted County are collaborating with child protection agencies to find ways to help victims of battering and their children recover from the destructive impact of battering on the parent-child relationship. New initiatives are exploring how to work most effectively on behalf of children when domestic abuse leads to divorce.

It is therefore not surprising that the next generation of innovation comes from the collaborative work of community groups, advocates, leaders in the criminal justice system, and the state legislature. In 2007 the Minnesota Legislature awarded a grant to the City of St. Paul to write a comprehensive plan integrating

the knowledge gleaned from thirty years of research, demonstration projects, and practice into a "blueprint" for city and county agencies responding to misdemeanor and felony assaults. There are two versions of the Blueprint, one specifically for the City of Saint Paul and one for other Minnesota communities to use as a template or guide to create their own customized version. You are holding the *Saint Paul Blueprint for Safety* (Blueprint), the result of conversations and consultation with community members, practitioners, advocates, victims, defense attorneys, researchers, agency leaders, and experts in confronting this crime both locally and nationally. In the end, the leadership of each of the six agencies and the district court bench creates the Blueprint. Such leadership is the basis for any community's effort to confront this devastating form of violence in our state.

The Blueprint is anchored in six foundational principles that we have identified as essential characteristics of intervention that maximizes safety for victims of domestic violence and holds offenders accountable while offering them opportunities to change.

1. Adhere to an **interagency approach and collective intervention goals**
2. Build attention to the **context and severity** of abuse into each intervention
3. Recognize that most domestic violence is a **patterned crime requiring continuing engagement with victims and offenders**

4. Ensure **sure and swift** consequences for continued abuse
5. Use the power of the criminal justice system to **send messages of help and accountability**
6. Act in ways that reduce **unintended consequences and the disparity of impact** on victims and offenders

Endnotes highlighting research findings, academic literature, and intervention models supportive of these foundational elements can be found in Chapter 9.

## 1. Interagency approach and collective goals

Processing a single domestic violence related case involves five levels of government and over a dozen intervening agencies. Hundreds of practitioners might touch these cases every day. An effective response, meaning one that leads to an end to the violence, requires *solid coordination* across and among the many practitioners involved, as well as a strong *system of accountability*. Practitioners are committed to the mission, function, and goals of their respective agencies, but in an interagency approach they are simultaneously accountable to the victim on whose behalf we intervene, to the offender with whom we intervene, and to others intervening in the case. This interagency approach requires a *system of communication* in which each practitioner receives and relays information in ways that make it possible for everyone to act with the best knowledge of the case. In an interagency effort, while practitioners have different methods and approaches to cases, they must share some basic *philosophical assumptions* about

what does and does not work to end the violence. Finally, an effective interagency response requires a *commitment to excellence* by each intervening agency and practitioner, as well as a *commitment to challenge one another and actively engage in resolving disagreements*. When so many agencies are involved in case processing there will be differences, arguments, and unmet expectations; this is not the problem. The problem arises when there is no ongoing structured way to resolve those conflicts. Interagency approaches succeed when everyone focuses on a shared goal that is centered on the needs of the victims and families harmed by the violence and brutality.

The criminal court process demands a high level of coordination to carry out the dozens of case processing steps involved in the response. The criminal codes, rules of evidence and procedure, case law, administrative forms and processes, calendars and schedules, data bases, and information sharing protocols dictate how interagency collaboration is organized. This Blueprint provides additional structure by introducing coordinating elements designed specifically to enhance approaches to domestic violence related cases:

- In a criminal domestic violence case that involves over one hundred institutional steps, the Blueprint creates **written policies** for each core processing point. Beginning with the 911 operator and ending with the probation officer who discharges a case months or even years later, each policy is written with every intervener's needs in mind. The Blueprint's interlocking policies serve two goals: to standardize research-

**If a victim** of battering thinks she's in grave danger, she should be taken seriously. A victim's perception of danger is a powerful predictor of risk.

– Multiple studies (Chapter 9)

based practices and processes so that the public as well as system practitioners can count on a consistent, effective, and fair response; and to bring agencies with distinctive missions and goals together under a common set of collective goals centralizing victim safety and offender accountability. By agreeing on some fundamental intervention principles, we offer both victims and offenders a system that is clear in its messages, expectations, and actions.

- Each policy is accompanied by **administrative protocols or procedures** that coordinate workers' actions while simultaneously avoiding turning each practitioner into a robot, devoid of professional skills and judgment. Every form, matrix, set of guidelines, report writing format, and assessment tool has been designed to address the unique characteristics of this crime and the interagency nature of case management.
- Via a **system of documentation and information sharing**, each intervention step is woven together with subsequent steps in case processing. The legal system is a text-based system. What a police officer is trained and required to record about an incident has an impact on charging, trial decisions, sentencing, probation conditions, and rehabilitation programming. Risk scales, charging guidelines, and sentencing matrices are significant factors in how a complex

institution processes thousands of cases. The Blueprint uses new and enhanced approaches to gathering, recording, and disseminating information on cases. This information sharing system is linked to agreed-upon intervention goals in domestic violence cases and to efforts to coordinate interventions across agencies.

- Each policy also sets a foundation from which agencies and practitioners can clearly delineate their respective **roles and functions**. A multiagency coordinated response requires connections between and across practitioners so that it is impossible to lose sight of the nature of the harm, the likely danger, and the opportunities for action and change in each case. The Blueprint calls on each practitioner in each intervening agency to be oriented toward collective goals, as well as toward those of their own agencies. Those collective goals are to (a) protect adult and child victims from ongoing abuse, (b) impose meaningful consequences for the harm, (c) help offenders who are willing to change, and (d) reduce the unintended negative consequences of state intervention for individuals and communities.

## 2. Attention to context and severity

Domestic violence is a broad category that has come to include many kinds of behaviors within relationships between family and other household members. It jumbles together vastly different actions: from throwing a shoe at a partner who gambled away \$1000, to strangling a woman until she loses consciousness be-

cause she wants out of the relationship. It groups together slapping someone on the arm with head-butting. The term domestic violence focuses attention on specific acts of violence toward a family member and obscures the context of that violence, which often includes ongoing coercion, intimidation, and emotional harm.

What has been largely submerged under the category of domestic violence is **battering**: a term recognized, defined, and brought to public attention in the 1970s by advocates responding to the realities of sustained abuse in women’s lives, primarily by their intimate partners. Battering came to describe an ongoing pattern of coercion, intimidation, and emotional abuse, reinforced by the use and threat of physical or sexual violence.<sup>[2]</sup> As laws were enacted to protect victims of battering and hold batterers accountable, the term “domestic violence” was adopted both to be inclusive of cases where a male is the victim and to emphasize the place where the abuse is occurring, the home. Every act of violence by one person against another that occurred in the setting of the home came to have the same meaning; that is, all violence involving family members became acts of domestic violence. Laws passed with battering in mind were applied to teenagers hitting their parents, to one brother hitting another, to a husband strangling his wife, and to that wife scratching her husband in response. Slogans like “zero tolerance for violence in the home” hindered critical reflection about the differences between these acts of violence.

We have learned that applying a single treatment to such a broad range of human interactions and behaviors inhibits meaningful intervention for victims and perpetrators.<sup>[3]</sup> For example, grouping all acts of violence together, regardless of intent and context, leads us to treat a battered woman or a teenage child who reacts to abuse with violence (albeit illegally) the same as the person who dominates his partner through a pattern of fear, coercion and violence. Placing all acts of relationship violence into a single category of “misdemeanor domestic violence” or “felony domestic violence” can distort our understanding of who is doing what to whom, and who needs what level of protection from whom. For victims of battering, such misunderstandings are not benign and they can have fatal effects, as analysis of intimate partner homicide confirms.<sup>[4]</sup>

Our challenge is to make visible all that we can possibly know about the full scope of violence occurring in a relationship.<sup>[5]</sup> Interveners must be able to see the scope and severity of the offender’s violence, how often and under what circumstances it is occurring, and the pattern of the abuse: is it escalating, de-escalating, potentially lethal, or unpredictable? We were tempted to build the Blueprint around typologies of domestic violence offenders, but in the end decided that such an approach presented too many due process and safety traps. Instead, we have built differentiation into each step of the process, supported by intense attention to gathering, documenting, disseminating, and building on new information over a period of time and frequent,

**Our challenge** is to make visible all that we can possibly know about the full scope of violence occurring in a relationship.

ongoing contact with offenders and victims. This differentiation will allow us to accomplish the Minnesota Legislature’s charge to design a system that tailors interventions to the specifics of a case and accounts for the unique aspects and different levels of violence and abuse that offenders use and to which victims are subjected.

This process of differentiation is not new to the Blueprint. The Minnesota Legislature recognized the need for differentiation over a decade ago when it discouraged dual arrests even when evidence existed to arrest both parties in a domestic abuse–related case. Instead, the law encouraged officers to arrest the predominant aggressor. It also gave prosecutors the ability to respond to the ongoing nature of this crime by allowing *but not requiring* enhancements for repeat offenders. This powerful discretionary tool permits prosecutors to respond to the specifics of a case in new ways.

To respond to domestic violence without inadvertently causing further harm requires differentiating who is doing what to whom, and with what impact. The Blueprint directs practitioners to gather information that illuminates both the pattern of abuse and the specific acts being committed. Policies and protocols then propose different interventions based on the circumstances, frequency, and severity of abuse.

### 3. A patterned crime requiring continuing engagement

A domestic violence crime is rarely fully resolved with the first intervention.<sup>[6]</sup> For those offenders who have much to lose by

criminal justice intervention, a single legal action may be enough to jolt them out of thinking that violence is an effective way of dealing with their relationship. For another group of offenders who batter, the violence will not stop or decrease significantly in severity until there are repeated interventions. There is a small but volatile group with long and violent criminal histories for whom sanctions have little or no impact. If the violence is caused by mental illness, brain trauma, or similar factors, multiple and very specific interventions may be necessary.

With the clear exception of stalking, most domestic violence–related criminal interventions focus on a single event of violence. But most practitioners charged with intervening in domestic violence cases understand that these single acts of violence are usually part of a patterned use of coercion, intimidation, and the use or threat of violence—namely, battering. As such, the relationship is characterized by a “continuing” set of violent actions committed over time and in countless situations. Interventions to process **one** assault look different than interventions intended to stop the continued use of abuse and violence.<sup>[7]</sup> The Blueprint is designed to do both: to process the “event of a crime” in a manner that confronts and stops the pattern of abuse and violence.

This dual approach to intervention has important implications for an interagency approach. First, we must be prepared to link seemingly isolated incidents into a more coherent picture of behavior and complexity of risk and safety for any one victim. Second, we must all see our shared task and function as



reaching beyond the processing of that single event to stopping future abuse. Without significant change on the part of the offender, the coercion and violence is likely to continue and may escalate in severity and frequency.

The patterned nature of battering means that our contact with a victim or offender will likely continue for an extended period of time. This extended contact provides the opportunity to build relationships that reinforce safety and accountability in more lasting ways. If a victim is reluctant or refuses to participate in a prosecution and court intervention at a given point, how we treat her or him will shape the possibilities for a future partnership.<sup>[8]</sup> As an investigator explained:

*If I treat her with respect and let her know I'm concerned the first time I meet her, when it happens again she is more likely to take my call, or even call me. If I get frustrated and angry because I need her in order to get to him and I throw up my hands, saying 'fine, you want to live that way go ahead,' then I'm just one more person slapping her in the face.*

As two patrol officers noted:

*What I do and say the first time we go out on a case sets the tone for what the next officer faces. If she's hostile and in my face and I treat her with respect and let her know we are here for her and her kids when they need us, the next officer (or maybe even the one after that) will be dealing with a different person...*

*Let's just put it this way, I'm not the one getting bashed up and pushed around and treated like an animal, so I'm in a better position to extend that hand. It might take two or three of us and different calls, but eventually most women get to a point where the police aren't the enemy and then they want to work together...*

To produce a more meaningful and individualized response we must collaborate with victims in ways that acknowledge the nature of domestic violence as a patterned offense. This means:

- Wherever possible, minimize the victim's need to confront the offender.
- Protect the victim from retaliation when using information that she or he has provided.
- Treat each interaction with the victim as an opportunity to build collaboration over multiple interventions (even when a victim starts out hostile to those interventions).
- Stay mindful of the complex and often dangerous implications of a victim's collaboration with interveners.<sup>[9]</sup>
- Be aware that the fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does.<sup>[10]</sup>
- Engage in a dialogue with the victim rather than treating her or him as a data point.
- Avoid unintentionally reinforcing the abuser's actions: offer a clear alternative to messages that the victim is crazy, at fault, unbelievable, and unable to make decisions, and that the abuser is unstoppable.<sup>[11]</sup>

# The Blueprint

uses interagency policies, protocols, case processing procedures, and information sharing to (a) maximize the ability of the state to gain a measure of control over a domestic violence offender; (b) use that control to intervene quickly when there are new acts of violence, intimidation or coercion; and (c) shift the burden of holding the offender accountable for violence or abuse from the victim to the system.

## 4. Sure and swift consequences

In the criminal justice field, it is widely believed that sure and swift punishment is more important than severe punishment. Research into domestic violence shows this to be particularly true in confronting this crime. Evidence suggests that building sure and swift consequences into the infrastructure of case processing can reduce recidivism in some cases and the severity of ongoing abuse in others.<sup>[12]</sup> The national data is encouraging, although day-to-day work in the criminal justice system can leave many practitioners frustrated and skeptical that the changes made over the past several decades have not reduced violence.

Batterers tend to push against any boundary set for them.<sup>[13]</sup> The clearer we are about what behavior is and is not acceptable, the more likely the abuser is to live within those boundaries. Each policy and administrative protocol

in the Blueprint, from the initial police contact through case closure, is designed with the goal of sure and swift consequences in mind, but also with recognition that sometimes intervention goals can conflict. For example, if a probationer is arrested for assaulting his former partner, that new case may take months to resolve. The decision to pursue an immediate probation violation for committing a new offense is weighed against the possibil-

ity that the violation hearing might pose problems for the new case, which carries a more substantial and enhanced penalty. A prosecutor might prefer to wait for the new conviction to avoid such complications. However, waiting might result in the defendant having free license to harass the victim, particularly if the defendant is aware that all new cases will be rolled together and treated as one in the end. One course of action—pursuing the probation violation—reinforces swift consequences. The other course of action—pursuing an enhanced gross misdemeanor—may reinforce more substantial consequences. The Blueprint policies and protocols address these dilemmas, sometimes with a mandate requiring practitioners to take certain actions, sometimes with a set of guiding principles or procedures, and sometimes with a training memo suggesting how to weigh the different outcomes.

The Blueprint uses interagency policies, protocols, case processing procedures, and information sharing to (a) maximize the ability of the state to gain a measure of control over a domestic violence offender; (b) use that control to intervene quickly when there are new acts of violence, intimidation or coercion; and (c) shift the burden of holding the offender accountable for violence or abuse from the *victim* to the *system*.

## 5. Messages of help and accountability

The single greatest obstacle to the criminal justice system's effective intervention in battering cases is the degree of psychological and physical control the abuser has over the victim.<sup>[14]</sup> Batterers rely on the power they have over the victim to shield them from legal interventions. Therefore, the ability to work with a victim of battering hinges on her/his belief that (a) our intervention will counteract that power, (b) we understand the reality of living with battering, (c) we have a collaborative approach to working with her or him, and (d) we are here to help, however long it takes.

The State, and by extension the practitioners who represent it, has a powerful influence over people. The messages given to victims, offenders, and children at each point of intervention can have a deterrent effect or, alternatively, can fail to deter and therefore act as an opening for more violence.<sup>[15]</sup>

Consider two linchpin characteristics of battering cases involving heterosexual men.<sup>[16]</sup> First is the batterer's sense of entitlement to his actions. His partner is the target of his violence not so much because of *what she did as who she is*. Research has shown that a cognitive behavioral approach that challenges the abuser's belief systems about his rights and entitlements in intimate relationships is more effective than any other rehabilitation approach.<sup>[17]</sup> That approach can begin with the dispatcher and responding officer. If every intervening practitioner is coherently and consistently "on-message" the path to a rehabilitation program

will be well-worn before a batterer enters his first group. This cannot happen when each practitioner offers his or her distinct and often competing message about what lies at the root of the problem and what will fix it.

Effective interventions with an offender who is a batterer are respectful, but also clear and consistent that there will be a consequence every time the offender violates a sanction or requirement. This consequence will be sure and swift and it will be linked to what the person chose to do. For a man who batters a female partner, a previously absent message will now suddenly be very clear: he will be held accountable for the harm he has caused. Offenders need to know that the system is coordinated, the players speak to each other, and they cannot successfully play one off against the other. Most importantly, batterers have to see that the violence, coercion, and intimidation are the focus of the state's intervention, and not the victim's behavior. In this specific respect, there is no neutrality available to police officers, prosecutors, or judges; every message either challenges an abuser's sense of entitlement or reinforces it.

The second linchpin characteristic of battering is the batterer's domination of the victim—not only physically, but often economically, socially, emotionally, psychologically, and legally.<sup>[18]</sup> The practitioner who talks to the victim in terms of, "Look what happened: he hit you once, he'll hit you again," misses the complex nature of batterers' domination of their victims and the far-reaching implications of that domination on the lives of women and their children. The abuser's messages to his partner

are often linked to her cultural, economic, religious, or spiritual identity<sup>[19]</sup> “No one will believe you...no one will help you... they all know you’re crazy...you’re disgracing the clan (or family)...they’ll take your kids...a good (Native, African American, Christian, Hmong, Jewish) woman doesn’t shame her husband this way...what about the things you’ve done: your drinking, your visits to the shrink?...everyone knows you’re bipolar...I’m a (cop, minister, lawyer, doctor, hero in this town, stable businessman), who would believe you over me?...think of the family... the children need a father, you’re taking that away.”

Our messages to a victim need to be cognizant of the relentlessly destructive messages she has been told and on some level has come to believe. As interveners, every action we take and every statement we make can and should be aimed at an efficient, consistent, coherent, clear message that strips the abuser of his most powerful weapon: his message that “*they* can’t and won’t help you.”<sup>[20]</sup>

Two caveats require attention here. First, not all cases of domestic violence involve heterosexual men *battering* women. Some involve gay men battering their partners. People with significant mental health problems may assault partners outside of the context of battering. Similarly, a small percentage of drug addicted domestic violence offenders do stop abusing their partners when they stop using drugs. Victims of battering who fight back illegally do not fit the profile we have described above. There are also women who batter their partners—primarily in lesbian relationships, but sometimes, though rarely, in heterosexual re-

lationships. While cases involving battering by men are the vast majority processed in the criminal justice system, when practitioners encounter cases that do not involve men battering women, they need to adjust their interventions accordingly.

The second caveat is a reminder that in the courtroom the offender is presumed innocent until proven guilty. Practitioners relay messages at every point of contact with the offender and victim. Most of those points of contact are pre-conviction. Practitioners must walk a fine line between presuming guilt and being helpful and clear with suspects and victims.

Practitioners have the opportunity to counteract the messages associated with a batterer’s defense for the violence.<sup>[21]</sup> A batterer (i.e., someone who engages in a continuous pattern of violence and abuse) has basically seven defenses, each with a supporting message. Those messages are (a) I didn’t do it; someone else did, (b) the victim is lying, (c) it was an accident, (d) it was self-defense, (e) it can’t be proved, (f) yes, I did it, but you’d do it too in my situation; have you met her? or (g) I did it, but the police messed up; they can’t convict. Batterers do not even need to present these defenses when they can rely on their victims to be unavailable to counter or challenge the defenses. Most abusers discourage victims’ participation and reinforce the message that interveners cannot or will not help. Sometimes they do this in blatantly illegal ways; other times they rely on their power over the victim to protect them. Our pressure on a victim to cooperate and the protection we can offer is matched and often

overpowered by the pressures a batterer can apply and the consequences he or she can impose for that cooperation.

The Blueprint is imbedded with a set of messages that, if coordinated across practitioners and intervening agencies, can contribute to lower recidivism, increased engagement with victims, and less resistance from abusers to the state's role in confronting the abuse. The Blueprint extends messages of help: to protect victims and to provide offenders with opportunities for change. It also extends messages of accountability: individual accountability for the harm caused by battering; interagency accountability in building and sustaining an effective collective response; and intervention's accountability to ensuring protection for victims and fair, respectful treatment of offenders.

## 6. Reducing unintended consequences of interventions and the disparity of impact

We do not all experience the world in the same way. People's social realities are constructed by differences in class, age, race and ethnicity, immigration status, sexual orientation, history, privilege, and many other aspects of culture and identity. As a result, we do not all experience battering in the same way, or the actions of interveners, or the impact of policies.<sup>[22]</sup> An effective domestic violence intervention accounts for the realities of peoples' unique circumstances and social standing. For example, our intervention strategies must address the relationship between violence and poverty, homelessness, gender, and race. Our interagency approach must reduce rather than emphasize the disparity between groups of people with different social realities. Reducing dispar-

ity requires us to find ways to sustain compassion for the people we encounter. Working in and around the criminal legal system in general—and responding to domestic violence in particular—is stressful, demanding work. We are constantly dealing with aspects of peoples' lives that are harmful, chaotic, and cruel. It is far too easy for a corrosive cynicism to set in that dismisses those before us as unworthy of help and attention, and diminishes the kind of problem-solving that fosters safety and accountability on both an individual and a systemic level.

Almost every practitioner in the system can cite a case where everyone did his or her job and every policy was followed, but the outcome of the case was neither just nor protective of the victim. In these familiar cases, the poor outcome is as much due to failures in our intervention strategies as it is about specific abusers. Effective intervention cannot be a blanket, one-dimensional response. Truly implementing the concept of equal treatment under the law requires thoughtful legal interventions that produce just outcomes. Under what circumstances should we adjust for the impact of policy and practice on peoples' different social realities? Whenever possible, the Blueprint introduces ways in which practitioners can reduce the level of disparity produced by their interventions.

## Conclusion

The Blueprint incorporated input from hundreds of experts, beginning with dozens of victims of abuse who attended focus groups and pinpointed specific ways that interventions could better promote their safety. These experts also included 911 call

takers and dispatchers, Sheriff's Department warrant officers and jail staff, police officers, prosecutors, probation agents, and judges. Community-based advocates and advocates located in the County Attorney's office weighed in on the design. We consulted with a national team of researchers and deliberated nearly every line of the blueprint with supervisors from each participating agency. The level of collaboration in the process demonstrates why Minnesota has long been considered a leader in the national movement to end the most common form of violence in our society.

The Minnesota Coalition for Battered Women began tracking domestic violence–related homicides in 1989. They report this grim tally: at least 454 women have been murdered by a suspected, alleged, or convicted perpetrator who was a current or former husband, boyfriend, intimate partner, or household or family member.<sup>[23]</sup> They have been shot, stabbed, strangled, and beaten to death, often with great brutality and often in the presence of or during an attack against their children as well. Unreported are the countless “near homicides”—non-fatal thanks to prompt medical attention—and the even greater number of people who endure ongoing and daily coercion, intimidation, and violence with devastating impact.

In the past thirty years we have come a long way to building working relationships, alliances, and collaboration among advocates, police, prosecutors, probation agents, and other interveners, both with one another and with victims. These relationships have produced a far more intentional and effective approach to

community intervention in what was once considered a private crime. This effort has significantly reduced intimate partner homicides overall and introduced options for victims of domestic violence that were unheard of in our parents' and grandparents' time. It has meant that women, who are most often the victims of domestic violence, live for far shorter periods of time in an abusive relationship, as do their children.

We have learned that each encounter between someone living with this violence and a practitioner in the “system” is an opportunity to interrupt the actions and patterns that sustain battering. The Blueprint organizes us to present a cohesive set of messages to victims and perpetrators. To adult victims: (a) we're here to help when you're ready for that help; (b) the violence is not your fault and you are not responsible for the perpetrator's actions; and (c) I'm concerned for your safety—by working together we have the best chance of stopping the violence. To children: (a) you haven't done anything wrong—it's not your fault; (b) we want everyone to be okay (safe) and we're here to help you and your family; and (c) we won't hurt your father or mother. To perpetrators: (a) the violence must stop—there is help for you to do that and there will be consequences if you don't; (b) this arrest (or prosecution or probation) is a result of your actions and not the actions of others; and (c) this is an opportunity for you to change, to reject the violence and repair the harm you have caused, and we can help you do that. In its structure and content, the Blueprint prepares agencies and practitioners across the criminal legal system to carry these messages with one voice.

## Underlying Assumptions in the Blueprint for Safety

In our grandparents' generation women had few options for finding safety from battering. There were no organized shelters or religious or community support systems challenging the abuser (although informal confrontations occurred in many communities). Police were expected to calm the situation down and leave. All but the most serious assaults were screened out of the system and the few arrests that occurred were rarely prosecuted. That all changed with the opening of the first shelter for battered women in 1974 and the first interagency intervention project in 1980. The last thirty-five years have seen enormous changes in the state's response to intimate partner violence. For the first time in history, the state's obligation to protect its citizens was applied to "wives."<sup>\*</sup>

In any society, widespread use of violence, aggression, and coercion in families is a cultural phenomenon. Such violence is rooted in unjust social structures which the criminal justice system alone cannot unravel. The criminal justice system plays two important roles in reducing violence in families, however, by (1) enforcing laws which criminalize a once accepted cultural practice (similar to the legal system's impact on drinking and driving, child labor, sexual harassment in the workplace, and exposure to secondhand smoke); and by (2) stopping individual abusers from doing more harm. It is one of many institutions that convey social norms and reign in unacceptable behavior. It strives to accomplish this in domestic violence by responding with sure and swift consequences to those whose battering makes the home a place of fear rather than a place of refuge.

For almost three decades advocates have raised the voice of concern that too little is being done to stop the violence. Researchers have sent mixed messages about what works and what does not work. Organized opposition to reform has grown. As one criminal court judge shared with a colleague:

*I've always thought that in domestic violence cases I could be the only person in the courtroom—no defendant, no victim, no attorneys; not a clerk or deputy in sight, not a motion to rule on or decision to make—and still I'd be absolutely sure I was doing something wrong.*

The judge's frustrations are shared by many in the criminal justice system. Intimate partner violence is a complex type of crime. The offender's control over the victim can make effective intervention incredibly difficult and time-consuming in a resource-starved institution. The good news is that our overall strategy of using the legal system to stop the violence has made a difference, particularly in homicide rates. Spousal homicides overall dropped by 46% between 1976 and 2004.<sup>[1]</sup> The number of black males killed by their partners dropped an astounding 82%, black females by 56%, and white males by 55%. Between 1976 and 1992 there was also a 48% drop in severe violence.<sup>[24]</sup> Battered women and their children face a very different reality today than did our grandmothers.

Yet few in the "system" are comforted by these statistics when police calls and courtroom calendars are still overflowing with domestic violence-related cases. The Blueprint proposes the next level of change. It rests on years of experience in interagency

<sup>\*</sup>We use the word "wives" here as did Del Martin in her 1979 classic, *Battered Wives*, to speak of women in a marriage-type relationship with men.

coordination; research on arrests, sentencing, and treatment of batterers; statistical trends; and a year-long process of inter-agency negotiation in Saint Paul. The policies and protocols are designed to guide every practitioner to do everything possible each time a person reaches out to this mammoth institution for help. Each assumption underlying the Blueprint is supported by research. The Blueprint is an attempt to integrate what we have collectively come to understand as best practices in the criminal justice system response to domestic violence. Those assumptions include:

- When work is coordinated across agencies and within agencies, the overall capacity to protect is increased.
- The action of one practitioner is strengthened by the cumulative effect of coordinated actions across the criminal justice system.
- When the system is organized to treat a case as part of an ongoing pattern of criminal activity rather than a singular event, outcomes improve.
- Interagency coordination is strengthened when information is organized around common risk markers that are uniformly collected and shared.
- Sending clear and consistent messages of offender accountability and victim safety can reduce the violence.
- Not all domestic violence is the same; interventions differ when coercion, intimidation, and control create the context for violent acts.
- Whenever possible we must shift the burden of confrontation from the victim to the intervening practitioner.

- Danger and repeat violence from the perpetrator can be anticipated when certain actions and behaviors are visible.
- It is important for every act of aggression by the offender to be met with sure and swift consequences.
- Intervention policies and protocols should be adapted to diminish unintended consequences that adversely affect marginalized populations.

It is said that justice demands three things that: (1) the truth be told, (2) the harm be repaired to whatever extent humanly possible, and (3) the conditions that gave rise to the injustice be changed. The Blueprint envisions and builds a path to all three for those subjected to violence, aggression, and coercion in their intimate relationships and families.

## When a batterer

combines threats or force (coercion) with control, such as “micro-regulating” and “micro-surveillance,” the result is entrapment.

– E. Stark (2007)



## Practitioners' Guide to Risk and Danger in Domestic Violence Cases

This is an abbreviated list of factors related to risk and danger in domestic violence. Most of the research is based on violence toward women, which reflects the majority of cases coming into the criminal justice system and the majority of research. These indicators suggest one of the following likely outcomes without effective intervention: the violence will (1) probably continue, (2) escalate, and/or (3) become lethal.

### Using this risk guide

- Each *Blueprint* protocol includes specific instructions for documenting and responding to risk. Practitioners should also read the related training memo and participate in the Blueprint training on risk and danger.
- Elicit and document the risk factors contained in this guide. Whenever possible, talk with the victim; engage in a discussion about danger rather than just asking if these things have happened. Victim perceptions and interpretations are important.
- Communicate risk factors to other intervening practitioners in a timely manner.
- Be attentive to the factors in a given case; use experience, common sense, and training to make judgements about the level of danger that both the offender and the set of circumstances pose.
- Adjust the response to each case based on the level of risk and dangerousness.
- Protect the victim from retaliation when soliciting or using safety and risk information.
- Link victims with risk factors to an advocate.
- Stay alert; the level and type of risk will likely change over time and as circumstances change. Determining and managing risk is an ongoing process.
- A victim's attempt to terminate the relationship is a major change that poses increased risk.
- Victims' perceptions of high danger are typically accurate; their perceptions of low danger are often not.

### Acts or threats of violence associated with risk & lethality:

Factors listed in italics are particularly associated with lethal violence.

- *Stalking*
- *Strangulation; attempts to "choke"*
- *Threats to kill the victim*
- *Threats to kill that the victim believes or fears*
- *Threats to kill that are conveyed to others*
- *Threats of suicide*
- *Forced sex or pressuring for sex even when separated*
- *Serious injury to the victim*
- *Carries, has access to, uses, or threatens with a weapon*
- *Violence outside of the home*
- Aggression toward interveners
- Threats to family, coworkers, victim's new partner
- Animal abuse or killing pets
- Damages victim's property
- Violent during pregnancy or shortly after birth
- Hostage-taking; restraint
- Acts exhibiting extreme hostility toward the victim

### Coercion

**Violence with a pattern of coercion is a serious marker of high risk violence.** Coercion may be displayed as control of children, finances, or activities; sexual aggression; intimidation; hurting pets; or isolating the victim from support systems.

### Risk is higher when the violence is accompanied by:

- An increase in frequency, severity, or type of violence over recent months
- Almost daily impairment by alcohol or drugs
- The victim attempting a permanent break
- Estrangements, separations, and reunions
- Failure of prior interventions to affect the offender
- A victim who expresses fear of threats to kill
- A victim making no attempt to leave despite severe abuse
- Prior arrests, police calls, and/or protection order(s)
- Isolation of victim (physical or social)
- A victim seeking outside help in the past year
- A victim has a child who is not the offender's
- An abuser leaves before police arrive; eludes warrants
- An abuser's:
  - o Lack of remorse
  - o Mental health issues
  - o Financial difficulty; unstable housing
  - o Generalized aggression or violent acts
  - o Ongoing efforts to take children from their mother
  - o History of violence in multiple relationships
  - o First act of violence is life-threatening or brutal
  - o Obsessive control of victim's daily activities
  - o Obsessive jealousy
  - o Significant and harmful use of a child
  - o Drawing others into the abuse (e.g., children, family, friends)
  - o Non-compliance with probation or pretrial release conditions

### Homicide-Suicide accounts for 27-32% of the lethal domestic violence incidents.

*Predominant risk markers: guns, patterns of estrangement and reunion and offender's poor mental health. Additional markers:*

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Obsession or jealousy</li> <li>• Alcohol impairment (23 to 38% of perpetrators)</li> <li>• History of domestic violence</li> </ul> | <ul style="list-style-type: none"> <li>• Suicide attempts or threats</li> <li>• Personality disorder</li> <li>• Depression of offender (46%)</li> </ul> |
|---|---|

### Women who kill male partners

*Predominant risk markers: severe, increasingly frequent, and recent violence by male partner against the defendant; a defendant who is isolated and has fewer social resources.*

*Additional markers:*

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• Access or prior use of weapons</li> <li>• More than 10 violent incidents in the last year at the hands of the person killed</li> <li>• Prior police intervention in one or more domestic violence calls in past year</li> </ul> | <ul style="list-style-type: none"> <li>• Prior strangulation by person killed</li> <li>• Traditional relationship (married, children, lengthy relationship)</li> <li>• Trapped and isolated in violent relationship</li> <li>• Defendant sought help</li> </ul> |
|--|---|

**J.C. Campbell**, D. Webster, et al., "Assessing Risk Factors for Intimate Partner Homicide," NIJ Journal No. 250 (2003): 15-19. <http://www.ncjrs.gov/pdffiles1/jr000250e.pdf>

**P.R. Kropp**, Intimate Partner Violence Risk Assessment and Management, Violence and Victims 23(2), (2008): 202-220.

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NIJ at <http://www.ncjrs.gov/pdffiles1/nij/grants/209731.pdf>

**N. Websdale**, "Lethality Assessment Tools: A Critical Analysis," (2000). VAWnet at [http://new.vawnet.org/category/Main\\_Doc.php?docid=387](http://new.vawnet.org/category/Main_Doc.php?docid=387)

## Reading the Blueprint

The Blueprint envisions a system in which each practitioner is tuned in to what others can and will likely do when intervening in domestic violence cases. It encourages practitioners to act as a collection of agencies organized around common goals and philosophies. We therefore recommend one reading of the Blueprint from start to finish, rather than going only to the section that is specific to your agency or role.

The Blueprint is organized around a common framework, “Foundations of Effective Intervention,” articulated in Chapter 1, and policies and protocols for each key point of intervention, from 911 to probation and the bench (Chapters 2 through 7 and guidelines for the bench in Chapter 8). Chapter 9 includes the endnote references to research, academic literature, and intervention models cited throughout the Blueprint, along with additional commentary.

The chapters addressing the areas of criminal justice system intervention have a similar structure: a framework statement that provides an overview of key aspects of the specific agency and practitioner roles in responding to domestic violence cases, followed by one or more policies and related protocols. Readers will find some repetition in content as the protocols further articulate and define the broad policy language.

The appendices and training memos referenced throughout the Blueprint are included in a supplement that is available to download via any of the following web sites, along with the Blueprint itself.

- Saint Paul Domestic Abuse Intervention Project: [www.stpaulblueprintsip.org](http://www.stpaulblueprintsip.org)
- Saint Paul Police Department: [www.stpaul.gov/police](http://www.stpaul.gov/police)
- Praxis International: [www.praxisinternational.org](http://www.praxisinternational.org)

SPIP has produced a companion piece, *The Distinct and Vital Role of a Legal and System Advocate*, available via its web site, that we recommend reading in order to understand how to work with independent advocacy programs in an interagency approach to intervention.

## A victim’s decision

to use the criminal justice system in the future was connected to financial dependence on the perpetrator, safety from abuse during prior interventions, and support from practitioners.

– R.E. Fleury-Steiner, et al. (2006)



Chapter 2

# Ramsey County Emergency Communications Center

# POLICY

## RAMSEY COUNTY EMERGENCY COMMUNICATIONS CENTER RESPONSE TO DOMESTIC VIOLENCE-RELATED CALLS

### Framework: Building a Safety-Oriented Response

When telecommunicators are organized, trained, and prepared to determine who is in danger and how, there are multiple opportunities to deliver a safety-oriented response to domestic abuse calls. Accurately recognizing and communicating the risk that one party poses to another can enhance the immediate safety of responding officers and everyone at the scene, as well as the extent to which subsequent interveners can address ongoing safety. An effective response requires solid coordination and communication between call takers, dispatchers, and patrol officers.

Domestic violence occurs along a continuum of severity and urgency.<sup>[1]</sup> A call may signal a high level of immediate danger to the victim, responding officers, and others at the scene. It may involve physical or sexual violence, as well as abduction of an adult or child. The offender may be violating a protection order, destroying property, or stalking, intimidating, threatening to kill, hitting, beating, strangling, stabbing, or shooting a victim. The victim may be resisting or forestalling an assault. There may be quickly escalating physical violence or threats with a gun or other weapon. Or the caller may be reporting an event with little urgency, where no one has been hurt or is in immediate danger. When a suspect has left the scene (often referred to as “gone on arrival” or GOA) calls can shift quickly from a lower to a highly urgent priority if the suspect suddenly reap-

pears. Based on national studies, 42-66% of suspects are gone on arrival. These suspects are more likely to have criminal histories and twice as likely to re-abuse.<sup>[2]</sup>

Callers are often injured, frightened, or in danger of imminent attack.<sup>[3]</sup> They seek reassurance that a squad has been informed and need to know how long it will take for help to arrive. They may not be free to speak openly about what is happening and who is involved. Difficulties in communication produced by fear, injury, strangulation, and stress may be further complicated by language differences, hearing or speaking disabilities, cognitive disabilities, or intoxication. Sometimes the caller offers a detailed description of the immediate threat which can be confirmed with a few clarifying questions. At other times the call taker must determine the nature of the emergency within the constraints of the caller’s freedom to safely and openly relay information. The circumstances under which a victim of domestic violence calls 911 for help requires call takers to communicate effectively and respectfully in order to obtain accurate and thorough information.

As call takers obtain details about the nature of the emergency, they must stay alert to and ask whether it is safe for the caller to remain on the line and whether a caller can safely answer open-ended questions. If the caller does not want the suspect to know that 911 has been called, the call taker may have to ask brief yes-or-no questions. Hang-up calls and calls where no one appears to be on the line require that the call taker pay close attention to

background sounds and conversations in order to inform dispatch about what is occurring and who is involved. It is not unusual in a domestic abuse call for the apparent suspect to get on the line—indeed, sometimes getting the suspect on the line can make a victim safer.<sup>[4]</sup> Call takers must be prepared to respond to such complex situations in ways that diminish danger and advance safety for all involved.

Under the Blueprint policies and protocols, responding officers need far more detail about the call than previously expected. As always, they need the correct location, how to safely enter the premises, and the presence and use of weapons. But now officers need specifics provided by the caller on the violence and threats being used, injuries, and the suspect’s history of aggression toward police. They need up-to-date information about changing conditions at the scene. In GOA calls, details about the suspect’s identity, physical description, and direction and mode of travel increase officers’ ability to locate the suspect. Information about existing orders for protection, harassment orders, domestic abuse no-contact orders, warrants, criminal history, and prior calls to the address and parties involved can assist call takers, dispatchers, and officers to establish the nature of the emergency and the type and level of danger presented.

Domestic abuse calls often involve highly volatile situations. A caller who has been attacked or threatened may be frightened or injured and grow increasingly agitated as time passes. The five, ten, or fifteen minutes it takes for an officer to reach the

scene can seem like ten times that long to someone who is urgently in need of help. In these situations, a call taker can offer reassuring messages and explain that help is coming as quickly as possible. Calming techniques can reduce the caller's distress, thereby increasing the clarity and accuracy of the information that she or he offers.

The Blueprint is designed to ensure that information related to the nature of emergency that call takers and dispatchers gather and document reaches subsequent interveners who are seeking to hold domestic violence offenders accountable. Prosecutors and those writing presentence investigation reports, for example, count on high quality, readily accessible recordings and CAD transmissions that document specific details of the nature of the threats, harm, and violence involved in the call. Attempting to determine whether there is an actual domestic relationship involved helps to reduce the hundreds of cases officers respond to that are coded as a “domestic,” but are not. Reducing over-coding helps focus officers' sense of urgency on domestic calls and provides a more accurate picture of the volume and scope of reported incidents.

Because domestic violence is a patterned crime, usually occurring over a long period of time, a single call is rarely the extent of the 911 center's involvement with a victim and offender. Many victims make repeated calls to 911 in the face of ongoing intimidation, threats, and violence. Neighbors or family members may call seeking help for a victim, although many victims may be wary of and even

hostile to this kind of “third party” call.<sup>[5]</sup> Victims' attempts to leave the abusive relationship are often met with aggressive resistance and almost half (45%) of lethal domestic violence attacks are precipitated by the victim leaving.<sup>[6]</sup> Victims often cannot speak freely or openly about what is happening to them without facing retaliation and heightened abuse. It can take years to truly disrupt an offender's abusive behavior. The response to each call must therefore establish a foundation for continuing engagement if it is to reflect the ongoing nature of the crime and contribute to the long-term safety of victims, their children, and responding officers. Victims must know that they can use 911 to request help whenever they need it, whether it is the first or fifth or fifteenth call.

### Policy: Receiving 911 Domestic Abuse Calls

In addition to adhering to general agency policy, Emergency Communications Center (ECC) call takers will take the following actions in receiving and responding to domestic abuse–related calls, using the protocols, appendices, and training memos referenced and included as part of this policy.

1. Implement the provisions of this policy in accordance with *Protocol 1: Receiving 911 Domestic Abuse Calls*.
2. Treat each domestic abuse call as Priority 2 if any of the following circumstances exist, including calls if the suspect has left the scene:
  - a. A weapon is involved.

- b. A physical assault is occurring or has just occurred.
  - c. It appears that violence is imminent; or the caller is afraid or the argument is escalating.
  - d. The suspect has made severe threats, such as threatened to kill the victim, take or harm children, harm or kill pets, burn down the house, or commit suicide.
  - e. The suspect has left the scene and the caller or victim fears his or her imminent return.
3. Code calls as Priority 3 if any of the following circumstances exist:
- a. The suspect is gone and unlikely to return soon and the caller or victim does not fear his or her return.
  - b. There is a reported violation of a no-contact order, order for protection, or harassment restraining order with no threat of harm and the suspect is not at the scene or likely to return soon.
  - c. There is a verbal argument between parties with no known history of violence or no threat of harm.
  - d. A third party reports shouting or a loud argument with no further information.  
NOTE: Go to Priority 2 if it is determined that there is a history of violence at that address or between the parties.
  - e. When in doubt, code the call as Priority 2.

4. Communicate effectively, respectfully, and safely with callers.
5. Determine the nature of the emergency and the response priority.
6. Direct responding officers to the location and parties at the scene.
7. Establish the type and level of danger.
8. Advance safety for those at the scene while help is en route.
9. Communicate and document information related to the nature of the emergency; violence, threats, and injuries; and the safety of responding officers and those at the scene.
10. Establish a foundation for continuous engagement with members of the public seeking help in domestic abuse cases.

### Protocols, appendices, and training memos

The following protocols are attached to and included as part of the 911 domestic abuse response policy:

- › 1. *Receiving 911 Domestic Abuse Calls*
- › 2. *Dispatching 911 Domestic Abuse Calls*
- › 3. *Data Channel Response in 911 Domestic Abuse Calls*
- › 4. *Supervising the 911 Response to Domestic Abuse Calls*

The following appendices are included as part of the 911 response policies:

- 911 Protocol 1 – Card 1: Establish immediate safety needs: CALLER SAFETY UNKNOWN
- 911 Protocol 1 – Card 2: UNSAFE FOR CALLER TO SPEAK FREELY OR STAY ON THE LINE

- 911 Protocol 1 – Card 3: Establish level of danger and safety needs – CALLER SAFE
- 911 Protocol 2 – Card 1: Safety-Oriented Dispatching
- 911 Protocol 4 – Call Review Checklist

The following training memos are included as part of the 911 response policy:

- › *Accurate Coding of 911 Domestic Abuse–Related Calls*
- › *911 Attention to Violence*
- › *Recognizing Signs of Strangulation*
- › *Suspect on the Line*
- › *Interrupted and Open-Line Calls*
- › *Supervising the 911 Response to Domestic Abuse–Related Calls*

See the Blueprint Supplement for appendices and training memos referenced in the policy and protocols.

## POLICY: RECEIVING 911 DOMESTIC ABUSE CALLS

### 911 Protocol 1: Receiving Calls

This protocol is not meant to instruct call takers in a set of strict sequential steps. It acknowledges that receiving 911 domestic abuse calls involves simultaneously obtaining and relaying information while maximizing safety for victims and responding officers. These functions often occur within a short period of intense activity. A safe response to domestic abuse calls requires considerable judgment

on the part of call takers and an understanding of complex factors affecting communication and safety.

**Communicate effectively:** communicate in ways that (1) get help quickly and safely to the scene; (2) help the caller convey what is happening; and (3) establish an initial relationship with a member of the public who is turning to the police and other governmental agencies for help.

1. Use Protocol 1 – Cards 1 through 3 to guide the call.
  - a. When callers are unable to communicate clearly:
    - Slow down, simplify language, and adjust the response when the caller appears to have difficulty because of fear, injury, disability,



intoxication, or other barriers to communication.

- Provide language interpretation and TTY/TDD calls.
  - Be alert to the impact of strangulation or other injuries on a caller's ability to communicate.
- b. Elicit information safely.**
- Verify that it is safe for the caller to stay on the line.
  - Verify that it is safe for the caller to speak freely.
  - Utilize strategies that promote safety when it has not been confirmed that the caller can speak freely.
- c. Inform caller when patrol has been notified and tell the caller that a squad has been dispatched.** In emergency situations where the victim is afraid or anxious, check with the squad to see if the officer is en route and relay that information to the caller.
- d. Respond safely to calls that are disconnected or otherwise interrupted.**
- e. Reflect awareness of cultural and social factors in communication.**
- f. Establish rapport with and communicate core messages to callers.**

- Reinforce that 911 is available when a caller needs it, regardless of how many times they have called.
- Avoid blaming or criticizing the caller.
- Respond to callers with courtesy, respect, and reassurance, even when they are difficult to work with.

**2. Determine the nature of the emergency and the response priority, per policy.**

- a. When in doubt, code the call as Priority 2.**
- b. Establish the immediate threat of harm to persons at the scene, responding officers, and others.**
- c. Determine the nature of any injuries and the need for immediate medical attention.**
- d. Establish whether children are safe, harmed, abducted, or being drawn into the events in any way.**
- e. Assign an accurate type code.**
- Primary codes in domestic abuse–related calls are DOM and VOP.
  - DOM: there is a domestic relationship between the victim and suspect involving an argument or dispute that may or may not include physical violence.
  - VOP: there is a violation of an order for protection (OFP), harassment restraining order (HRO) or domestic abuse no-contact Order (DANCO).

- An officer dispatched to a call coded DOM who finds that there is no domestic relationship between the parties should notify the dispatcher to recode the call.
  - Do not recode a call simply because it does not involve an allegation of physical assault. Re-code the call as non-domestic only if it has been established that there is no domestic relationship between the parties.
  - An officer dispatched to a call coded as non-domestic should notify the dispatcher to recode the call as a domestic when that relationship has been established and there is any allegation of abuse, whether or not an arrest is made.
- f. When it is safe for the caller to stay on the line, keep the caller on the line until an officer is on the scene and has made contact with the caller, victim, or witness.**
- Apply in calls reporting or suggesting high danger, volatility, or escalation, including but not limited to calls involving weapons, where the caller is afraid, where an assault or another crime is in progress, or where someone has been seriously injured.
  - Apply in calls where the suspect is at the scene and the threat is ongoing.
  - Apply in non-urgent calls reporting a low level of immediate threat and danger, as call volume permits.
  - Apply when the caller is a child and there is an ongoing situation.

- g. Do not force the caller to stay on the line if she or he says it is not safe.
  - h. Use Protocol 1 – Card 2 to guide the response to the following calls:
    - Suspect on the line
    - Hang-up or other interrupted call
    - Open-line call
3. Direct responding officers to the correct address and location and to the appropriate people at the scene.
    - a. Use Protocol 1 – Cards 1 through 3 to guide the call.
    - b. Establish the correct address and physical location of the event.
    - c. Utilize information available via the ANI/ALI screen and GPS sources as necessary and appropriate.
    - d. Establish the means of entry to the premises.
    - e. In third-party calls, determine whether the caller can let officers into the building.
    - f. Establish the identities, descriptions, and locations of those involved at the scene.
    - g. Establish and communicate the caller's location to dispatch.
  4. Establish the type and level of danger to the caller, responding officers, and others at the scene.
    - a. Use Protocol 1 – Cards 1 through 3 to guide the call.
    - b. Establish as clear a picture as possible of the type of violence and actions of aggression or harm involved and the immediate danger.
      - **Enter specific details** in the CAD about the type of violence, actions of aggression, injuries, and harm being reported.
      - Include an **exact report of what the caller saw or heard** in order to assist officers in determining the means of entry, asking questions at the scene, and establishing probable cause.
      - Elicit pertinent information about the suspect's history of aggression.
      - Determine the risk to persons at the scene.
      - Determine the risk to responding officers.
      - Determine the presence and use of weapons and the suspect's history of aggression toward police.
      - Continue to stay alert to and confirm whether it is safe for the caller to stay on the line and respond to the call taker's questions.
  5. Advance safety for those at the scene while help is en route.
    - a. Use Protocol 1 – Cards 1 through 3 to guide the call.
  6. Communicate and document information related to the nature of the emergency; violence, threats, and injuries; and the safety of responding officers and those at the scene.
    - a. Use Protocol 1 – Cards 1 through 3 to guide the call.
    - b. Relay accurate information to dispatch and responding officers.
    - c. Enter specific details about the violence, threats, and injuries involved into the CAD report.
- b. Communicate safely and effectively with the caller.
  - c. Provide safety suggestions or instructions to the caller.
  - d. Provide medical instructions to the caller as necessary.
  - e. Stay alert to and respond safely to a suspect on the line. When helpful to reinforcing safety, engage with a suspect on the line to control escalation while officers are en route.
  - f. Notify the 911 supervisor when one of the parties involved is a police officer, public safety officer, 911 employee, public official, or a prominent member of the public.

- d. Access and relay records, including orders for protection, domestic abuse no-contact orders, and, upon the officer's request, suspect's probation or parole status.
  - e. Provide updated information about the call and conditions at the scene to dispatch.
  - f. Respond to requests for information from dispatch and officers en route or at the scene.
7. Establish a foundation for continuing engagement with members of the public seeking help in domestic abuse cases.
- a. Use Protocol 1 – Cards 1 through 3 to guide the call.
  - b. Avoid placing the victim in a position of confrontation with the suspect.
  - c. Protect the victim from retaliation when communicating with the suspect or the victim.
  - d. Treat each interaction with the victim as an opportunity to build collaboration over multiple contacts.
  - e. Know the signs that violence may be resuming or escalating.
  - f. Respond to callers' requests for information about community resources related to domestic violence.

### Appendices to 911 Protocol 1: Receiving Calls

- 911 Protocol 1 – Card 1: Establish immediate safety needs: CALLER SAFETY UNKNOWN
- 911 Protocol 1 – Card 2: UNSAFE FOR CALLER TO SPEAK FREELY OR STAY ON THE LINE
- 911 Protocol 1 – Card 3: Establish level of danger and safety needs – CALLER SAFE

## Victims made more 911 calls

if the perpetrator used a weapon, the victim experienced sexual abuse, or the physical violence was severe.

– Bonomi, et al. (2006)

# POLICY

## DISPATCHING 911 DOMESTIC ABUSE CALLS

In addition to adhering to general agency policy, ECC dispatchers will take the following actions in dispatching and responding to domestic abuse–related calls, using the protocols and training memos referenced and included as part of this policy.

1. Implement the provisions of this policy in accordance with *Protocol 2: Dispatching 911 Domestic Abuse Calls*.
2. Treat each domestic abuse call as Priority 2 if any of the following circumstances exist, including calls where the suspect has left the scene:
  - a. A weapon is involved.
  - b. A physical assault is occurring or has just occurred.
  - c. It appears that violence is imminent; or the caller is afraid or the argument is escalating.
  - d. The suspect has made severe threats, such as threatened to kill the victim, take or harm chil-

dren, harm or kill pets, burn down the house, or commit suicide.

- e. The suspect has left the scene and is likely to return soon.
3. Code calls as Priority 3 if any of the following circumstances exist:
    - a. The suspect is gone and unlikely to return soon.
    - b. There is a reported violation of a no-contact order, order for protection or harassment restraining order with no threat of harm where the suspect is not at the scene and unlikely to return soon.
    - c. There is a verbal argument between parties with no known history of violence and no threat of harm.
    - d. A third party reports shouting or a loud argument with no further information.
- NOTE: Go to Priority 2 if it is determined that

there is a history of violence at that address or between the parties.

- e. When in doubt, code the call as Priority 2.
4. Relay the nature of the emergency and the response priority to responding officers.
  5. Direct responding officers to the correct address, location, and appropriate people at the scene, including detailed information that will assist officers in locating a suspect who has left the scene.
  6. Relay to responding officers all available information about the type and level of danger involved, including description of violence, threats, and injuries.
  7. Communicate and document information related to the nature of the emergency and the safety of all involved to responding officers.

## POLICY: DISPATCHING 911 CALLS

### 911 Protocol 2: Dispatching Calls

This protocol is not meant to instruct call takers in a set of strict sequential steps. It acknowledges that receiving 911 domestic abuse calls involves simultaneously obtaining and relaying information while maximizing safety for victims and responding officers. These functions often occur within a short period of intense activity. A safe response to domestic abuse calls requires considerable judgment

on the part of call takers and an understanding of complex factors affecting communication and safety.

1. **Relay the nature of the emergency and the response priority to responding officers per policy**, using Protocol 2 – Card 1 to guide the call.
  - a. **When in doubt, code the call as Priority 2.**

- b. Establish the immediate threat of harm to responding officers, the victim, and others.
- c. Establish the nature of any injuries and the need for immediate medical attention.
- d. Establish whether children are present, safe and unharmed.

- e. Query call taker as needed to verify details related to responding officer and victim safety.
2. Direct responding officers to the correct address, location, and appropriate people at the scene, including detailed information that will assist officers in locating a suspect who has left the scene.
    - a. Verify the correct address and physical location of the call while maximizing safety for the caller.
    - b. Verify the caller's location.
    - c. Relay to responding officers all available details about the identities and physical descriptions of those involved and at the scene.
    - d. Relay to responding officers all available details about suspect identity, physical description, and vehicle when the suspect has left the scene or is reported as gone-on-arrival (GOA).
  3. Relay to responding officers all available information about the type and level of danger involved, including violence, threats, and injuries and actions of aggression or harm to persons at the scene.
    - a. Verify and relay the presence and use of any weapons.
    - b. Verify and relay information about the suspect's history of aggression toward those at the scene and toward police.<sup>[2]</sup> In cases that seem volatile, notify the data channel operator and request record checks.
      - c. Promptly relay details about changing conditions at the scene to responding officers.
      - d. Promptly relay details about any change in suspect location and information that will aid officers in locating a suspect who has left the scene.
      - e. Determine and relay the status of any current warrants, court orders, and probation status (if probation information is available to dispatch).
      - f. Determine and relay the history of past calls to the location or those involved.
      - g. Check officer status and safety at the scene as warranted.
  4. Communicate and document information related to the nature of the emergency and the safety of all involved to responding officers and subsequent interveners.
    - a. **Enter into the CAD report specific details about the violence, threats, and injuries involved.**
    - b. Provide updated information about the call and conditions at the scene to responding officers.
      - Inform the officer via radio of the general nature and severity of any threats.
      - Enter the more specific description of the call and quotes into the CAD and cue officer to check the CAD as soon as possible.
- c. Respond to requests for information from officers en route or at the scene.
  - d. Ensure that officers have the following information available:
    - Warrants
    - Criminal history
    - Current order for protection, harassment order, domestic abuse no-contact order, and other court orders
    - Probation and parole status
  - e. Do not recode a call as non-domestic simply because it does not involve an allegation of physical assault. Recode the call only if it has been established that there is no domestic relationship between the parties.
  - f. On information from a responding officer, recode the call to a domestic type in cases where the initial coding was a non-domestic call type.
  - g. Notify the designated 911 supervisor when one of the parties involved is a police officer or other public safety officer, 911 employee, public official, or prominent member of the public.
  - h. Notify the data channel operator when the officer indicates he or she is going to booking and request that a CAD report be e-mailed to Project Remand.

# POLICY

## DATA CHANNEL RESPONSE IN 911 DOMESTIC ABUSE CALLS

### Appendix to 911 Protocol 2: Dispatching Calls

- 911 Protocol 2 – Card 1: Safety-Oriented Dispatching

In addition to adhering to general agency policy, ECC data channel personnel will take the following actions in responding to domestic abuse–related calls, using the protocols and training memos referenced and included as part of this policy.

1. Respond promptly to requests for information related to 911 domestic abuse calls, according to *Protocol 3: Data Channel Response*.

2. Utilize all available databases, documents, and other records to assist call takers, dispatchers, and patrol officers in establishing the nature of the emergency and the type and level of danger presented.
3. Following an arrest on a domestic call, e-mail the CAD report and the order for protection affidavit and petition, if any, to bail evaluators (Project Remand).

## POLICY: DATA CHANNEL RESPONSE

### 911 Protocol 3: Data Channel Response

1. Utilize all available databases, documents, and other records to assist call takers, dispatchers, and patrol officers in establishing the nature of the emergency and the type and level of danger presented. Upon request of an officer or dispatcher check the following:
  - a. Search civil court order registries in Minnesota and nationally for orders for protection, harassment orders, and domestic abuse restraining orders.
  - b. Search for current domestic abuse no-contact orders (DANCO) issued as part of a pending criminal case.
  - c. Search and verify status of any current warrants.
  - d. Search and verify vehicle registration and driver's license.
  - e. Search for data on previous calls involving the same parties or address.
  - f. Search for criminal history, including arrest, charging, and conviction data.
  - g. Search and verify probation and parole status.
2. Promptly relay the search results to personnel receiving, dispatching, and responding to the call.
3. Following an arrest in a domestic abuse–related call, email the following documents to Project Remand, preferably immediately and no later than two hours after the arrest:
  - a. A copy of the CAD report
  - b. A copy of the affidavit for any order for protection or harassment order related to the call and the parties involved.

# POLICY

## SUPERVISING THE 911 RESPONSE TO DOMESTIC ABUSE CALLS

In addition to adhering to general agency policy, ECC supervisors will provide the support and oversight necessary to ensure a safety-oriented response to domestic abuse–related calls, using the protocols and training memos referenced and included as part of this policy.

1. Implement the provisions of this policy in accordance with *Protocol 4: Supervising 911 Domestic Abuse Calls*.
2. Conduct regular reviews of 911 recordings of domestic abuse calls and provide feedback and guidance to call takers.
  3. Conduct regular reviews of 911 CAD transcripts in relation to calls and provide feedback and guidance to dispatchers.
  4. Maintain 911 recordings for ninety days and CAD transcripts indefinitely in a manner which allows later access by investigators, prosecutors, and defense attorneys.
  5. Relay recordings of 911 calls and related documents to investigators, prosecutors, and defense attorneys as requested.
  6. Notify the designated patrol supervisor when a domestic abuse call involves a police officer or other public safety officers, 911 personnel, public official, or other prominent member of the public.
  7. Conduct regular reviews of the response to inquiries and requests made to data channel personnel in domestic abuse cases.

## When third parties

called the police, “the odds are 2-1/2 times higher that such cases will involve a major injury to the victim, compared to cases in which the victim calls [the] police herself.”

– E. Buzawa, et al. (2000)

## POLICY: SUPERVISING THE 911 RESPONSE

### 911 Protocol 4: Supervising the 911 Response to Domestic Abuse Calls

1. Prepare for implementing this protocol by taking the following actions:
  - a. Read all ECC policies and accompanying training memos related to the 911 response to domestic abuse calls.
    - › *Receiving 911 Domestic Abuse Calls*
    - › *Dispatching 911 Domestic Abuse Calls*
    - › *Data Channel Response in 911 Domestic Abuse Calls*
  - b. Use the training memo, *Supervising the 911 Response to Domestic Abuse–Related Calls*, to become familiar with the call review process.
2. Conduct regular reviews of 911 recordings and CAD transcripts (as assigned to the Quality Assurance Supervisor).
  - a. Use Protocol 4 – Call Review Checklist, to guide the reviews.
  - b. Listen to three 911 domestic abuse calls from each call taker on a quarterly basis.
- c. If problems are identified, meet with the call taker to listen to the calls, review the checklist results, and provide feedback and guidance as needed.
- d. Provide a written annual report based on reviewing a sample of ten or more of each of the following types of domestic abuse calls:
  - Caller is a “third party,” someone other than the victim or suspect, e.g., neighbor, bystander, family member
  - Caller is a child

- Hang-up calls coded as domestic abuse calls
  - Disconnected or otherwise interrupted calls
- e. On a quarterly basis, listen to the radio transmissions from each dispatcher of three 911 domestic abuse calls and read the related CAD transcripts and call taker generated information.
  - f. If problems are identified, meet with the dispatcher to listen to the calls and read the accompanying CAD transcript, review the checklist results, and provide feedback and guidance as needed.
  - g. Include attention to information requested and supplied by data channel personnel as part of the regular quarterly reviews conducted with call takers and dispatchers.
  - h. Prepare a quarterly report for the Operations Manager regarding compliance with these policies and protocols.
3. Maintain 911 recordings and CAD transcripts in a manner which allows later access by investigators, prosecutors, and defense attorneys; relay recordings and documents as requested.
    - a. Ensure that recording equipment and systems are properly maintained, including any necessary software upgrade and instructions to 911 personnel.
    - b. Ensure that the 911 recording will be preserved as potential evidence for 90 days. Ensure that

CAD screens will be stored on the secure server to be preserved indefinitely.

- c. Provide clear instructions to investigators, prosecutors, defense attorneys, and probation officers on the process for obtaining recordings and/or CAD transcripts and respond to those requests in a timely manner. Upon receipt of a request for 911 data, the supervisor will take the following action:
    - Print the CAD report.
    - Scan the CAD report and e-mail it to the person requesting the data.
    - Make a copy of the recording and e-mail it to the person requesting the data.
    - Provide data to the arresting agency and the prosecutor.

NOTE: Defense attorneys will receive this data from the prosecutor through the discovery process. Other persons or agencies requesting data must request it from the arresting agency.
  - d. Designate a 911 supervisor who is authorized to answer questions related to the release of recordings and other documents related to domestic abuse calls.
4. Inform call takers of the importance of and process for notifying 911 supervisors when a domestic abuse call involves a police officer or other public safety officer, 911 employee, public official, or prominent member of the public.

## Appendix to 911 Protocol 4: Supervising the 911 Response

- Call Review Checklist



Chapter 3

# Saint Paul Police Department

# POLICY

## PATROL RESPONSE TO DOMESTIC VIOLENCE-RELATED CALLS

### Framework

The patrol officer is the one of few practitioners in the criminal justice system who can come closest to seeing and hearing what really goes on in the privacy of violent homes. For a responding officer, the patrol report is one of a dozen he or she might write in a shift. In a domestic violence legal case, however, it is the most important document. In an interagency response the patrol report lays the foundation for how each subsequent intervener thinks about and acts on the case. Its attention to specific details either helps or hinders each practitioner's efforts to maximize victim safety and offender accountability. The Blueprint's interagency approach emphasizes the importance of accumulating information over time and incidents in order to understand and appropriately respond to the level of danger and risk posed by offenders <sup>[1]</sup> in a crime that is often complex and difficult to prosecute.

Each intervening practitioner has a specific role to play in a case and each looks to the police report when making decisions about when and how to act. <sup>[2]</sup> The investigator reads a report asking, *Can I work this up into a case that can be proven beyond a reasonable doubt? Are there witnesses? Can I find them? Did they see or hear something?* The bail evaluator asks, *Will this person be a threat to the public or to this or other victims?* The prosecutor asks, *What crimes were committed, if any? Was anyone acting in self-defense?* When a case results in a plea or conviction, the presentence investigation writers ask, *Is this event an unusual happening or part of a pattern*

*of violence, coercion and intimidation?* To answer this question the writer reads every report written on the defendant. When officers treat each call as part of an ongoing case the pattern will emerge and the safety needs of all victims become more evident. Every goal of the Blueprint—ensure swift and sure responses, adjust responses to the level of the violence, link practitioners together with a common understanding of the violence, engage with victims, and ensure a level of interagency accountability—is largely dependent on the patrol officer's initial response to the case.

The Blueprint's policies and protocols for police response are accompanied by two key tools for the responding officer. One is a practitioners' guide to risk and danger in domestic violence cases. The guide draws on the research and experience we have at our disposal to help identify and document the major factors that indicate whether the violence in a case is likely to continue, escalate, or become lethal. The second tool is a report writing format that produces a patrol report that answers each of the core questions subsequent interveners will have about the incident.

The policies and protocols emphasize the importance of basic, solid police work in domestic violence cases, which can seem futile on a case-by-case basis but can often result in a successful intervention over time. <sup>[3]</sup> Such success is more likely when officers and other interveners stay engaged with victims <sup>[4]</sup> who may be quick to call for help during an assault, <sup>[5]</sup> but who are understandably cautious in joining in an adver-

sarial court process against the person who holds all of the power cards and readily uses coercion and violence to maintain that power. <sup>[6]</sup> Victim engagement is a cornerstone of the Blueprint and it begins in the first hour of the case.

### Policy: Patrol Response

In addition to adhering to general agency policy, patrol officers and supervisors will take the following actions in responding to domestic violence-related calls, using the protocols, appendices, and training memos referenced and included as part of this policy.

For the purposes of this policy, a domestic relationship means spouses and former spouses; parents and children; persons related by blood; persons who are or have lived together, persons who have a child in common or share a pregnancy regardless of whether they have been married or have lived together at anytime; and persons involved in a significant romantic or sexual relationship.

1. Implement the provisions of this policy in accordance with *Protocol 1: Patrol Response to Domestic Violence-Related Calls*.
2. Respond to domestic violence-related calls directly and without delay.
3. Secure the scene and as safety permits separate all parties.

4. Conduct a thorough initial investigation to determine if probable cause exists to believe a crime has been committed and identify the suspect.
5. Make the arrest decision according to the following requirements and guidelines:
  - a. The officer **shall arrest** when probable cause exists and any of the following conditions are present:
    - The alleged assault or incident involves a felony-level crime.
    - The victim has signs of injury or impairment.
    - A dangerous weapon is involved.
    - An order for protection, harassment restraining order or domestic abuse no-contact order has been violated.
  - v. A victim is in fear of imminent bodily harm.
  - b. In misdemeanor cases without serious injury, an officer may (with supervisor's approval) elect to not arrest when the arrest would require placing children in foster care and there is an alternative for keeping the victim/s safe. The officer shall document the decision not to arrest.
  - c. When both parties have used violence, the officer shall first make a determination if either party acted in self-defense and arrest the party that was not acting in self-defense.
    - d. When both parties have used illegal violence and neither was acting in self-defense, the officer shall arrest the predominant aggressor; the prosecutor will determine whether the second party will be charged.
    - e. When an officer believes that there is a compelling public safety issue which requires the arrest of both parties and that both parties pose a significant threat of danger to each other, the officer should arrest both parties.
  6. Collect and secure evidence related to the probable cause determination, regardless of whether the suspect has been arrested at the scene.
  7. In cases where the suspect is gone on arrival (GOA), probable cause to arrest exists, and the officer would have made an arrest, take measures to locate the suspect and submit a complete investigation report.
    - a. Remain on the scene until the officer believes that the likelihood of imminent violence or abuse has been eliminated and the situation has stabilized.
    - b. Ensure that the victim has been given information about safety and resources before clearing the scene.
  8. Whether or not there has been an arrest, provide assistance to victims, including assistance with accessing medical care, securing shelter, and providing notice of victim's rights information in accordance with *Protocol 2: Victim Engagement* and the training memo, *Law Enforcement Response to Persons with Disabilities*.
    - a. Notify the Saint Paul Intervention Project of all domestic-related arrests and gone-on-arrival cases where officers issued a pick-up-and-hold as soon as possible, in accordance with *Protocol 2: Victim Engagement*.
  9. Identify and check on the welfare of each child at the scene and follow up as required.
  10. Submit the appropriate report on all calls that include an allegation of a domestic assault or related crime as required by Minn. Stat. § 629.341.
  11. Do not recode any call coded as a domestic by dispatch where the relationship between the parties fits the domestic relationship definition. A call may be recoded if it can be verified that there is no domestic relationship between the parties.
  12. When responding to a domestic call involving a police employee, secure the scene and address the safety needs of those present. Request that a supervisor of higher rank than the officer involved be dispatched to the scene to oversee the criminal investigation and make an arrest decision in accordance with this policy.
    - a. If the arrestee is a Saint Paul police officer, the supervisor at the scene shall recover the officer's badge, police identification card, and service weapon. If circumstances indicate a high risk of danger or potential lethality, the on-scene super-

visor shall confiscate all weapons at the scene on the same basis as they would for any citizen.

- b. If the suspect is the chief of police, the senior assistant chief shall be called to the scene.
13. When responding to a domestic call involving a public figure, request that the street supervisor or station commander be dispatched to the scene, conduct a criminal investigation, and make an arrest decision in accordance with this policy. For purposes of this policy, a public figure is defined as an elected official, sports figure, television or radio personality, celebrity, or other well-known person.

The following protocols are attached to and included as part of the patrol response policy:

- › 1: *Patrol Response to Domestic Abuse–Related Calls*
- › 2: *Victim Engagement Guidelines*

The following appendices are attached to and included as part of the patrol response policy:

- Practitioner’s Guide to Risk and Danger in Domestic Violence Cases

### Protocols, appendices, and training memos

The following training memos are included as part of the patrol response policy:

- › *Tactical Approach to the Scene of Reported Domestic Violence (CONFIDENTIAL)*
- › *Gone-on-Arrival (GOA) Cases*

- › *Making the Arrest Decision*
- › *Miranda Rights and Domestic Violence Cases*
- › *Implications of the Crawford Decision and Forfeiture by Wrongdoing for Police Response to Domestic Violence*
- › *Law Enforcement Response to Strangulation*
- › *Law Enforcement Response to Stalking*
- › *Response to Children in Domestic Violence–Related Calls*
- › *How a Defense Attorney Reads a Domestic Violence–Related Report*
- › *How a Prosecutor Reads a Domestic Violence–Related Report*
- › *Intervention in Cases Involving Victims of Battering Who Use Violence*
- › *Law Enforcement Response to Persons with Disabilities*
- › *Victim Engagement and the Law Enforcement Response to Domestic Violence*
- › *911 Attention to Violence*

See the Blueprint Supplement for appendices and training memos referenced in the policy and protocols.

## Victims who worked

with advocates were more than twice as likely to live without violence as those who did not.

– C. Sullivan & D. Bybee (1999)

## POLICY: PATROL RESPONSE

# Protocol 1: Patrol Response to Domestic Violence–Related Calls

### A. Initial Approach

1. Respond to domestic calls directly and without delay, utilizing a tactical approach as appropriate to the circumstances of the call.
2. Approach the scene with a high degree of caution.
3. Maximize safety for all involved as officers approach the scene, make initial contact with the occupants, and gain entry to the premises.

### B. Securing the Scene

1. Separate the parties.
2. Restrain the suspect, if necessary, and/or remove the suspect.
3. Assess for injuries, administer first aid, and request medical services as necessary.
  - a. Inquire about strangulation and internal injuries.
  - b. Address victim concerns about the cost of paramedic services by informing them that those services are not billed to the victim unless they require insertion of an IV or medical transport is requested.
  - c. If injuries appear life-threatening or if the victim is impaired, e.g., through injury or intoxication and unable to make the decision, request medical services regardless of the victim's preference.

4. Determine the whereabouts and identities of all people on the premises, including children.
5. Identify and secure weapons that might pose a threat during the investigation or that might be potential evidence.
6. Separate occupants and witnesses from the victim and accused, keeping them out of sight and hearing range of one another, as safety permits.

### C. Initial Investigation

1. Make initial observations and note spontaneous statements by those at the scene, including:
  - a. Immediate statements made by victim, suspect or witnesses
  - b. Observations of the crime scene (furniture tipped over; broken phones, doors, other damaged property; torn clothing; blood; no sign of physical altercation, etc.)
  - c. Emotional demeanor of parties at the scene (angry, scared, crying, etc.)
  - d. Physical appearance of parties (disheveled clothing or hair, torn clothing, obvious injury, flushed face, etc.)
  - e. Indications of drug or alcohol use by those at the scene and apparent level of intoxication or impairment (coherent in responding to questions)
2. Obtain a comprehensive account of events by interviewing or talking with each party involved in or witness to the incident.
  - a. To the extent possible and as safety permits, talk to all parties and witnesses away from sight and hearing range of other parties.
  - b. Arrange for an interpreter if necessary.
  - c. Seek the following information from each party involved in the incident:
    - Account of events:
      - Specific nature of any threats
      - Indications of witness tampering or whether the suspect has threatened the victim if she or he seeks help from police
      - Manner in which weapons were used
      - Indications of stalking
      - Details about claims of strangulation
      - Indications of self-defense
    - Injuries or impairment:
      - Pain
      - Effects of strangulation
      - Breathing
      - Impaired movement
    - Emotional state
    - Recent use of alcohol or drugs
    - Relationship to other parties involved, including witnesses

- Identification, address, and means of locating the person for follow-up
  - Presence and type of firearms and other weapons in the home, regardless of whether a weapon was used in the current incident
- d. Talk to each witness; document what the witness saw and heard, relationship to the parties involved, date of birth, and a number and address to reach the witness.
  - e. Be alert to and probe for indications of sexual aggression or coercion, stalking and/or strangulation.
  - f. Ask the victim if the suspect knows his or her address and phone number(s). If the victim is concerned that the suspect will obtain this information, note that in the report and inform victim that the information has been marked as confidential, but it is nevertheless possible that the suspect could gain access to it. Check the non-public box on the report form.
3. Obtain information about the history of violence and stalking from the apparent victim by asking the following three risk questions:
    - Do you think he/she will seriously injure or kill you, your children, or someone else close to you?
      - o What makes you think so?
      - o What makes you think not?
    - How frequently does he/she intimidate, threaten, or assault you?
      - o Is it changing?
      - o Getting worse?
      - o Getting better?
    - Describe the time you were the most frightened or injured by him/her.
4. Establish whether the victim has been intimidated about cooperating with police or courts by asking if the suspect has ever threatened the victim for seeking help from the police/courts or others? If so, obtain details.
  5. Obtain a description of what each witness saw and heard and the witness's name, date of birth, and contact information.

#### D. Establishing Probable Cause

1. Consider the totality of circumstances when making a probable cause determination. In domestic violence cases, totality of circumstances includes:
  - a. Information received from 911
  - b. All parties' and witnesses accounts
  - c. Officer observations which corroborate or negate accounts of events by other parties
  - d. Physical evidence
  - e. Either party's history

- f. Officer training, experience, and education
2. Attempt to talk with both parties and as many witnesses as practical prior to making a probable cause determination.

#### E. Arrest Decision

1. Make an arrest decision according to the conditions specified in the policy, including arrests for violations of protection orders, harassment restraining orders, or domestic abuse no-contact orders (DANCOS).
2. **The Saint Paul Police Department discourages dual arrests.** Utilize this protocol and the guidance in the training memos to investigate and make an arrest decision when both parties have used or are alleged to have used violence against the other.

“Self-defense” means that the person reasonably believed that he or she was in imminent danger, force was necessary, and the person used only the level of force reasonably necessary to prevent the harm feared. There is no duty to retreat from one's own home when acting in self-defense, but that does not cancel the obligation to act reasonably when acting in self-defense.

“Predominant aggressor” is defined as the party to the incident who, by his or her actions in this incident and through known history and actions, has caused the most physical harm, fear and intimidation against the other.

- Assess whether one party acted in self-defense.
  - Do not arrest the party who acted in self-defense.
  - If neither party acted in self-defense and there is probable cause to arrest both parties, investigate and make an arrest decision regarding the predominant or most dangerous aggressor. Consider who would most likely cause the greater degree of fear and harm to the other if left unrestrained.
  - Take the predominant or most dangerous aggressor into custody and document the probable cause determination on the secondary offender in the report.
  - The policy allows a dual arrest when an officer believes that there is a compelling public safety issue which requires the arrest of both parties and that both parties pose a significant threat of danger to each other.
3. Obtain supervisor's approval if making a decision not to arrest in a misdemeanor case without serious injury where the arrest would require placing children in foster care and there is an alternative for keeping the victim/s safe.
    - a. Such a decision is most likely if the victim is too intoxicated to care for the children or the victim is not the parent or legal guardian.
    - b. Document the decision not to arrest.
      - c. Do not exercise this option if it would mean leaving the children with a person with a known history of serious domestic violence.
  4. Conduct the arrest swiftly and safely, once that decision has been made.
    - a. Search and handcuff the suspect prior to placing him or her in the squad.
    - b. Activate the camera and recorder when the suspect is in a vehicle with an in-squad camera and recorder.
  5. Make a record of all spontaneous statements by the suspect.
  6. After arriving at the jail, fill out the Authority to Detain Form and the Victim Information Form. Include all phone numbers the victim has provided on the Victim Information Form.
  7. After arriving at the jail, but prior to booking, attempt to interview all arrested misdemeanor-level domestic abuse suspects in accordance with the training memo, *Miranda Rights and Domestic Violence Cases*.
    - a. An investigator will interview gross misdemeanor and felony suspects.
    - b. Record all in-custody interviews.
    - c. Do not attempt to make a custodial interview of a non-English speaking suspect without the assistance of a court-certified interpreter. Do not conduct a custodial interview of a non-English-

speaking suspect if an interpreter cannot be located.

## F. Evidence Collection – General

1. Collect and process all relevant evidence from the scene.
2. Photograph injuries and note bruises or other injuries that may require follow-up by investigators.
3. Obtain a medical release from the victim and information about where medical treatment will be sought. Include the following information on the release:
  - a. Date treatment was initially sought or will be sought to the present date
  - b. Victim's authorization for release of records regarding follow up treatment
4. Photograph disarray at the scene.
5. Photograph damaged property, including all evidence seized as well as broken windows and doors, damage to vehicles, damaged telephones, and similar evidence.
6. Collect or photograph damaged property such as broken phones, bloody or torn clothing.

NOTE: When seizing a telephone will leave the residence without a phone, request that the photo squad provide the victim with a cell phone equipped to call 911, if one is available.

7. Collect electronic evidence such as text messages, email, voicemail, and similar evidence.

## G. Strangulation – Investigation and Evidence Collection

1. Be alert to the signs and symptoms of strangulation.
2. If the victim has any of the symptoms of strangulation, dispatch emergency medical services. Make every effort to encourage the victims who are obviously reacting to being strangled to accept medical attention.
3. Conduct an initial interview of the victim regarding the method of strangulation and its impact, e.g., difficulty breathing, loss of consciousness, etc.
4. Whenever possible, talk with the suspect before making a probable cause determination. Check for defensive injuries, e.g., scratches on the suspect's hands or face.
5. Document all evidence of strangulation in the written report, using the term “strangulation” rather than “choking,” unless quoting the party interviewed.

## H. Stalking – Investigation and Evidence Collection

1. Be alert to the possibility that any single report of domestic abuse could be part of a pattern of stalking behavior.
2. Pay particular attention to repeated violations of orders for protection, harassment restraining orders, and domestic abuse no-contact orders.
3. Ask questions of the victim to determine if the current incident is an isolated event or part of a pattern of behavior.
4. Be aware of the possibility that actions that would not otherwise be illegal or might not cause alarm in another context could be examples of stalking behavior and respond according to the training memo, *Law Enforcement Response to Stalking*.
5. If an arrest is made pursuant to probable cause, search the suspect's vehicle, if present, for tools and implements used to commit stalking, kidnapping, or related crimes. If necessary, obtain a search warrant..
6. Be alert to the existence of and collect evidence specifically associated with stalking behavior, such as floral deliveries, emails, notes, cards and letters, gifts, and similar evidence.
7. Note in the report information the victim has offered regarding previous acts of stalking or harassment for follow-up by the investigator.

## I. Suspect Gone-on-arrival (GOA)

1. In addition to the initial investigation procedures included in this protocol, obtain the following information when the suspect has left the scene (GOA) prior to patrol officers' arrival:
  - a. Suspect's name, date of birth, and physical description, including clothing
  - b. Suspect's direction and mode of travel upon leaving the premises
  - c. Description of the suspect's vehicle, if applicable
  - d. Where the suspect might have gone
  - e. Where the suspect stays when not with the victim
  - f. Whether the suspect has ever interfered with the victim's attempts to seek help, especially from police
2. Take the following actions when the suspect has left the scene (GOA) prior to patrol officers' arrival:
  - a. Search for the suspect on the premises.
  - b. Search for the suspect in the immediate area and the direction and area where the suspect might have fled.
  - c. Check with the data channel for other addresses where the suspect might be located. Issue a squad pick-up.



- Emergency Communications Center (ECC) will re-air the squad pick-up on all active dispatch channels.
  - Contact the ECC data channel to issue a 24-hour Cops Alert for the suspect.
  - Print the Cops Alert and distribute it to all three District BOLO boards.
  - Note squad pick-up and Cops Alert actions in the report.
- d. Encourage the victim to call 911 if the suspect returns.
  - e. Provide information to the victim about restraining orders, the right to request that the prosecutor file a criminal complaint, advocacy services, and shelter.
  - f. Offer to transport the victim or arrange for transport to shelter or another safe place if needed.
  - g. Provide whatever assistance is reasonable to help the victim to secure broken doors or windows.
  - h. Collect and process evidence in the same manner as when an arrest has taken place.
  - i. Remain at the scene until the officer believes the likelihood of further violence has been eliminated.
  - j. After leaving the scene, drive by the residence over the next few hours and return to look for the suspect as time and call load permit.

- k. Prior to clearing the scene, ensure that the victim receives information about victim advocacy services, orders for protection, and the right to request criminal charges.

## J. Victim Engagement

1. Work in collaboration with victims and provide specific support and attention to safety.
2. Notify the Saint Paul Intervention Project (SPIP) by telephone at (651) 645-2824 on all domestic-related arrests and gone-on-arrivals as soon as possible.
  - a. Preferred: make the referral before clearing the scene, but at the latest immediately after booking.
  - b. Provide SPIP with the following information:
    - Case number
    - Victim's name, address and phone numbers
    - Suspect's name and date of birth
    - The charge(s) and whether the suspect was arrested
    - A brief description of the incident
    - Any information regarding the victim's needs (e.g., interpreter, medical treatment and facility, need for shelter)

## K. Children at the Scene

1. Check on the welfare of all minors at the scene and determine:
  - a. Names and **dates of birth** of any children present
  - b. Presence and location of any children at the incident
  - c. Physical and emotional condition of any children present
  - d. Child or children's involvement in the incident, if any
2. Attempt to talk with each child at the scene and explain that the officers are there to help and to make sure everyone is safe.
3. Be aware of how the child is responding to the situation and try to reduce the child's anxiety and fear.
4. Be alert to and document any spontaneous and relevant statements made by a child witness.
5. In general, talk to the child about what she or he saw or heard and determine if the child has been injured or directly harmed.
6. Do not interview a child when information available to the officer suggests that it might be harmful. Document the reasons for not interviewing the child or children in the report.

7. Consider the following in determining whether to interview children:
  - a. Child's physical, emotional, or psychological ability to give a statement
  - b. Child's age and ability to understand questions and formulate responses
  - c. Non-offending parent/guardian's preferences as to whether and how to talk with the child or children
8. To the fullest extent possible, interview children immediately and privately.
9. Avoid subduing or arresting a party in front of children whenever possible.
  - a. If a child witnesses the arrest, talk with the child to provide reassurance that the arrested person will be alright, the child did nothing wrong, the arrest is not their fault, the police are there to help keep everyone safe for the night, and the officer is making the arrest decision.
10. When the actions of the officer result in a situation where no responsible adult will be present in the home to care for the children (e.g., dual arrest or a single arrest and the other parent/adult must seek medical treatment), inquire of the custodial parent if there is someone who can be contacted to care for the children.
11. Notify Child Protective Services in accordance with the requirements of Minn. Stat. § 626.556,

Reporting Maltreatment of a Minor, when any of the following occur:

- a. A child has been injured as a result of an assault.
  - b. A child has been sexually abused.
  - c. A child has been neglected.
  - d. Actions taken by the officer will result in a situation where no responsible adult can be located to care for the child or children.
12. Call for medical assistance or transport the child to Children's Hospital at 345 South Smith for treatment if a child has been injured and is in need of medical care.

## L. Recoding Calls

1. Do not recode any call coded as a domestic by dispatch where the relationship between the parties fits the domestic relationship definition. If the relationship is unknown, do not recode.
2. If a call was coded as a domestic by dispatch and it is determined that there was no domestic relationship as defined in this policy, explain the situation in a brief entry (three to four sentences) in the CAD and recode the call appropriately.

## M. Reports – Determination of Probable Cause

1. In all cases resulting in a determination of probable cause that a crime was committed, regardless

of the initial coding by dispatch and including cases where the suspect has left the scene, prepare a written report that documents the items included in the Domestic Violence Patrol Report Checklist, attached to this protocol and provided as a pocket card.

2. **SAFETY NOTE:** If the victim is afraid that disclosure of her or his address and phone number will compromise personal safety or property, explain that a victim has a right to request that this information be non-public according to state law [Minn. Stat. § 13.82 subd.17 (d)]. If the victim requests that such information be shielded, clearly indicate on the report that the victim's address and phone number be kept confidential from the suspect. If the victim seeks shelter, do not include the location in the report; obtain a telephone number where she can be reached in the next few days.

## N. Reports – Determination of No Probable Cause

1. File a brief report as required by Minnesota § 629.341 in cases where there was a domestic relationship but no probable cause that a crime was committed or in cases where the officers could not locate the parties. File this report by entering the information listed below into the CAD system:
  - a. A brief summary (three to four sentences) of the incident

- b. Description of the basis for the determination of no probable cause
- c. Description of the attempts to locate the parties involved, if applicable
- d. Names and dates of birth of the parties involved

### O. Incidents Involving Police Employees

1. Secure the scene and address the safety needs of those present.
2. Request that a supervisor of higher rank than the officer involved be dispatched to the scene.
3. Under the direction of the on-scene supervisor, conduct a criminal investigation, make an arrest decision, and process evidence in accordance with the policy and this protocol.
4. If the arrestee is a Saint Paul police officer, the on-scene supervisor shall recover that person's badge, police identification card, and his or her service weapon.
  - a. If circumstances indicate a high risk of danger or potential lethality, the supervisor shall confiscate all weapons at the scene, using the same due process as with any member of the public.
  - b. If the suspect is unwilling to allow officers to take possession of the weapon or weapons,

badge, and identification card, the on-scene supervisor will notify the watch commander.

- b. If the suspect is the chief of police, the senior assistant chief shall be called to the scene.
5. If the arrestee is an officer employed by an agency other than the Saint Paul Police Department, the on-scene supervisor shall notify the suspect's agency of the arrest.
  6. The on-scene supervisor shall ensure that the victim is given the required information about the victim's rights and that the advocacy referral to the Saint Paul Intervention Project is made.

### P. Incidents Involving Public Figures

1. A public figure is defined as an elected official, sports figure, television or radio personality, celebrity, or other well-known person.
2. Request that a supervisor be dispatched to the scene.
3. Under the direction of the on-scene supervisor, conduct a criminal investigation, make an arrest decision, and process evidence in accordance with the policy and this protocol.
4. Notify the department's Public Information Officer to prepare for possible inquiries from the media.

5. Take extra precautions to protect the victim's safety and confidentiality, including:
  - a. Shield the victim from the media.
  - b. Ensure that victim contact information is not included in the report, if so requested by the victim.
6. The on-scene supervisor shall ensure that the victim is given the required information about victims' rights and that the advocacy referral to the Saint Paul Intervention Project is made.

## Those offenders

who left the scene had twice the number of past criminal charges and twice the recidivism rate of those present when police arrived.

– E Buzawa, et al. (2000)

## Domestic Violence Patrol Report Checklist

### Background and officers' actions:

- Time of officers' arrival and time of the incident
- Relevant 911 information, including specific details about any violence or threats communicated in the 911 call
- Immediate statements of either party and any witnesses at the scene
- A complete description of the scene
- Note any existing OFP, HRO, DANCO, probation, warrants, prior convictions
- Summarize actions taken by responding officers (e.g., entry, arrest, non-arrest, use of force, attempts to locate, squad pick-up, transport, advocacy contact and referrals, victim notification, seizing firearms, rationale for self-defense or primary aggressor determination)
- Account of evidence collected (e.g., pictures, statements, weapons, other)
- Presence of any risk factors described in *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*
- If an arrest was not made, the reason why
- Issue squad pick-up-and-hold on GOA suspects with probation order

### For each witness and party involved:

- His/her account of events and responses to follow-up questions
- Officer observation related to the person's account of events
- Identification, address, and means of locating the person for follow-up, including:
  - o Home address and phone number
  - o Place of employment, work address and phone number
  - o Cell phone number(s)
  - o Relationship to other parties

### For each party involved:

- Injuries or impairment, (including pain, strangulation effects, breathing, movement impairment)
- Emotional state/demeanor
- Acts of intimidation or aggression
- Presence or use of weapons
- Alcohol or drug consumption and impairment of those involved

### Information from the victim, including history of violence and stalking and contact information:

- Responses to the risk questions:
  1. Do you think he/she will seriously injure or kill you or your children? What makes you think so? What makes you think not?
  2. How frequently and seriously does he/she intimidate, threaten, or assault you? Is it changing? Getting worse? Getting better?
  3. Describe the time you were the most frightened or injured by him/her.
- Threats to the victim for seeking help, particularly from the police or courts, and stalking behaviors
- Name and phone numbers of someone who can always reach the victim  
NOTE: Record victim contact information in the confidential section of the report and on the Victim Information Form.
- Inform the victim that every effort will be made to protect this information, but that it is possible that the suspect could gain access via court order.

### Additional information related to the suspect:

- GOA: details about where the suspect might have gone and where he/she lives or stays when not at the address of the incident; physical and vehicle descriptions; aliases
- Suspect's county and state of residence during the past ten years
- Whether Miranda is given and/or request for attorney and when this occurred
- Whether a custodial interview of the suspect was conducted and a Scales tape made
- Any spontaneous statements given by the suspect after the arrest

### Additional information related to the case:

- Details regarding the presence, involvement, and welfare of children at the scene
- Existence of language, communication, or cognition barriers
- Medical help offered or used, facility, and medical release obtained with victim's SSN and appropriate boxes checked
- Presence or involvement of elderly people or people with disabilities

## POLICY: PATROL RESPONSE

### Protocol 2: Victim Engagement Guidelines

1. Work in collaboration with victims, cognizant of the principles of “continuing engagement,” as addressed in the training memo accompanying this protocol.
  - a. Whenever possible, minimize the victim’s need to confront the offender.
  - b. When using information provided by the victim, protect her or him from retaliation.
  - c. Treat each interaction with the victim as an attempt to build collaboration over multiple interventions.
  - d. Be mindful of the complex and often dangerous implications of a victim’s cooperation with the legal system.
  - e. Be aware that the fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does. Victims are rarely in a position to “tell all,” although they may do so in unguarded moments. Take great care to not endanger victims with what they have shared about the offender, the abuse and their situation.
  - f. Engage in dialogue with the victim, thereby avoiding inadvertently treating her or him simply as an information source.

In order to avoid unintentionally replicating or reinforcing the actions of the abuser, offer a clear alternative to messages that the victim is crazy, at

fault, unbelievable, and unable to make decisions and that the abuser is unstoppable.

#### 2. Victim engagement guidelines for patrol officers:

In responding to domestic violence–related calls, conducting the on-scene investigation, and interacting with victims and suspects, take the following specific actions, as appropriate to the circumstances of the case and victim safety:

- Do not tell the perpetrator what the victim has told officers.
- Do not ask the victim if she or he:
  - o Wants the suspect arrested
  - o Will testify in court
  - o Will sign a citizen’s arrest form
- Remain at the scene until the likelihood of further imminent violence has passed.
- Recognize that remaining calm and professional even if the victim is upset or hostile will enable officers to obtain better information.
- Recognize that the need for assistance from the police may continue beyond the current incident and that the officer’s response will influence whether the victim will view police as a resource for ending the violence in the future.
- Reassure the victim that he or she can continue to call police if necessary. This is especially true

for victims who seem hostile to police intervention.

- Be cognizant of the victim’s need for privacy and dignity by allowing her or him to change clothes if needed, shielded from on-lookers.
- Obtain a phone number of someone who will always know how to reach the victim and record that number on the Victim Information Form.
- Provide victim with the Victim Information Card that contains information about shelter, orders for protection and other community resources; provides notice of the domestic abuse victim’s rights (Minn. Stat. § 629.341 subd.3).
- Recognize that for a variety of reasons a victim may appear hostile to officers even if she or he asked for help. If officers are patient and calm in the face of that hostility it will often dissipate over time; that is, initial hostility is likely to dissipate three or four calls later, but probably not five or ten minutes later.
- Recognize that victims are most likely to disclose abuse to the responding officer immediately following an assault. Most of the information on lethality and risk will be disclosed at this point in time. Become familiar with the appendix, *Practitioners’ Guide to Risk and Danger in Domestic Violence Cases*, and use this guide to help focus questions about risk.

- Recognize that the officer’s need for specific information may compete with the victim’s need to talk on his or her own terms.
  - Recognize that better information is usually obtained by asking open-ended questions and following up on responses to those questions.
  - Reassure the victim that the violence is not his or her fault, that he or she did the right thing by calling police, and that officers will take appropriate action to protect the victim.
  - Provide messages of help, reassurance, and protection.
- 3. Victim engagement guidelines for investigators:**
- In conducting the investigation and interacting with victims and suspects, take the following specific actions, as appropriate to the circumstances of the case and victim safety.
- Do not tell the suspect what the victim has told you.
  - If circumstances allow, do not tell the suspect you have spoken to the victim.
  - Treat each contact with the victim as an opportunity to build a continuing relationship.
  - Be patient with victims who may be hostile and less than appreciative of your efforts. Over time, if treated well, most victims will participate in a collaboration to stop the violence.
  - Ensure that the victim knows who you are and how to contact you.
  - Encourage the victim to report contact, abusive behavior and/or violations by the suspect.
  - Request that the victim report any threats made by the offender for cooperating with the investigation.
  - Inform the victim of the importance of keeping a record of mail, voice mail, e-mail, text messages, and other communication and contact from the suspect or others acting on the suspect’s behalf.
  - Inform victim of the availability of periodic “welfare” checks at her or his residence by officers.
  - Problem solve with the victim around enhancing safety as the case proceeds through the legal system.
  - If the victim is willing to talk about the full scope of abuse and violence, ask for details and record all credible reports of violence, stalking, coercion, intimidation, and related acts of abuse.
  - Inform the victim of the availability of community services that will support and enhance safety.
  - Ask open-ended questions, which are more likely to produce information than narrow questions.
  - Provide the victim with the phone number of Saint Paul Intervention Project (SPIP) for safety planning and services.
  - If the victim and/or witnesses do not speak English, contact appropriate interpreter services
  - For follow-up interviews and contact, utilize interpreter services provided by SPPD personnel who speak the victim’s language. Do not use neighbors or family members.
  - Provide messages of help, reassurance, and protection, using the guidance provided by the training memo accompanying this protocol.

# POLICY

## CONDUCTING INVESTIGATIONS IN DOMESTIC VIOLENCE-RELATED CASES

### Framework

Investigators build upon and expand the initial evidence collection and attention to danger and risk provided by patrol officers. The subsequent investigation can be a critical factor in determining whether a prosecutor can take action in ways that minimize the victim's direct participation in the prosecution and need to confront the offender. Evidence developed by the investigator can make it possible to pursue charges related to witness tampering and to actions of violence that are associated with increased risk and lethality, such as stalking, strangulation, and sexual coercion and aggression.<sup>[7]</sup>

### Policy: Conducting Investigations

In addition to adhering to general department policy, the Family and Sexual Violence Unit (FSVU) commander and investigators will take the following actions in conducting investigations in domestic violence-related cases, using the protocols, appendices, and training memos referenced and included as part of this policy.

1. Implement the provisions of this policy in accordance with *Protocol 3: Domestic Violence Investigations*.
2. The supervisor shall promptly review every domestic violence-related report where an officer has determined that probable cause exists that a crime was committed and assign the case for follow-up investigation; or send the report to the charging attorney with no further investigation.

3. In cases where a primary investigation centers on a non-domestic crime but a domestic violence-related crime was also involved in the case, fully investigate the domestic-related crime.
4. Conduct investigations supplementing the initial police investigation at the scene.
5. Prioritize investigation of cases where the suspect is gone-on-arrival in the same manner as in-custody cases and take victim safety into account.
6. Engage with the victim or victims in a way that prioritizes safety, offers resources, builds collaboration over time, and increases access to services and protection in accordance with the *Protocol 2: Victim Engagement Guidelines*.
7. If a case that the investigator believes has strong merit is declined by the prosecuting authority, request the specific reason for the decision to decline and explore the possibility of further investigation to support prosecution. If the prosecutor remains reluctant to proceed with the case, discuss it with the FSVU supervisor for further follow-up.

The Commander shall review cases regularly as appropriate with the prosecutor's office and shall meet quarterly with prosecutors to review and discuss recurring issues.

8. In general, prosecutors will decline cases where there is insufficient evidence to charge and with more evidence at a later date may decide to charge the case. In cases in which the prosecutor would

like further investigation before charging, the prosecutor will designate the case RPFII (Release Pending Further Investigation), specify what additional investigative actions should be taken, and return the case to the investigator for follow-up investigation (within approximately 30 days).

If there is still insufficient evidence to charge at the end of the additional investigation period, the prosecutor will decline the case and promptly inform the investigator.

9. Be alert for crimes that often occur in domestic violence situations and investigate according to the related training memos; such crimes include:
  - a. Stalking/harassment
  - b. Strangulation
  - c. Sexual coercion and sexual aggression
  - d. Witness tampering
10. Conduct all investigations involving police employees and law enforcement personnel as suspects, in accordance with this policy and protocol.
11. Conduct all investigations involving a public figure in accordance with this policy and protocol, regardless of the socioeconomic status or prominence of the suspect.

12. Determine if the suspect is on probation; if so, notify probation of the circumstances of the case, including any offenses where the suspect left the scene and has not been located.

The following protocols are attached to and included as part of the investigation policy:

- › 3: *Domestic Violence Investigations*
- › 2: *Victim Engagement Guidelines*

The following appendices are attached to and included as part of the investigation policy:

- Practitioners' Guide to Risk and Danger in Domestic Violence Cases

### Protocols, appendices, and training memos

The following training memos are included as part of the investigation policy:

- › *Implications of the Crawford Decision and Forfeiture by Wrongdoing for Police Response to Domestic Violence*
- › *Law Enforcement Response to Strangulation*
- › *Law Enforcement Response to Stalking*
- › *Response to Children in Domestic Violence–Related Cases*
- › *Victim Engagement and the Law Enforcement Response to Domestic Violence*

- › *Memorandum of Understanding Regarding Exchange of Records*
- › *How a Prosecutor Reads a Domestic Violence–Related Report*
- › *How a Defense Attorney Reads a Domestic Violence–Related Report*

See the Blueprint Supplement for appendices and training memos referenced in the policy and protocols.

## POLICY: CONDUCTING INVESTIGATIONS

### Protocol 3: Domestic Violence Investigation

#### A. Case Assignment

1. Regardless of whether the offender is in custody or out of custody (GOA), cases with one or more of the following factors will receive the highest priority in case assignment:
  - a. An imminent time deadline before which the suspect must be charged or released
  - b. Significant injury or impairment
  - c. Strangulation or stalking behavior has been alleged
  - d. A victim's response to risk questions indicates significant risk of harm
2. Cases with one or more of the following factors will receive secondary priority in case assignment:
  - a. Minor injury or no injury, except where the prosecutor has requested an investigation
  - b. No indication of ongoing abuse or victim intimidation by the suspect
3. No follow-up investigation will be assigned on cases involving:
  - a. Misdemeanors where the initial investigation is complete
  - b. Cases without probable cause
4. Follow-up investigation for in-custody misdemeanor cases will occur after charging at the request of the city attorney.
5. Cases shall be evaluated for multiple charges and joint investigation.
  - a. The Family and Sexual Violence Unit (FSVU) supervisor shall evaluate cases for multiple charges, both domestic related and non-domestic related.
  - b. If there is the possibility of multiple charges, the investigator will thoroughly investigate all crimes.



## B. Investigation

1. Identify and obtain contact information for witnesses if not included in the incident report.
2. Conduct follow-up interviews with and obtain statements from witnesses, including the person who called 911 and children, if the initial interview was incomplete or missing important information.
3. Apply the following considerations in determining whether to conduct follow-up interviews with children:
  - a. The child's physical, emotional, or psychological ability to give a statement
  - b. The child's age and ability to understand questions and formulate responses
  - c. The non-offending parent/guardian's preferences as to whether and how to talk with the children.
4. Arrange for a follow-up interview with the victim.
  - a. Inquire about her welfare and safety.
  - b. Provide referral information regarding advocacy support, restraining orders, and other community supports.
5. Conduct a thorough interview with the victim that includes attention to:
  - a. Her or his account of events surrounding the incident
    - b. The extent to which the victim feels uneasy about providing information about the incident to law enforcement and if so, why
    - c. The extent to which the suspect has ever warned the victim about talking with police or outsiders for help, now or in the past, and the specifics of any threats or warnings
    - d. Initial and continuing treatment of injuries
    - e. Indicators of stalking
6. Conduct the domestic violence risk assessment with the victim, in accordance with the appendix, Practitioners' Guide to Risk and Danger in Domestic Violence Cases.
  - a. Review the victim's response to the risk questions included in the patrol report.
  - b. If it appears there is a history of violence, ask follow-up risk questions to those asked by patrol. Cover the following risk factors and as time allows probe for what the victim thinks are the risks associated with each factor.
    - Does he/she own a gun?
    - Have you left after living together?
    - Does he/she ever try to choke you?
    - Has he/she ever used a weapon against you or threatened you with a weapon?
    - Has he/she threatened to kill you or himself/herself?
- Has he/she avoided arrest for domestic violence?
- Does he/she use drugs? If so, what kind and with what effect?
- Has he/she ever forced you to have sex when you didn't want to?
- Does he/she control many of your daily activities (e.g., friendships, whether or when your family can visit, travel)?
- Is he/she jealous of you?
- Does he/she follow or spy on you or leave threatening notes or messages?
- Do you have a child that is not his/hers?
- Has he/she beaten you when you were pregnant?
- Has he/she ever threatened or tried to commit suicide?
- Is he/she working?
- Is he/she an alcoholic or problem drinker?
7. In the victim interview and risk assessment, probe for details related to:
  - a. Severity and frequency of abuse
  - b. Victim's level of fear
  - c. Isolation

- d. History of violence (whether or not it resulted in law enforcement contact)
- 8. Follow up on any indications or suspicions of strangulation, stalking, witness tampering, or sexual coercion or aggression.
- 9. Record all statements as required by law and in other situations whenever possible.\*
- 10. Obtain all medical reports after verifying signed release.
- 11. Run a comprehensive criminal history check, including MNCIS, to obtain juvenile history in order to determine correct offense level and indications of stalking.
- 12. Document all history of abuse by obtaining:
  - a. Past SPPD police reports on the offender
  - b. Past and current OFPs and HROs including the Petition and Affidavit portion, and any existing DANCOs
  - c. In cases of stalking or increased risk of harm (per risk assessment), police reports from other jurisdictions, both within and outside the state  
NOTE: Gathering police reports from other jurisdictions may occur after charging, but before pretrial in order to amend charges if appropriate prior to pretrial negotiations.
- 13. Collect all evidence related to the case, including:
  - a. Follow-up photographs of injuries at 24, 48, and 72 hours in cases where bruises may develop after the initial police response
  - b. Physical evidence not collected by the responding patrol officers
  - c. Any weapons used in the incident  
NOTE: If the incident included threats to kill, highlight threats for prosecution so a request can be made for seizure and/or no possession of weapons as a condition of release.
  - d. Recordings/printouts of relevant voice mail, e-mail, text messages, etc.
- 14. Make note of information missing from the patrol reports and convey incomplete reports to the FSVU commander.  
  
FSVU commander will return incomplete reports to appropriate patrol commander for review and a supplement, if necessary.
- 15. Make immediately available to the probation officer conducting a presentence investigation the following information in accordance with the *Memorandum of Understanding Regarding Exchange of Records*:
  - a. Instant offense
  - b. All information related to the criminal history check and history of abuse
  - c. Responses to the victim interview and risk questions, with specific attention to the type, severity, and frequency of violence; the victim's level of fear and degree of isolation
  - d. All supplemental reports of interviews with witnesses

### C. Gone-on-arrival (GOA) cases

1. In cases where the offender was not arrested at the scene, cases with one or more of the following factors will receive the highest priority:
  - a. Significant injury or impairment
  - b. Witness tampering, strangulation or stalking behavior has been alleged
  - c. A victim's response to risk questions indicates increased risk of harm
  - d. A victim expresses fear of imminent bodily harm
2. Follow Section B-Investigation of the protocol in conducting the investigation of GOA cases.
3. Before interviewing the victim, determine if the victim is safe and able to speak freely.
4. Inform the victim that the investigator will attempt to interview the suspect.
5. Take the following actions when interviewing a suspect who is out of custody/GOA:

\*Minnesota law requires that a custodial interrogation at a place of detention of the suspect must be recorded. State v. Scales, 518 NW2d 587 (Minn. 1994)

- a. Conduct the interview in person so that suspect reactions can be assessed.
  - b. Notify the victim if the investigator assesses increased risk of harm and assist the victim in problem-solving regarding enhancing her/his personal safety.
6. Determine whether the suspect is on probation for a misdemeanor offense; if so, consider forwarding the incident report and contacting the probation officer to discuss whether a pick-up-and-hold should be issued.
  7. If the charge is a felony, issue a pick-up-and-hold.
  8. When the suspect is in custody, conduct the suspect interview at the jail.
  9. Notify the victim of the prosecutor's charging decision.
    - a. Ensure that the victim has information regarding advocacy and civil protection orders.
    - b. Encourage the victim to call police again if new incidents occur.

#### D. Victim engagement

1. In conducting the investigation, work in collaboration with victims according to *Protocol 2: Victim Engagement Guidelines*.
2. When using information provided by the victim, protect her/him from retaliation.

- a. Do not tell the suspect what the victim has told you.
  - b. If circumstances allow, do not tell the suspect you have spoken to victim.
3. Ensure that the victim knows who you are and how to contact you.
  4. Encourage the victim to report contact, abusive behavior and/or violations by the suspect.
  5. Request that the victim report any threats against her/him for cooperating with the investigation.
  6. Inform the victim of the importance of keeping a record of mail, voice mail, e-mail, text messages, and other forms of communication and contact from the suspect or others acting on the suspect's behalf.
  7. Inform the victim of the availability of periodic "welfare" checks at her/his residence by officers.
  8. Problem solve with the victim around enhancing safety as the case proceeds through the legal system.

#### E. Declined cases

1. Notify the victim of the prosecutor's decision.
2. When the prosecutor declines a case the investigator believes has merit, he or she should discuss the case with the supervisor and then contact the charging attorney to discuss the reason for

declining the case and explore the possibility of further investigation.

If the charging attorney indicates additional investigation might result in charges, continue the investigation as requested by the prosecutor.

3. After a prosecutor's initial decision to decline the case, if the investigator concludes the case has strong merit he or she may request supervisory approval to retain the case and gather additional evidence to improve the possibility of charging.
4. If the case is finally declined by the prosecutor as a felony and transferred to another prosecuting authority as a misdemeanor, the investigator shall be informed of the transfer and contact the new charging attorney to discuss the case.

#### F. Stalking

1. Investigate allegations or indications of stalking according to guidance provided in the training memo: *Law Enforcement Response to Stalking*.
2. Keep in mind that often cases are not charged as stalking until after arraignment.

#### G. Strangulation

1. Investigate allegations or indications of strangulation according to guidance provided in the

training memo: *Law Enforcement Response to Strangulation.*

## H. Sexual coercion and aggression

1. Review the police report for indications of or references to sexually coercive or aggressive behavior.
2. Interview the victim with sensitivity to the complexity of revealing sexual aggression or coercion.
3. Consult with an advocate if sexual coercion/aggression is indicated in the initial report.

## I. Cases involving police department employees

1. Conduct the investigation following general policies and procedures and this protocol.
2. If patrol has not already done so, the FSVU commander shall notify the supervisor of the suspect's unit as soon as possible after the incident.
3. Contact Saint Paul Intervention Project (SPIP) for assistance in referring the victim for safety planning and services.
4. Deliver all reports and information obtained to the suspect's commander at the completion of the investigation.
5. Refer all incidents involving law enforcement personnel for review by the prosecuting authority.

6. In appropriate cases, discuss referring case to Minnesota Bureau of Criminal Apprehension or another jurisdiction with FSVU commander.

## J. Cases involving public figures

1. Conduct the investigation following general policies and procedures and this protocol.
2. Coordinate with the public information officer (PIO) and refer media inquiries to the PIO.
3. Shield the victim from media inquires.
4. Omit victim contact information from the report if requested by the victim.
5. Contact SPIP for assistance in referring the victim for safety planning and services.

# POLICY

## SUPERVISING INVESTIGATIONS IN DOMESTIC VIOLENCE-RELATED CASES

### Framework

Supervisory oversight of domestic violence investigations ensures that this link in the interagency response works to its fullest potential. <sup>[8]</sup> Oversight should reinforce thorough evidence collection, attention to risk and danger, and strategies that minimize the need for a victim to confront the offender. Oversight should emphasize proper investigation and documentation to accurately charge a case. In addition to the responsibility of the supervising investigators who follow up on patrol reports, the commander of the SPPD Family and Sexual Violence Unit also assists patrol supervisors in maintaining the quality of patrol reports and helps maintain connections between SPPD and other intervening agencies.

### Policy: Supervising Investigations

In addition to following general agency procedures covering supervisory oversight of investigations, the Family and Sexual Violence Unit (FSVU) commander will take the following actions in providing supervisory oversight of investigations in domestic violence–related cases, using the protocols and training memos referenced and included as part of this policy.

1. Implement the provisions of this policy in accordance with *Protocol 4: Supervising Investigations*.

2. Monitor investigative files to determine if all necessary actions were taken in the investigation, and direct any necessary follow-up.
3. Prepare a report outlining whether patrol reports sent to FSVU comply with the patrol report protocol.
4. Meet every other month with division commanders to discuss quality and compliance of patrol reports with the protocol and refer reports to commander for review and redrafting if necessary.
5. Meet quarterly with the city and county attorney's offices to discuss and review problematic cases.
6. Prepare a quarterly case tracking report to be sent to the assistant chief of the investigative division.
7. Consult with investigators on individual cases.
8. Review Blueprint policies, protocols, and training memos with new investigators assigned to the unit within 30 days of their assignment.
9. Update policies and protocols each year pursuant to legislative, statutory changes.

### Protocols, appendices, and training memos

The following protocol is attached to and included as part of the investigation supervision policy:

› *4: Supervising Investigations*

The following appendices are attached to and included as part of the investigation supervision policy:

- Practitioners' Guide to Risk and Danger in Domestic Violence Cases
- Supervising Domestic Violence Case Investigations – Case Review Checklist

## POLICY: SUPERVISING INVESTIGATIONS

### Protocol 4: Supervising Investigations in Domestic Violence–Related Cases

Use the following related protocols and training memos to implement this protocol:

- › *Protocol 3: Domestic Violence Investigations*
- › *Protocol 2: Victim Engagement Guidelines*
- › *Implications of the Crawford Decision and Forfeiture by Wrongdoing for Police Response to Domestic Violence*
- › *Law Enforcement Response to Strangulation*
- › *Law Enforcement Response to Stalking*
- › *Response to Children in Domestic Abuse–Related Cases*
- › *Victim Engagement and the Law Enforcement Response to Domestic Violence*
- › *How a Prosecutor Reads a Domestic Violence–Related Report*
- › *How a Defense Attorney Reads a Domestic Violence–Related Report*
- › *Memorandum of Understanding Regarding Exchange of Records*

1. Ensure that every investigator is familiar with policies and procedures.
2. Review investigation files for thoroughness and if not satisfactory return to the investigator with specific instructions on actions to take.
3. Provide consultation to investigators on cases as needed.

4. Monitor investigations to determine:
  - a. If additional training is necessary in investigative techniques (e.g., interviewing, self-defense and predominant aggressor evaluation)
  - b. If additional training is necessary in the specifics arising in domestic violence-related cases
5. If additional training is warranted, direct the investigator to appropriate training and continue monitoring to determine effectiveness of training.
6. Compile and submit a case tracking report that includes:
  - a. Number of cases investigated
  - b. Number of cases charged (misdemeanors, gross misdemeanors, and felonies)
  - c. Number of cases declined (misdemeanor, gross misdemeanor, and felonies)
  - d. Number of incomplete patrol reports returned
  - e. Concerns that need to be resolved and anticipated challenges
7. Review Blueprint policies, protocols and training memos with new investigators assigned to the unit within 30 days of assignment.
8. Update Blueprint policies and protocols yearly to comply with legislative statutory changes.

9. Assistant Chief will review five to ten randomly selected files every six months for completeness, using the case review checklist appended to this protocol.
  - a. Number of cases investigated
  - b. Number of cases charged (misdemeanors, gross misdemeanors, and felonies)
  - c. Number of cases declined (misdemeanor, gross misdemeanor, and felonies)

# POLICY

## SUPERVISING THE PATROL RESPONSE TO DOMESTIC VIOLENCE-RELATED CASES

### Framework

The success of the interagency approach hinges largely on what happens in the first hour of each case. The patrol officer's role in laying a foundation for all subsequent interventions cannot be over-emphasized. Patrol supervisors, in turn, relay the department's priorities and expectations, thereby reinforcing the interagency response and the patrol officer's key role. This is accomplished by supervisors periodically attending domestic violence calls at the scene, reviewing reports on a daily basis, and providing more in-depth review of reports as needed to maintain the department's report-writing standards and reinforce the importance of thorough patrol reports to the overall safety and accountability goals of the interagency approach.

### Policy: Patrol Supervision

In addition to following general agency policy, patrol sergeants and division commanders will take the following actions in providing supervisory oversight

in domestic violence-related cases, using the protocols, appendices, and training memos referenced and included as part of this policy.

1. Implement the provisions of this policy in accordance with *Protocol 5: Supervising the Patrol Response to Domestic Violence*.
2. Monitor responding officers' on-scene activities and compliance with policy by periodically appearing on the scene of domestic calls and assessing the patrol response.
3. Review patrol reports for accuracy and completeness.
4. Respond to patrol officers' requests to approve decisions to not arrest in misdemeanor cases where probable cause has been established.
5. Respond to police employee-involved domestic violence calls by ensuring that a supervisor of higher rank than the involved officer is dispatched to the scene.

6. Ensure that patrol officers receive and are introduced to domestic violence response policies and protocols and related appendices and training memos.

### Protocols, appendices, and training memos

The following protocol is attached to and included as part of the patrol supervision policy:

- › *5: Supervising the Patrol Response to Domestic Violence*

The following appendix is included as part of the patrol supervision policy:

- Patrol Supervision – Domestic Violence Patrol Report Review

See the Blueprint Supplement for appendices and training memos referenced in the policy and protocol.

## POLICY: SUPERVISING INVESTIGATIONS

### Police Protocol 5: Supervising the Patrol Response to Domestic Violence

Use the following related protocols, appendices, and training memos to implement this protocol:

- › *Protocol 1: Patrol Response to Domestic Abuse-Related Calls*
- › *Protocol 2: Victim Engagement Guidelines*
- › *Appendix: Practitioners' Guide to Risk and Danger in Domestic Violence Cases*
- › *Tactical Approach to the Scene of Reported Domestic Violence (CONFIDENTIAL)*
- › *Gone-on-Arrival (GOA) Cases*
- › *Making the Arrest Decision*
- › *Miranda Rights and Domestic Violence Cases*
- › *Implications of the Crawford Decision and Forfeiture by Wrongdoing for Police Response to Domestic Violence*
- › *Law Enforcement Response to Strangulation*
- › *Law Enforcement Response to Stalking*

- › *Response to Children in Domestic Abuse–Related Calls*
  - › *How a Defense Attorney Reads a Domestic Violence–Related Report*
  - › *How a Prosecutor Reads a Domestic Violence–Related Report*
  - › *Intervention in Cases Involving Victims of Battering Who Use Violence*
  - › *Law Enforcement Response to Persons with Disabilities*
1. Assess the on-scene patrol response to domestic violence-related calls, including:
    - a. Skill in securing the scene and managing the immediate crisis
    - b. Skill in obtaining initial information from those at the scene
    - c. Thorough assessment and documentation of probable cause determinations
    - d. Awareness of potential stalking, strangulation, and witness tampering
    - e. Skill and thoroughness in identifying, photographing (or arranging for photographs) of injuries and relevant evidence, and collecting physical evidence
    - f. Professional and competent treatment of those at the scene, including victims, children, people with disabilities, older victims
    - g. Prompt referral to advocacy (Saint Paul Intervention Project)
      - h. Securing a donated cell phone and charger from the photo squad as needed in accordance with protocol
  2. Conduct daily and ongoing reviews of patrol officers' reports.
    - a. Use the Police Report Checklist attached to *Police Protocol 1: Patrol Response to Domestic Violence–Related Calls*, to review daily reports submitted by officers and approve or send back for corrections.
    - b. If the suspect is in custody and the author of the report is off-duty, approve the report and notify the FVSU commander of the errors in the report.
    - c. On a quarterly basis, randomly select two reports of each officer and conduct a thorough review of the reports using the appendix, *Domestic Violence Patrol Report Review*. Where reports do not meet the standards, meet with the officers to provide feedback and guidance.
    - d. Periodically review a sample of CAD reports submitted by officers to review compliance with policy and protocol regarding reports in cases involving a determination of no probable cause.
  3. Approve officers' decisions to not arrest in misdemeanor cases where probable cause has been established in accordance with departmental arrest policy and emphasis on avoiding unnecessarily placing children in foster care as the primary reason for no arrest in such cases.
  4. In responding to police employee–involved domestic violence, take the following action:
    - a. Recover the officer's badge, ID, and service weapon.
    - b. If the situation is deemed to be highly dangerous, remove all weapons from the scene on the same basis as any member of the public.
    - c. Supervise the on-scene investigation.
  5. Introduce and provide officers with appendices and training memos related to policies and protocols governing the patrol response to domestic violence cases.
    - a. Patrol sergeants: introduce each of the appendices and training memos and review them with patrol during roll call.
    - b. Post appendices and training memos via e-mail.
    - c. Direct officers to read and confirm that they have read the documents pursuant to established procedures.



Chapter 4

# Ramsey County Sheriff's Office

# POLICY

## JAIL, WARRANT PROCESSING, AND COURTHOUSE SECURITY IN DOMESTIC VIOLENCE-RELATED CASES

In addition to its patrol response and investigation of domestic violence crimes, a sheriff's office has responsibilities for operating the jail, receiving and processing warrants, and providing courtroom security. In the interagency response to domestic violence, each of these functions has a role in reinforcing the common goal of protection of and safety for individual victims and the community.

Personnel assigned to the jail are in a position to interrupt an inmate's attempts to intimidate or harass the victim via phone or written communication. When jail staff document and report an inmate's threats or attempts to influence the victim's participation in the case to the arresting agency, that information can in turn assist prosecutors in pursuing charges of witness tampering that are less reliant on direct victim testimony. The jail's careful attention to victim notification of an inmate's release provides information about the timing, conditions of release, and future court appearances that the victim can use to reinforce her or his safety. Prompt warrant service contributes to placing controls on domestic violence offenders who may present heightened risk to individual victims, the community, and law enforcement officers. Attention to courthouse security helps minimize victim intimidation and risk to victims and their advocates and family members, as well as risks that domestic violence offenders can present to courthouse personnel and other interveners.

In addition to adhering to general policies of the Ramsey County Sheriff's Office (RCSO), personnel assigned to the jail, warrant processing, and court-

room security will take the following actions in domestic violence-related cases, using the protocols, appendices, and training memos referenced and included as part of this policy.

1. Implement the provisions of this policy in accordance with the following protocols, which are attached to and included as part of the policies addressing the jail, warrant processing, and courthouse security.

a. *Protocol 1: Jail Booking, Supervision, and Release*

b. *Protocol 2: Receiving and Processing Warrants*

c. *Protocol 3: Courtroom Security*

### Jail

2. Book and release domestic violence offenders according to established procedures.
3. Protect domestic assault victims from intimidation and harassment by the suspect/defendant while that individual is in the custody of the RCSO.

### Warrant processing

4. Complete warrants promptly and accurately according to the procedures established by the Minnesota Bureau of Criminal Apprehension (BCA) and the FBI.
5. Use warrants to take defendants into custody in order to maintain the safety of individual victims and the community, hold offenders accountable, and ensure officer safety.

### Courthouse security

6. Maintain security in the courthouse by responding to the safety needs of victims of domestic violence crimes and the general public.

### Protocols, appendices, and training memos

The following appendix is attached to and included as part of this policy:

- Practitioners' Guide to Risk and Danger in Domestic Violence Cases

The following training memos are attached to and included as part of this policy:

- › *Safety Considerations in the Sheriff's Office Management of Domestic Violence Cases*
- › *Receiving and Processing Warrants in Domestic Violence-Related Crimes*

See the Blueprint Supplement for the appendix and training memos referenced in the policy and protocols.

## POLICY: JAIL, WARRANT PROCESSING, AND COURTHOUSE SECURITY IN DOMESTIC VIOLENCE-RELATED CASES

# Sheriff's Office Protocol 1: Jail Booking, Supervision, and Release

### 1. Booking new inmates

- a. Verify the date and time of arrest.
- b. Book the inmate on all charges listed on the Authority to Detain form.
- c. Make sure the arresting officer has completed the victim information form so that the information can be entered into the JWJail system.
- d. Enter all victim contact information listed on the victim information form into JWJail. Include whether the victim has indicated if it is safe to leave a message at any phone numbers listed on the form.
- e. Block the inmate's access to all phone numbers listed on the victim information form.
- f. Conduct the mental health screening per policy.
- g. Document in the inmate diary any threats he or she makes to harm the victim or others. Write an offense report and forward to the arresting agency.

### 2. Transferring inmates' property

- a. Upon booking, a victim or third party may retrieve keys and other items in the inmate's possession if the inmate completes and signs a property transfer form.
- b. Unless considered evidence, the inmate can sign a property transfer form that permits the victim or a third party to request that the impound lot release the inmate's car.

- c. If the car is owned by the victim or a third party and is not evidence, release the keys to that person upon presentation of a court order.
- d. If an inmate refuses to complete a property transfer, keys and other items will be released to the victim or third party upon presentation of a court order.

### 3. Monitoring inmates' contact with the public

#### a. Visits

- Visits between inmates subject to no-contact orders and their victims are prohibited.

#### b. Written communication

- Confiscate correspondence from any inmate charged with a domestic violence related offense to his or her victim. If the correspondence contains threats or attempts to influence the victim with respect to his or her participation in the current prosecution, transfer such correspondence to the arresting agency.
- Review all correspondence from inmates charged with domestic violence-related offenses to look for evidence that they are seeking to contact their victim(s) or otherwise violate the law.
- Any inmate found to be attempting to use or using correspondence in violation of a no-contact order will be disciplined.

- Document offenses in the inmate diary. If the inmate is subject to a no-contact order, report the violation of the order to the arresting agency.

#### c. Phone calls

- Place any inmate who attempts to use or uses the phone to contact his or her victim, either by calling another inmate's PIN number or by using third-party calling, in special housing. Restrict the inmate's phone privileges.
- An inmate restricted to attorney-only calls will be required to give jail staff the name of the attorney. Verify the name and phone number of the attorney and dial the number for the inmate.
- Document offenses in the inmate diary. If the inmate is subject to a no-contact order, report the violation of the order to the arresting agency.
- If an inmate is not subject to a no-contact order, his or her victim can request that the phone block be removed, either by submitting a written request or by appearing in person and presenting photo identification.
- If a victim reports phone harassment by an inmate to jail staff, block the victim's numbers and inform the victim of the option of blocking calls from the jail. Inform the investigator assigned to the case of the reported phone harassment.

#### 4. Releasing inmates

- a. Verify the inmate's identity both by checking his or her wristband and by checking the inmate against the computer photo image stored.
- b. In the rare event there is no photo image, verify the inmate's identity by checking the wristband and asking personal information.
- c. Notify the warrant office of the pending release. The warrant clerk will then check for any outstanding warrants or holds pursuant to their usual procedures.
- d. If the jail staff have a specific safety concern about an individual inmate who is about to be released because a hold has expired, contact the arresting agency to verify the date and time of expiration. NOTE: The inmate cannot be held past the expiration time if jail staff are unable to reach the arresting agency.

- e. If an inmate is being released to the street, permit the inmate to make arrangements for transportation. Inmates subject to no-contact orders will not be permitted to contact their victims for transportation.

#### 5. Victim notification

- a. Call the victim at the number(s) available in JWJ.
- b. Whenever possible, continue calling until the victim is reached directly. If she/he cannot be reached, and if the victim information indicates that message may be left, do so at the number(s) indicated in JWJail. Leave a message stating that you are a correctional officer (or deputy) calling from the Ramsey County Law Enforcement Center to inform the victim of the defendant's impending release.
- c. In accordance with Minn. Stat. § 629.72, inform the victim of the following:

- Time of the inmate's release
- Conditions of release, if information provided by the court
- Date, time, and place of inmate's next scheduled court appearance and the victim's right to be present
- Phone number of Day One's hotline (866-223-1111) that will connect the victim to the nearest battered women's shelter
- d. Notify the victim by mail of the above information.

#### 6. Additional notifications

- a. In accordance with Minn. Stat. § 629.72, make reasonable efforts to notify the Saint Paul Police Department and, if the victim has so requested, Saint Paul Intervention Project or another local advocacy program of the inmate's release and court appearance listed above.

## POLICY: JAIL, WARRANT PROCESSING, AND COURTHOUSE SECURITY IN DOMESTIC VIOLENCE-RELATED CASES

### Sheriff's Office Protocol 2: Receiving and Processing Warrants

#### 1. Receiving warrants

- a. Court administration enters all criminal court warrants into MNCIS and forwards paper copies to the warrant office.
- b. Entry of the warrant automatically integrates into the Just Windows (JWJ) "Warrant Browse" screen.
- c. In adherence to BCA/FBI guidelines and security policy, enter all felony warrants into MNJIS and NCIC within 72 hours.
- d. Unless notified of special circumstances, do not process warrants until the paper copy is received in the warrant office.
  - Notifications may be made by other law enforcement agencies, the city or county

attorney, the court, a victim advocate, or others.

- Special circumstances may include the dangerousness of the defendant and/or knowledge of the defendant's whereabouts.
- e. Prior to processing, paper warrants are available to the apprehension unit for review. If a judge has signed the warrant, the apprehension unit or

other law enforcement can choose to work the warrant.

## 2. Processing warrants

- a. As mandated by FBI policy, priority for warrant processing goes first to felonies, then to gross misdemeanors, and finally, misdemeanors.
- b. Afternoon staff (3:00 pm – 11:00 pm): check in warrants and enter the date and time on the warrant screen. This starts the clock running for entry into the NCIC.
- c. Create a warrant jacket to hold printouts of information about the defendant.
- d. Verify defendant's identity and criminal history using procedures outlined in the Training Memo, *Receiving and Processing Warrants in Domestic Violence–Related Crimes*.
- e. Run a new BCA criminal history each time a new warrant is issued.
- f. Check the electronic information against the paper warrant.
- g. Felony warrants into MNJIS (BCA hot files) and NCIC; enter gross misdemeanor and misdemeanor warrants into MNJIS only in accordance with the training memo, *Receiving and Processing Warrants in Domestic Violence–Related Crimes*.
- h. Warrant clerk (1): fill in the jacket, initial, and place the warrant in the proofreading bin.

## 3. Final warrant review

- a. Warrant clerk (2): proofread the warrant information; fill in the date, time, and proofreader's name.
- b. Send the warrant to the apprehension team box. The apprehension team will review the warrant and determine whether to work it based on level and type of offense.
- c. Upon request of the apprehension unit, prepare a letter notifying the defendant of the existence of the warrant and advising the defendant to turn him or herself in.

## 4. Apprehension team

- a. Review the warrant and determine whether to work it based on the level and type of offense. Felonies and violent misdemeanors and gross misdemeanors receive priority.
- b. When a warrant is served on a defendant in the presence of the victim, give her or him the victim information card.
- c. Warrants for offenders who cannot be located after a reasonable amount of time and effort should be periodically reviewed as time and personnel permit. Priority for follow-up is given to warrants for violent offenders. See appendix, *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*.
- d. When new information becomes available (for example, from advocacy programs, victims, the

police, the courts, prosecution, probation, or the public), make new attempts to locate defendants as time and resources permit; give priority to felonies and to misdemeanor and gross misdemeanor crimes of violence.

- e. When high priority offenders cannot be located despite the apprehension unit's best efforts, turn over the warrant to the Fugitive Task Force of the U.S. Marshal Service or the FBI.

## POLICY: JAIL, WARRANT PROCESSING, AND COURTHOUSE SECURITY IN DOMESTIC VIOLENCE-RELATED CASES

# Sheriff's Office Protocol 3: Courthouse Security

### 1. General procedures

- a. For the purposes of the following procedures, no-contact orders include orders for protection that prohibit contact, harassment restraining orders, and domestic abuse no-contact orders issued against a defendant in a criminal proceeding. Incidental contact resulting from the parties merely being in proximity while in the courthouse may not be considered a violation of a no-contact order.
- b. Post signs throughout the courthouse that read as follows: "No-contact orders/orders for protection remain in effect in the courthouse. Violations should be reported to the Sheriff's Department."
- c. Review the daily court calendars e-mailed from the clerks' office and make note of which cases are domestic violence cases and whether a no-contact order is in place.
- d. Be prepared to respond to requests for assistance from victims, victim advocates, or others concerned about the possibility of victim intimidation or violations of court orders in the courthouse. See appendix, *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*.

### 2. Out-of-custody calendars

- a. When a safety concern is communicated by a victim, victim advocate, or victim's representative, strongly encourage the victim to use the designated safe waiting area. If requested by the

victim and as time and resources permit, escort the victim to the designated secure area. Inform the clerk in the appropriate courtroom of the victim's whereabouts.

- b. When making rounds to the various courtrooms, remain alert for any attempt by defendants to intimidate or harass victims. Be prepared to respond to requests for assistance from court personnel, victims, or victim's advocates. Upon observation or information indicating that one person is attempting to harass or intimidate another, intervene by separating and identifying the parties. Inquire of the parties whether a no-contact order is in place.
- c. Upon observation or information of a possible violation of a no-contact order, take whatever action reasonable and necessary to address the defendant's behavior.
- d. Upon establishing probable cause, arrest that person in violation of the no-contact order, pursuant to Minn. Stat. § 518B, subd. 22.
- e. Report to the prosecutor any incident of victim intimidation or harassment by a defendant and document the intimidation or harassment as requested by the prosecutor.
- f. If a victim expresses concern for his or her safety following the court proceeding and requests the assistance of deputies, escort that person from the building as reasonable and as time and resources permit.

### 3. In-custody cases

- a. No in-custody defendant will be allowed to pass or receive anything from anyone or have contact with anyone in the gallery, except as ordered by the judge.
- b. If a defendant repeatedly attempts visual contact with anyone in the gallery or attempts to communicate through gestures, intervene as directed by the judge, unless extenuating circumstances require direct intervention.

Chapter 5

# Saint Paul City Attorney's Office

# POLICY

## CHARGING DECISIONS IN DOMESTIC VIOLENCE-RELATED CRIMES

The Saint Paul City Attorney's Office is responsible for prosecuting misdemeanor and gross misdemeanor crimes committed in the city limits. The Ramsey County Attorney's Office is responsible for prosecuting felonies committed in Ramsey County, including the City of Saint Paul. The City Attorney's Office participates in a joint project with the Ramsey County Attorney's Office to prosecute domestic violence cases where children are involved. This unit, the Joint Prosecution Unit (JPU), prosecutes misdemeanors, gross misdemeanors, and felonies. Therefore, the City Attorney's policies and protocols includes references to felony level crimes.

### Framework

Prosecutors have broad discretion in deciding whether to charge and prosecute any particular case.<sup>[1]</sup> Prosecutors exercise their discretion to charge based on many factors, including their experience, professional judgment, and goals in prosecution. In every case, a prosecutor must evaluate whether the admissible evidence will prove all of the elements of the crime(s) charged and consider the quality of the evidence—including credibility of witnesses—and the likelihood of conviction.

A prosecutor has the duty not only to achieve a conviction, but also to seek justice.<sup>[2]</sup> Seeking justice in domestic abuse-related cases includes weighing the goals of victim safety and offender accountability and rehabilitation. Domestic violence cases introduce several additional factors to consider in exercising the discretion to charge, including: (1) the

history and context of violence between the defendant and the victim; (2) the seriousness of injuries and/or the level of fear expressed by the victim; (3) ways in which children have been used as part of a pattern of abuse and violence; and (4) the impact of no intervention or less aggressive intervention on potential lethality.<sup>[3]</sup> The standard for charging varies across jurisdictions along a continuum from probable cause to substantial likelihood of success at trial. When evaluating domestic violence-related cases that present a high risk of harm or lethality to the victim, a prosecutor may charge a case in the absence of optimal facts or evidence and request additional investigation.

In any criminal case, the decision whether to charge and what to charge depends heavily on the information gathered by law enforcement's initial response and evidence-gathering and subsequent follow-up investigation. The closer prosecutors and police are linked, the more likely there will be sufficient information available to prosecutors to make timely decisions under deadlines for charging or releasing a suspect.<sup>[4]</sup> In many domestic violence cases, sure and swift consequences are the most effective way to reduce further abuse. Prosecutors can contribute to that deterrence by issuing the highest level charge possible within the framework of ethical practice and the goals of victim safety and offender accountability and rehabilitation.

Most domestic violence cases coming to the attention of the criminal justice system are part of an ongoing pattern of intimidation, coercion, and

violence (i.e., battering) that began prior to the specific incident and arrest that brought the case to the prosecutor's office.<sup>[5]</sup> In cases of battering, the violence is likely to continue beyond closure of that specific case, particularly if there is no coordinated, interagency response. It may take repeated interventions to control the behavior of a defendant who is engaging in ongoing intimidation, coercion, and violence. Each intervention should be seen as part of a continuing effort to contain the abuser's violence. Many victims of domestic violence try multiple times to leave the relationship before successfully freeing themselves. Some victims live with abusers because the alternatives for them and their children upon leaving are bleaker and more precarious to their overall well-being than conditions in the relationship.<sup>[6]</sup> As a result, prosecutors will often be working with a victim who is entrapped in the relationship.

Many victims of battering face intense pressure to oppose prosecution,<sup>[7]</sup> even as they want the criminal legal system to impose significant consequences for the harm they have experienced. The fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does.<sup>[8]</sup> Victims are rarely in a position to 'tell all' and cooperation with interveners often creates concerns for them<sup>[9]</sup> and has complex and dangerous implications. Prosecutors can work in collaboration with victims in ways that acknowledge that reality, minimize the victim's need to confront the offender,<sup>[10]</sup> and protect victims from retaliation.



Prosecution should be centered on victim safety, but not be victim-dependent. The Crawford case and its progeny make it critical that prosecutors approach domestic violence cases and direct evidence-gathering in ways that minimize dependence on the victim, maximize other sources of evidence, and stay mindful of intimidation and coercion directed at victims to prevent participation in the prosecution process. See the training memo, *Implications of Crawford and Davis for Prosecution of Domestic Abuse-Related Cases*.

In the past decade, many prosecutors have adopted evidence-based prosecution—building a case with multiple sources of evidence. An evidence-based approach, however, does not mean that a prosecutor assumes at the charging stage that the victim will be unavailable to testify and thus declines the case as unwinnable. Prosecutors should not assume at charging that the victim will be unavailable. Nor should the victim’s testimony be discounted. The uncorroborated testimony of an available victim may be sufficient to proceed with the case.

Pursuing the widest range of charges supported by probable cause, as described in these policies and protocols, can provide avenues for sanctioning and supervising domestic violence offenders that are less reliant on direct victim testimony: for example, charges stemming from a defendant’s actions after the police arrive at the scene,<sup>[11]</sup> either directed at the police or exhibited in front of police, or engaging in witness tampering through calls from the jail. Such behavior demonstrates the defendant’s willingness

to continue abusive behavior even when independent authority figures are present. Charging such crimes offers the potential to utilize law enforcement witnesses, which may lessen the need for the victim to testify. Thorough attention to the range of possible charges can also help illuminate crimes of strangulation and stalking. Because stalking is a patterned crime and strangulation does not always manifest visible injuries, they can be easy to overlook.<sup>[12]</sup> Both are markers of serious danger to the victim<sup>[13]</sup> (see appendix *Practitioners’ Guide to Risk and Danger in Domestic Violence Cases*).

This approach—charging all crimes supported by the evidence—requires strong linkages between prosecutors and law enforcement in order to produce thorough investigations, reports and evidence-collection that clearly substantiate each charge. Multiple charges must not be pursued as a form of harassment against a particular defendant, however, but as a legitimate means of strengthening public safety and accountability for the harm done. There are times when charging misdemeanor crimes along with one or more felony crimes can weaken a prosecutor’s case by giving the defense attorney and jury a compromise verdict. Prosecutors must consider the possibility of lesser charges having this effect in some cases.

While this approach generally enhances victim safety and offender accountability, there may be situations where safety considerations and justice require a more limited range of charges, particularly in responding to defendants who are victims

of ongoing abuse. In prosecuting cases involving victims of ongoing abuse who have used illegal violence against their abusers, the prosecutor must consider the safety needs of both the victim of the immediate offense and the defendant in the case. Maximizing safety for a defendant who is a victim of ongoing domestic violence (or “**victim defendant**”) requires careful appraisal of the ways in which multiple charges may adversely affect her or his safety. Pursuing multiple charges may unintentionally reinforce the batterer’s control via such actions as threats to make reports to the police or probation or to use the charges against the defendant to influence child custody decisions.<sup>[14]</sup>

Both the Minnesota Legislature and the Saint Paul Police Department discourage dual arrests and direct officers to arrest the predominant aggressor when both parties use illegal violence. When officers are skilled in making self-defense determinations and apply the predominant aggressor arrest policy properly, most victim defendants are screened out of the system.<sup>[15]</sup> Prosecutors may decide that a case was more likely than not self-defense and further screen victims of abuse from the criminal justice system. Nevertheless, cases will be presented to the prosecutor when the victim defendant was clearly the predominant or only aggressor in the instant offense. Such cases present prosecutors with a number of complex questions in determining who should be protected from whom and in what ways. Criminal justice policy reforms, such as mandatory arrest and no-drop prosecution, do not preclude prosecutors from exercising judgment and discretion. Rather,

fairness requires that prosecutors continue to make distinctions when particular factors are present in order to ensure a just approach that meets the goals of victim safety and offender accountability and rehabilitation.

The prosecutor’s decision to charge can send powerful messages of help and accountability to victims and defendants on behalf of a community that recognizes domestic violence as serious and unacceptable. To victims: *You have the right to live without violence and no one has the right to abuse or hurt you. The criminal justice system will intervene to stop the violence and place controls on abusive behavior. If you are a victim of ongoing abuse and have used illegal violence in response, that violence is not acceptable; there are alternatives and we will act in ways that maximize your safety and connect you with those alternatives.* To defendants who have engaged in intimidation, coercion, and violence toward an intimate partner: *You are not entitled to abuse another person; the criminal justice system will hold you accountable and there will be consequences for the harm you have caused, along with opportunities for you to change your behavior.*

### Policy: Charging Decisions

These policies and protocols are generally applicable to domestic violence cases. However, there may be instances in which, due to available resources or the circumstances and facts of the case, another course of action may be required or may better serve the goals of victim safety, community safety, and offender

accountability. All of these policies and protocols should be reviewed by supervisory personnel on a yearly basis.

In addition to adhering to general agency policy, prosecutors will take the following actions in making decisions about whether to charge and what to charge in domestic abuse–related cases, using the protocols and training memos referenced and included as part of this policy.

1. Utilize the widest possible range of information sources and request additional evidence as needed to evaluate the case and make the charging decision, in accordance with *Protocol 1: Charging Decisions*.
2. Review the following considerations as they apply to the circumstances of the case:
  - a. History and context of violence between the parties involved
  - b. Seriousness of injuries and/or level of fear expressed by the parties
  - c. Use of children as part of the pattern of abuse
  - d. Consequences of no intervention or less aggressive intervention on the potential lethality in the case
3. File charges that reflect all crimes committed in the case as supported by the evidence, except where considerations of victim safety, including the safety of a victim defendant would warrant otherwise.
  - a. If the defendant is engaging in a patterned use of intimidation, coercion, and violence toward the victim, consider all charges that will likely result in a disposition that places controls on the defendant’s behavior, holds the defendant accountable for the behavior, enhances safety of the victim, and allows for the possibility of rehabilitation, as appropriate.
  - b. If the defendant is a victim of ongoing domestic violence (“victim defendant”), consider whether charging the widest range of crimes or the most severe crime furthers the goal of enhancing the victim’s safety or whether charges that do not trigger the full range of domestic violence consequences are appropriate.
4. Approach each case with an understanding that the victim may be unavailable to testify while recognizing that at the charging stage the availability of victim testimony may not be known.
  - a. Request that evidence-gathering be done in a way that minimizes dependence on the victim and maximizes the sources of evidence.
  - b. Stay alert to intimidation and coercion directed at victims to prevent participation in the prosecution process.
5. In setting priorities, give precedence to those cases appearing to present the greatest risk, based on the evidence and the victim’s responses to risk questions.

- a. Prioritize cases where the offender is out of custody or gone-on-arrival (GOA) according to the same risk evaluation as in-custody cases.
  - b. Prosecutors will consider charging GOA cases after 30 days even if an interview with the suspect has not been obtained.
  - c. In those GOA cases where there is high risk and in other cases where appropriate, if the prosecutor determines that charges should be filed, prosecutors will request a warrant.
6. In evaluating cases for charging, pay particular attention to charges that may have been historically underutilized but are characteristic of domestic violence cases, such as:
- a. Illegal behavior that occurs after police arrive on the scene
  - b. Strangulation
  - c. Harassment/Stalking
  - d. Terroristic threats
  - e. Sexually aggressive behavior
  - f. Pattern of harassing conduct
  - g. Witness tampering
7. Evaluate prior recent incidents to determine whether the offender engaged in prior criminal conduct against the same victim. If so, consider charging those incidents where there is sufficient evidence.
8. Evaluate prior convictions to determine if they allow enhancement of the current offense with additional penalties.
- a. Where possible and appropriate, use the enhancement to support more flexibility in negotiating a resolution that serves both victim safety and offender accountability.
  - b. Enhancements are intended to further the goals of offender accountability, victim safety, and justice. If there is sufficient evidence that these goals will not be met, and may possibly be undermined by enhancing, consider pursuing charges, but not enhancing.
9. In the following circumstances, transfer the case immediately to the appropriate prosecuting authority and promptly inform the investigator of the case transfer and reason for the transfer:
- a. If prosecutors at the felony level determine not to charge a case and misdemeanor/gross misdemeanor charges may be possible
  - b. If prosecutors at the misdemeanor/gross misdemeanor level determine that the case may be appropriate for felony-level charges
10. Work in collaboration with victims in accordance with *Protocol 2: Victim Engagement Guidelines*.
11. Be responsive to community domestic violence advocates inquiries.
12. Inform the investigator, the victim, and others designated in *Protocol 1: Charging Decisions* once a final determination has been made whether or not to charge the case.
13. Supervising prosecutor will take the following actions to implement and maintain this policy and related procedures:
- a. Review three files per prosecutor semiannually for policy and protocol compliance.
  - b. Meet quarterly with the commander of the Saint Paul Police Department Family and Sexual Violence Unit, the supervisor of the victim witness program, and the supervising attorney of the other prosecuting jurisdictions to discuss cases that have been declined and the thoroughness of investigations.
  - c. Be available to meet with the commander of the Saint Paul Police Department Family and Sexual Violence Unit as requested to review individual cases that have been declined for prosecution.

### Protocols, appendices, and training memos

The following protocols are attached to and included as part of the charging decisions policy:

- › *Charging Decisions*
- › *Victim Engagement Guidelines*

The following appendix is included as a part of the charging decisions policy:

- Practitioners' Guide to Risk and Danger in Domestic Violence Cases

The following training memos are included as a part of the charging decisions policy:

- › *Implications of Crawford and Davis for Prosecution of Domestic Violence–Related Cases*
- › *Implications of Forfeiture by Wrongdoing for Prosecution of Domestic Violence–Related Cases*

- › *How a Defense Attorney Reads a Domestic Violence–Related Police Report*
- › *How a Prosecutor Reads a Domestic Violence–Related Police Report*
- › *Evidentiary Issues*
- › *Use of Expert Witnesses*

See the Blueprint Supplement for the appendix and training memos referenced in the policy and protocols.

## POLICY: CHARGING DECISIONS

### Prosecution Protocol 1: Charging Decisions

1. Charging decisions should further the multiple goals of controlling an offender’s behavior, holding the offender accountable for his or her behavior, providing rehabilitation services to appropriate offenders, deterring future violence, and enhancing the safety of victims of the offense and possible future victims of the defendant.
  - a. Know the implications of the Crawford and Davis decisions and strategies to maximize non-victim sources of information in light of those decisions.
  - b. Know the doctrine of forfeiture by wrongdoing and strategies for applying it in domestic violence cases.
  - c. Expand the focus of attention to illegal behavior after police arrival.
  - d. Develop access to multiple sources of information in addition to the victim.
  - e. Meet quarterly with the commander of the Saint Paul Police Department (SPPD) Family and Sexual Violence Unit (FSVU), the supervisor of the victim witness program, and the supervising prosecutors from both prosecutorial jurisdictions to review the thoroughness of investigations, discuss declined cases, and address any concerns that either the police or prosecutors identify as needing resolution.
  - f. Periodically, select five cases at random and complete a case review. The case review will be conducted by the commander of FSVU, supervising prosecutor, and the investigator and prosecutor responsible for each reviewed case.
  - g. Work with SPPD to train law enforcement on relevant legal issues and investigation techniques that support minimizing dependence on victims of domestic violence.
2. Approach domestic violence–related cases in ways that minimize dependence on the victim and maximize other sources of information. Stay mindful of intimidation and coercion directed at victims to prevent participation in prosecution.
  - a. Know the implications of the Crawford and Davis decisions and strategies to maximize non-victim sources of information in light of those decisions.
  - b. Know the doctrine of forfeiture by wrongdoing and strategies for applying it in domestic violence cases.
3. Use the following sources of information as available and provided by law enforcement to evaluate the case and decide whether and what to charge:
  - Police reports of the current offense
  - Past domestic violence–related police reports involving this suspect
  - Summary of the presentence investigation on offenders previously convicted
  - Evidence collected at scene, e.g., photographs, broken phones, ripped clothing, other damaged property
  - 911 tapes and CAD reports
  - Jail phone call recordings or other documents
  - Past and current OFP and HRO pleadings, including affidavits

- E-mail, voice mail, text messages, letters, and other communication
  - Arrests and convictions, including MNCIS, NCIC, CJIS, RMS
  - Victim's responses to dangerousness or risk assessment questions in current and past police reports.
  - Communication with victim, either direct or (with victim consent) via community advocate or victim/witness advocate.
  - Defendant's behavioral history in relation to possible harassment/stalking charges
  - Medical records
  - Family court files
4. Re-evaluate the case for additional charges or amend charges as additional evidence is gathered and developed.
    - a. In order to meet legally imposed deadlines, all information may not be available at the time of initial charging.
    - b. Additional charges could include harassment/stalking, strangulation, or enhancement of charges.
  5. Cases that are not appropriate for charging are declined. In special circumstances request further investigation rather than decline cases that might be charged with the availability of additional information.
    - a. Focus especially on additional investigation related to charging strangulation, stalking, and terroristic threats.
    - b. In requests to investigators, specify what additional information is needed, including obtaining information from other jurisdictions.
  6. Evaluate the nature and history of violence between the parties involved in the case in order to understand the context of the violence, fully inform prosecutorial decision-making, and advance the goals of victim safety and offender accountability and rehabilitation. Ask:
    - a. To what extent is there a pattern of ongoing intimidation, coercion, and violence?
    - b. Who is perpetrating any such pattern, and against whom?
    - c. What is the severity of the violence?
    - d. What is the frequency of the violence?
  7. Evaluate the seriousness of injuries and/or level of fear expressed by the parties. Ask:
    - a. Who has been injured and how?
    - b. Who is afraid of whom and in what ways?
    - c. What kind of threats have been made or coercion used to dissuade the victim from participating in the prosecution?
    - d. Who is most vulnerable to ongoing intimidation, coercion, and violence?
  8. If children are involved, evaluate whether they have been present, were themselves assaulted, or were used as an instrument of abuse by the party engaging in ongoing intimidation, coercion, and violence against the other. Ask:
    - a. Has the abusive party physically harmed the children? If so, in what ways?
    - b. Has the victim been threatened that the children will be harmed? If so, in what ways?
    - c. What is the status of any family court action?
    - d. Does the victim fear that the children will be taken by the abuser (abducted or via custody) in retaliation for participating in the prosecution?
    - e. Was the victim assaulted during pregnancy or shortly after giving birth?
  9. If the defendant is engaging in a patterned use of intimidation, coercion, and violence toward the victim in this case, consider charges that will likely result in a disposition that will place controls on the defendant's behavior, enhance victim safety, and allow for the possibility of rehabilitation, as appropriate.
    - a. In cases where potential charges include a non-domestic related felony and a domestic-related misdemeanor that is not pursued, discuss the domestic-related elements of the case with the probation presentence investigation writer,

either directly or through the victim witness advocate to ensure that recommendations for conditions of probation consider adequate domestic violence-related programming.

10. If the defendant is a victim of on-going domestic violence (victim defendant), consider a course of action that will help place controls on the person's continued use of violence without making her or him more vulnerable to ongoing battering or abuse.

Specifically, consider whether charging the widest range or most severe crime furthers the goal of enhancing the victim's safety or whether charges that do not trigger the full range of domestic violence consequences may be appropriate.

11. File charges that reflect the broad range of crimes committed in the case as supported by the evidence, except where considerations of victim safety, including the safety of victim defendants warrant otherwise. As it applies to the circumstances of the case, consider the impact of no intervention or less aggressive intervention on potential risk and lethality as well as charging all crimes committed.
- a. Evaluate the risk and lethality factors evident or suggested in the case (see appendix, *Practitioner's Guide to Risk and Danger in Domestic Violence Cases*).

- b. Assess the possible consequences or benefits of charging all crimes, filing fewer charges or deciding not to charge the case.

12. Consider but do not limit charges to the following:

- Interference with emergency call
- Harassment/Stalking
- Violation of an OFP/HRO/DANCO
- Strangulation
- Assaults on witnesses
- Terroristic threats
- Disorderly conduct
- Criminal damage to property
- Assaults on responding officers
- Witness tampering
- Sexual assault
- Burglary
- Trespassing
- Depriving another of custodial or parental rights
- Coercion
- Identity theft
- Interference with privacy

- Animal abuse

13. When a decision is made to decline charges, promptly communicate that decision to the investigator. If the investigator feels there is merit to the case, discuss the case with the investigator to determine if additional evidence can be gathered to support a charge.
14. Make information regarding the charging decision available to the following individuals and agencies, as applicable:
- a. Arraignment attorney
  - b. Victim/witness personnel
  - c. Victim and victim advocate
  - d. Project Remand (pretrial release)
  - e. Investigator
  - f. Arresting officer (in cases where there is no further investigation)
  - g. Probation officer (if defendant is currently on probation)
15. In cases where both parties have used illegal violence, neither party has engaged in self-defense, and the predominant aggressor has been arrested, review the case and consider whether to charge the second party in addition to the predominant aggressor.

## POLICY: CHARGING DECISIONS

### Prosecution Protocol 2: Victim Engagement Guidelines

# When prosecutors

work with victims to meet victims' goals, prosecution rates increase, there are a greater number of guilty verdicts, and victims are more likely to report continued abuse.

– E Buzawa & C. Buzawa (2003);

J. Belknap & D.L. R. Graham

(2003); O'Sullivan et al. (2007)

1. Work in collaboration with victims, cognizant of the principles of “continuous engagement”:
  - a. Minimize the victim's need to confront the offender.
  - b. When using information provided by the victim, attempt to protect her or him from retaliation.
  - c. Treat each interaction with the victim as an attempt to build collaboration over multiple criminal justice system interventions.
  - d. Be mindful of the complex and often dangerous implications of a victim's collaboration with interveners.
  - e. Be aware that the fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does. Victims are rarely in a position to “tell all,” although they may do so in unguarded moments. Take great care to not endanger victims with what they have shared about their lives subject to constitutional constraints and rules of discovery.
  - f. Engage in dialogue with the victim, thereby avoiding inadvertently treating her or him as simply an information source.
  - g. In order to avoid unintentionally replicating or reinforcing the actions of the abuser, offer a clear alternative to messages that the victim is crazy, at fault, unbelievable, and unable to make decisions and that the abuser is unstoppable.
2. Act in ways that prioritize safety and respect a victim's precarious circumstances and fear of the offender's aggression. The prosecutor or the victim/witness advocate acting on the prosecutor's behalf should:
  - Provide information about likely pretrial release conditions and answer the victim's questions.
  - Request a no-contact order. If the victim requests contact, however, consider each request individually and keep in mind that in some cases a prolonged no-contact order may result in hardship for the victim.
  - If the victim requests that a no-contact order not be issued and the request is not the result of coercion, consider honoring the request or tailoring the no-contact order to maximize its benefits and minimize its burdens for the victim.
  - When a defendant is not held in custody, request pretrial supervision when there is indication of escalating violence or a serious concern by a victim or interagency partners about the probability of continued harassment and harm.
  - Be responsive to questions about the risks and benefits of testifying and the risks and benefits of not testifying.

- When talking directly with victims do so accompanied by an investigator, paralegal, or other third party. Having a third party present resolves the concern of the prosecutor becoming a witness in the case.

NOTE: Because of the nature of the relationship with the victim, an advocate would not be an appropriate third party.

- Do not threaten to or place a victim in custody to ensure witness availability. However, in some limited circumstances, it may be advisable to send a patrol officer or investigator to the victim's residence to facilitate the victim's appearance at trial. In very rare cases, if the community or children are at high risk of serious or lethal harm, consider requesting a warrant, keeping in mind that there is a reasonable likelihood that the perpetrator may use severe violence on the victim in retaliation for testifying.

NOTE: While in most cases requesting a warrant will be counter-productive to victim engagement guidelines, in very rare cases if there is a high risk of serious harm or lethality, the prosecutor's office may view requesting a warrant as an appropriate action to increase the likelihood of the criminal justice system obtaining control over the offender's behavior.

3. Respond to domestic violence crimes in ways that are victim safety-centered but not victim-dependent.

- Approach each case with an understanding that the victim may be unavailable to testify or may recant.
  - Utilize all available sources of evidence that support charges independent of a victim's direct testimony.
  - Seek charges stemming from a defendant's actions after police arrival on the scene, witness tampering from jail, and violations of pretrial release conditions.
  - If requested by the victim or victim's advocate, ask the court to order that the victim's address and phone number remain confidential or be restricted to defendant's attorney only.
4. Protect victims from retaliation because of their participation in prosecution.
    - Pursue possible charges that can be prosecuted independent of a victim's direct testimony.
    - Emphasize at every opportunity that it is the prosecutor's decision on behalf of the community and the state to pursue charges, and not the victim's decision.
    - Stay alert to intimidation and coercion directed at victims to prevent their participation.
    - Be prepared to take prompt action for witness tampering by the defendant and utilize the doctrine of forfeiture by wrongdoing.

**As many as half**  
of domestic violence victims may  
be threatened with retaliation for  
cooperation with prosecutors.

– R. Davis, et al. (1990)



# POLICY

## BAIL AND PRETRIAL RELEASE RECOMMENDATIONS IN DOMESTIC VIOLENCE-RELATED CRIMES

### Framework

Courts have two primary goals in setting the conditions under which a defendant will be released prior to trial: (1) ensure that the defendant will make future court appearances and (2) protect the community, the alleged victim, and any other person. Because of the unique circumstances of domestic violence–related cases, in which victims may be especially vulnerable to coercion and intimidation, the goal of protecting victims requires specific attention to the risk that the defendant may cause further harm to the victim.<sup>[1]</sup> Minnesota law specifically requires that the judge determines whether the release of someone arrested for domestic abuse–related offenses poses a threat to the alleged victim, another family or household member, or public safety.<sup>[2]</sup> Minn. Stat. § 629.72 requires this determination when setting conditions of release for an arrest for domestic abuse, harassment, or violations of an order for protection or a domestic abuse no-contact order.

Building sound pretrial release practices involves paying increased attention to safety at the front end of the criminal justice process,<sup>[3]</sup> both in the specific conditions of release and through the wider interagency response. Elements in the interagency response include expanding victim/witness support, expediting access to orders for protection (which can provide broader, longer-lasting restrictions than pretrial release conditions alone), prompt revocation of pretrial release for new acts or threats of violence,

and aggressively pursuing witness tampering and intimidation.

In an interagency effort to establish and enforce specific conditions of release for domestic violence crimes, the following elements, as part of an interagency response, involving the pretrial release agency (Project Remand) and the court, as well as the prosecutor’s office, reinforce victim and community safety and address the high rate of re-abuse in domestic violence cases.

- Contact a victim as soon as possible, in ways that respect her or his fear and circumstances.
  - Determine whether the victim is afraid and if so, in what ways.
  - Follow up on responses to the risk questions documented in the police report and in the investigators report.
  - Tell the victim that in domestic abuse related cases the prosecutor almost always requests a no-contact order to shield the victim from retaliation or intimidation from the suspect.
  - Ask if a no-contact order might have some negative consequences and probe to fully understand those consequences.
  - Ask about changes in injuries or new symptoms from the incident.
- Provide information about likely pretrial conditions and answer the victim’s questions.
- Use all available sources of background information (e.g., police report, criminal history records and databases, order for protection records) to develop an understanding of the context and severity of the offense and the danger that a defendant poses to a victim.
- Review responses to risk assessment questions and results of risk assessment tools when considering appropriate conditions of release.
- Put conditions of release in writing and provide a copy to the victim as soon as possible.
- Enter pretrial release conditions into law enforcement information systems and notify local agencies.
- Request a no-contact order. If the victim requests contact, consider each request on an individual basis.
- Take prompt action on violations of release conditions.
- Require pretrial supervision of defendants where there is indication of escalating violence or serious concern by a victim or interagency partners about the probability of continued harassment and harm to the victim or children.
- Request that bail be set at an appropriate amount to not only ensure the defendant’s appearance but to enhance the safety of the victim and the public.

Prosecutors are in a distinct position to articulate the nature of any threat and the related safety needs of the victim and others to the court and to make recommendations for conditions of pretrial release that fit the circumstances of the case. They also have a distinct role in establishing and reinforcing an interagency response to develop guidelines for bail and conditions of release in domestic abuse cases.

### Policy: Bail and Pretrial Release Recommendations

These policies and protocols are generally applicable to domestic violence cases. However, there may be instances in which, due to available resources or the circumstances and facts of the case, another course of action may be required or better serve the goals of victim safety, community safety, and offender accountability. All of these policies and protocols should be reviewed by supervisory personnel on a yearly basis.

In addition to adhering to general agency policy, prosecutors will take the following actions in recommending conditions of bail and pretrial release in domestic abuse–related cases, using the protocols and training memos referenced and included as part of this policy.

1. Utilize the widest possible range of sources of information to determine bail and pretrial release conditions that will best meet the safety needs of the victim and others, in accordance with *Protocol 3: Bail and Pretrial Release Recommendations*.
2. Consider input from the victim and/or the victim’s advocate to assist in determining the circumstances of the case, the context and severity of the offense, and the bail and pretrial release conditions that are most likely to best ensure the victim’s safety and the safety of others involved and the public.
  - a. The prosecutor will request a no contact order be issued in domestic violence cases. However, if the victim requests contact, the prosecutor shall consider the request keeping in mind that in some cases a prolonged no-contact order may result in hardship for the victim.
  - b. Work in collaboration with victims in accordance with *Protocol 2: Victim Engagement Guidelines*.
3. Use the factors included in *Protocol 3: Bail and Pretrial Release Recommendations* to determine the nature of the threat that the defendant presents to the victim and other persons and the related safety needs.
4. Make recommendations to the court for bail and conditions of pretrial release that reflect the context and severity of the offense, the danger that the defendant poses, and the safety needs of the victim and the public, in accordance with *Protocol 3: Bail and Pretrial Release Recommendations*.
  - a. If there is information to strongly suggest that the defendant is engaging in an ongoing patterned use of intimidation, coercion, and violence toward the victim, consider the full range of conditions of release that will likely result in placing controls on the defendant’s behavior and enhance victim safety during the pretrial period.
  - b. If the defendant reasonably appears to be the victim of ongoing domestic violence consider whether requesting the full range of conditions of release in domestic violence cases is appropriate. Consider whether more limited conditions will meet the goal of victim and public safety and prevent the defendant from becoming more vulnerable to abuse.
5. In recommending bail and pretrial release conditions, describe in detail to the court the violence that has occurred in this incident, the history of violence between the parties, the danger posed by the suspect to the victim and others based on this incident, the responses to the risk questions in the law enforcement reports, and the history between the suspect and the victim.
6. Take prompt action upon notice of a defendant’s violation of conditions of pretrial release to ensure sure and swift consequences.
7. Supervising prosecutors will conduct a quarterly review of a random sample of cases to ensure that bail amounts and conditions of pretrial release account for the context and severity of the offense, the danger that the defendant poses to the victim, and the safety needs of the victim and the public.
8. Supervising prosecutors will conduct a quarterly review of a random sample of cases involving

violations of conditions of bail and pretrial release to monitor whether sure and swift consequences result from such violations.

### Bail and pretrial release: protocols and appendix

The following protocols are attached to and included as part of the bail and pre-trial release policy:

- › 3: *Bail and Pretrial Release Recommendations*
- › 2: *Victim Engagement Guidelines*

The following appendix is included as part of the bail and pretrial release policy:

- Practitioner’s Guide to Risk in Domestic Violence Cases

NOTE: See the Blueprint Supplement for the appendix referenced in the policy and protocols.

## POLICY: BAIL AND PRETRIAL RELEASE RECOMMENDATIONS

### Prosecution Protocol 3: Bail and Pretrial Release Recommendations

1. Use the following sources of information as available to determine bail and pretrial release conditions that best meet the safety needs of the victim and others.
  - Police reports of the current offense
  - 911 tapes and CAD reports
  - Past police reports involving this defendant
  - Portions of previous PSIs written on this offender
  - Arrests and convictions, including MNCIS, NCIC, CJIS, RMS
  - Input from victim or victim’s advocate
  - Probation status and compliance
2. Consider the following risk factors related to the current offense and past actions in determining the nature of the threat the defendant presents to the victim and other persons and the related safety

needs (see appendix, *Practitioners’ Guide to Risk and Danger in Domestic Violence Cases*).

NOTE: Evaluating dangerousness to the alleged victim as a basis for setting bail and imposing certain conditions of release may generate controversy. The defense bar and some judicial officers might consider it inappropriate to inquire into these factors at the pretrial stage since the defendant is presumed innocent and such inquiries might bias the court. However, it is now well recognized in policy and statute that in order to fashion conditions of release the judicial officer should take into account the safety of the community, the alleged victim, and any other person. See e.g., ABA Standard 10-1.2; Bail Reform Act of 1984, 18 USC §§ 3141-3150; Minn Stat. § 629.72 (2006).

- a. Information obtained from domestic violence-specific risk assessment questions

- b. Severity of the assault, how frequent and how recent
- c. Serious injury in this or prior assaults
- d. History and nature of past violence toward this victim and others
- e. Whether the parties are recently separated
- f. Specific attention to strangulation and stalking
- g. Threats to harm the victim or the children
- h. Threats of homicide or suicide
- i. Intimidation of the victim if she/he seeks help
- j. Indicators of extreme jealousy, controlling behavior
- k. Sexual aggression and coercion
- l. Violence towards pets

- m. Criminal history and current probation status or other pending charges
  - n. Access to firearms and their use or threatened use
  - o. Current and past protection or harassment order, obtained by this or other victims
  - p. Excessive alcohol or drug use and its impact on defendant's actions
  - q. Mental health concerns and impact on defendant's actions
3. In recommending bail and pretrial release conditions, describe to the court in detail the:
    - a. Violence that has occurred in this incident
    - b. History of violence used by the defendant in this and other relationships.
    - c. Danger posed by the suspect to the victim and others based on this incident
    - d. Responses to the risk questions in the law enforcement reports
    - e. History of abuse between the suspect and the victim.
  4. Determine which standard and domestic violence-specific conditions of bail and pretrial release best fit the circumstances of the case, the context and severity of the offense, the danger the defendant poses to the victim, and the safety

needs of the victim and the public. Some risk factors and conditions to consider:

#### **Misdemeanors and Gross Misdemeanors**

Low Risk:

- Conditional release or lower bail; little or no supervision
- No injury or harm
- No history of abuse
- Victim credibly expresses no fear
- Little or no risk of future harm
- No criminal history

#### **Misdemeanors, Gross Misdemeanors, and Felonies**

High Risk:

- High bail & extensive conditions; close supervision
- Severe injury, harm, or extreme violence
- History of ongoing abuse and violence
- Likely risk of future harm
- Criminal history
- History of non-appearance in court

#### **Conditions of pretrial release in domestic abuse cases**

Standard conditions:

- No act prohibited by state, federal, or local law, even if it is not charged as a crime or does not result in a criminal conviction
- No violations of the law
- Make all court appearances

Domestic abuse-specific conditions

- No contact with victim or victim's family, direct or indirect, or through a third party (subject to considerations noted in the protocol)
- No contact with or appearance at the victim's residence, home, place of employment, school, or other designated locations
- If the parties live together, a provision permitting the defendant to return to the residence to obtain personal belonging only if accompanied by a police officer
- Weekly in-person reporting to Project Remand staff or supervising probation agent
- No firearms possession
- No use of alcohol or mood-altering chemicals not prescribed by a doctor
- Periodic alcohol and drug testing

- If applicable, contact with children to be supervised and defendant must obtain a family court order
  - In stalking and other appropriate cases, restrictions on offender's movement and communication with or about the victim
5. Consider input provided by the victim or victim's advocate to establish the following in relation to bail and pretrial release recommendations:
- a. Nature and impact of the current offense
  - b. Context and history of past violence
  - c. Consequences of imposing specific conditions of bail and pretrial release, with particular attention to no-contact orders (as noted below)
  - d. Conditions of bail and pretrial release that are most likely to meet the victim's safety needs
6. Request a no-contact order in all cases. If the victim requests contact, consider the following factors in making recommendations regarding no-contact orders:
- a. A no-contact order can impose significant hardships for a victim, particularly economic hardships which may increase risk given the victim's particular life circumstances.
  - b. Obtain information from the victim about the implications of a no-contact order for the victim and her or his family.
  - c. Evaluate each case in the context and totality of the circumstances involved, taking into account: victim opposition; offender intimidation; victim fear; economic impact; and dangerousness of the offender.
  - d. Consider options that allow contact under limited conditions in cases where the risk factors indicate minimal risk, the victim has requested contact, and there is no evidence of coercion. Such conditions might include:
    - Allow contact but prohibit assaultive, harassing, threatening or stalking behavior.
    - Impose active pretrial supervision.
    - Request pretrial conditions such as counseling, weapons restrictions, and random drug and alcohol testing.
    - Allow contact by e-mail, phone or only in public places.
    - Request a time limitation on the no-contact order, e.g., until enrolled in and attending domestic abuse counseling.
    - Allow contact but exclude the offender from the victim's residence.

# POLICY

## NEGOTIATED PLEA AGREEMENTS AND SENTENCING RECOMMENDATIONS

### Framework

Negotiated plea agreements and sentencing recommendations are critical to furthering the goals of enhancing victim safety, holding offenders accountable for their behavior with a sure and swift response, and providing opportunities for rehabilitation. Prosecutors are in a position to reach agreements and emphasize consequences that reflect the context and severity of the offense, the danger that the defendant poses to the victim(s), and the safety needs of the victim and the public. In so doing, prosecutors help set the basis for the behavioral controls that the criminal justice system can place on defendants' future conduct. The plea agreement and sentencing recommendations are the foundation for future action by a number of others, including:

#### a. Probation

The plea agreement and sentencing recommendations set the outside parameters and framework within which probation creates its plan for services and supervision of the defendant.

#### b. Victim

The plea and sentence set the framework within which the victim and offender have or do not have contact and provide controls on offender behavior that enhance victim safety.

#### c. Police

The sentence determines, in some cases, whether officers can arrest and hold for future enhanced charges and signals the relative dangerousness of the offender in future calls.

#### d. Prosecutor

The plea and sentence affect the ability to charge an enhanced crime and/or to pursue a probation violation if a violation or a new case occurs.

#### e. Family Court

The sentence affects decisions related to custody, visitation, and access to children.

The resulting sanctions and consequences can influence whether there is a subsequent arrest or incidence of violence. One researcher indicates that “more rigorous sentences, including jail, work release, electronic monitoring, and/or probation, significantly reduce re-arrest for the domestic violence over the less intrusive sentences of fines or suspended sentences without active probation.”<sup>[1]</sup> Dispositions that address risk factors and impose appropriate sentences, including incarceration and supervised probation, can reduce the severity of ongoing abuse.

The type of violence and its context and severity are central factors in determining the terms of a plea agreement or sentencing recommendation that will best reflect the circumstances of the offense, the danger the defendant poses to the victim, others, and the victim's safety needs.<sup>[2]</sup> When the defendant's actions are part of an ongoing pattern of intimidation, coercion and violence, requiring a plea to the most serious charge and a more severe sentence is appropriate.<sup>[3]</sup> When the defendant is a victim of ongoing violence who has used illegal violence in return (a “victim defendant”), an appropriate disposition may be a plea to a lesser offense and/or an

agreement to a stay of imposition with probationary conditions that include support services that will aid in reducing the likelihood of the victim defendant using violence in the future.

A prosecutor is presented with a unique set of circumstances when negotiating a plea agreement with a victim defendant or making sentencing recommendations in such cases. Safety concerns and risk factors apply to both the victim in the current case and the victim defendant. While the statutory crime charged might be the same, there are significant differences between the violence used by victims of ongoing violence in response to the abuse and the violence they experience at the hands of their abusers.<sup>[4]</sup> In these cases it is not a question of treating like cases alike, but rather of treating dissimilar cases differently.

Prosecutors and probation should operate from a shared framework when determining appropriate sentencing recommendations. Prosecutors may not have all the information in the plea negotiations that probation gathers when developing the presentence investigation (PSI). The probation officer should not feel constrained by the plea agreement to argue that a plea agreement suggests too little time served for the severity and context of the crime.

### Policy: Negotiated Plea Agreements and Sentencing Recommendations

These policies and protocols are generally applicable to domestic violence cases. However, there may be instances in which, due to available resources, the

circumstances and facts of the case, another course of action may be required or may better serve the goals of victim safety, community safety, and offender accountability.

All of these policies and protocols should be reviewed by supervisory personnel on a yearly basis.

In addition to adhering to general agency policy, prosecutors will take the following actions in negotiating plea agreements and making sentencing recommendations in domestic abuse–related cases, using the protocols and training memos referenced and included as part of this policy.

1. Utilize the widest possible range of sources of information to reach a negotiated plea or make sentencing recommendations that best meet the victim’s safety needs, in accordance with *Protocol 4: Negotiated Plea Agreements and Sentencing Recommendations*.
2. Obtain input from the victim, the victim’s advocate, or victim/witness specialist to assist in determining the negotiated plea agreement or sentencing conditions that best reflect the circumstances of the case, the context and severity of the offense, and the victim’s safety needs. Work in collaboration with victims in accordance with *Protocol 2: Victim Engagement Guidelines*.
3. Ensure that the victim has the necessary information and that processes are in place to secure victim’s rights as required by Minnesota law.
4. Negotiate plea agreements and make sentencing recommendations to the court that reflect the context and severity of the offense, the danger that the defendant poses to the victim, and the safety needs of the victim and the public, in accordance with *Protocol 4: Negotiated Plea Agreements and Sentencing Recommendations*.
  - a. If there is information to strongly suggest that the defendant is engaging in an ongoing patterned use of intimidation, coercion, and violence toward the victim, consider requiring a plea to the most serious charge(s) and recommending a more severe sentence as a means of placing controls on the defendant’s behavior and enhancing victim safety (see appendix, *Sentencing Framework*).
  - b. If the defendant reasonably appears to be the victim of on-going domestic violence, consider a plea to a lesser offense and/or an agreement to a stay of imposition with probationary conditions that include support services that will aid in reducing the likelihood of the victim defendant using violence in the future and preventing her/him from becoming vulnerable to more abuse.
5. Review the presentence investigation and at sentencing support the imposition of conditions recommended by Ramsey County Probation. Alternatively, support and argue for different or additional conditions if in the prosecutor’s judgment the PSI does not contain complete and appropriate conditions in light of the context and severity of the offense, the danger that the defendant poses to the victim, and the safety needs of the victim and the public.
6. Appear at any proceedings that address violations of sentencing conditions, including admit or deny hearings, and argue for imposition of more severe consequences in all cases involving new threats or acts of abuse. In cases in the Saint Paul City Attorney’s office where probation violations involve instances of new violence, the probation officer shall contact and consult with the supervisor of the domestic violence unit about going forward on the probation violation.
 

NOTE: The Ramsey County Attorney’s Office will institute a pilot project within the constraints of available resources to increase the number of and consequences for probation violations in domestic violence cases.
7. Supervising prosecutors will provide or arrange for training as applicable to prosecutors, police, probation, and the judiciary on topics related to successful intervention in domestic violence–related cases, in accordance with *Protocol 4: Negotiated Plea Agreements and Sentencing Recommendations*.
8. Supervising prosecutors will conduct a quarterly review of negotiated pleas in domestic abuse–related cases to ensure that they account for the context and severity of the offense, the danger that the defendant poses to the victim, and the safety needs of the victim and the public.

9. Supervising prosecutors will conduct a quarterly review of sentencing recommendations in domestic abuse–related cases to ensure that they account for the context and severity of the offense, the danger that the defendant poses to the victim, and the safety needs of the victim and the public.

### Protocols and appendices

The following protocols are attached to and included as part of the plea agreements and sentencing policy:

- › *4: Negotiated Plea Agreements and Sentencing Recommendations*
- › *2: Victim Engagement Guidelines*

The following appendices are attached to and included as part of the plea agreements and sentencing policy:

- Practitioners’ Guide to Risk and Danger in Domestic Violence Cases
- Sentencing Framework (included in Recommendations for Sentencing and Conditions of Probation in Domestic Violence–Related Cases)

See the Blueprint Supplement for appendices and training memos referenced in the policy and protocols.

## POLICY: NEGOTIATED PLEA AGREEMENTS AND SENTENCING RECOMMENDATIONS

### Prosecution Protocol 4: Negotiated Plea Agreements and Sentencing Recommendations

1. Negotiated pleas and sentencing recommendations should further the multiple goals of controlling offenders’ behavior, providing rehabilitation services to appropriate offenders, deterring future violence, and enhancing the safety of victims.
  - Past domestic violence–related police reports involving this suspect (if the prosecutor has access to it)
  - Past history of violence portion of the presentence investigation on offenders previously convicted
  - Summary sheets from probation on offenders previously convicted
  - Evidence collected at scene, e.g., photographs, broken phones, ripped clothing, other damaged property
  - 911 tapes and CAD reports
2. Use the following sources of information available to the prosecutor to evaluate the case and determine the conditions of the negotiated plea and sentencing recommendations:
  - Project Remand evaluation and summary of compliance with conditions of release
  - Police reports of the current offense
  - Jail phone call recordings or other documents
  - Past and current DANCO; OFP and HRO pleadings, including affidavits
  - E-mail, voice mail, text messages, letters, and other communication
  - Arrests and convictions, including MNCIS, NCIC, CJIS, RMS
  - Victim’s responses to dangerousness or risk assessment questions
  - Communication with victim, either direct or (with victim consent) via advocate or victim/witness personnel



- Defendant's behavioral history in relation to possible stalking charges
  - Medical records
  - Family court files
  - Child protection records
3. Obtain input from the victim, the victim's advocate, or victim/witness specialist to establish the following in relation to the terms of the negotiated plea and/or sentencing recommendations:
    - a. Nature and impact of the current offense
    - b. Context and history of past violence
    - c. Sanctions that are most likely to meet the victim's safety needs
    - d. Victim's relationship with the criminal justice system and its impact on her or his reaction to and support for prosecution
  4. Ensure that the victim has the necessary information and that processes are in place to secure the following victim's rights:
    - a. Right to submit a victim impact statement (Minn. Stat § 611A.038). The impact statement may be presented to the court orally or in writing, at the victim's option. If the victim requests, the prosecutor must orally present the statement to the court. Request that proper court decorum be maintained while the impact statement is being communicated to the court.
      - b. Right to restitution (Minn. Stat §§ 611A.04; 045).
      - c. Right to notice of plea agreement, final disposition, any appeal, and expungement. (Minn. Stat §§ 611A.03, 0385; 039; 06)
  5. Consider the following risk factors related to the current offense and past actions in determining the terms of the plea agreement and sentence, as obtained from a domestic violence-specific risk assessment, police and investigation reports, and other sources of information, e.g., an advocate (see appendix, *Practitioner's Guide to Risk and Danger in Domestic Violence Cases*):
    - a. Type and severity of assault; how frequent, how recent
    - b. Serious injury in this or prior assaults
    - c. History and nature of past violence toward this victim and others
    - d. Current or recent separation between victim and defendant
    - e. Specific attention to strangulation and stalking
    - f. Threats to harm the victim or the children
    - g. Threats of homicide or suicide
    - h. Intimidation of the victim if she/he seeks help
    - i. Indicators of extreme or obsessive jealousy or controlling behavior
    - j. Sexual aggression and coercion
    - k. Violence towards pets
  6. Establish the nature and history of violence and coercion between the parties involved in the case in order to understand the context of the violence, fully inform the plea negotiation and sentencing recommendations, and advance the goals of victim safety and offender accountability and rehabilitation. Ask:
    - a. To what extent is there a pattern of ongoing intimidation, coercion, and violence?
    - b. Who is perpetrating any such pattern, and against whom?
    - c. What is the severity of the violence?
    - d. What is the frequency of the violence?
- l. Criminal history and current probation status or other pending charges
  - m. Access to firearms and their use or threatened use
  - n. Current and past protection or harassment orders, obtained by this or other victims
  - o. Alcohol or drug use and its impact on defendant's actions
  - p. Mental health concerns and impact on defendant's actions

7. Establish the seriousness of injuries and level of fear expressed by the parties. Ask:
- Who has been injured and how?
  - Who is afraid of whom and in what ways?
  - What kind of threats have been made or coercion used to dissuade the victim from participating in the prosecution?
  - Who is more vulnerable to ongoing intimidation, coercion, and violence?
8. If children are involved, establish whether they have been present and/or used as an instrument of abuse by the party engaging in ongoing intimidation, coercion, and violence against the other. Ask:
- Has the abusive party physically harmed the children? If so, in what ways?
  - Has the victim been threatened that the children will be harmed? If so, in what ways?
  - What is the status of any family court action?
  - Does the victim fear that the children will be taken by the abuser (abducted or via custody) in retaliation for participating in the prosecution?
  - Was the victim assaulted during pregnancy or shortly after giving birth?
9. Take the following factors into consideration in negotiating a plea agreement:
- Victim input
  - Severity and extent of harm to the victim
  - Difficulties with evidence that constrain the likelihood of success at trial
  - The need for active supervision of the defendant; in most cases request the maximum period of probation supervision
  - Opportunity for rehabilitation and offender's likely compliance
  - Sufficient stayed time to be a deterrent to continued wrongful conduct
  - A combination of time to serve and stayed time, appropriate to the severity of the crime and the harm caused (see the appendix, *Sentencing Framework*)
  - Whether a defendant in custody at the time of a plea should remain in jail pending sentencing
  - Whether a defendant who will be released pending sentencing should be placed under supervised release
  - For felonies, the Minnesota Sentencing Guidelines, including, where appropriate, factors supporting departure
10. If there is information to strongly suggest that the defendant is engaging in an ongoing patterned use of intimidation, coercion, and violence toward the victim, consider requiring a plea to the most serious charge(s) and recommending a more severe sentence as a means of placing controls on the defendant's behavior and enhancing victim safety.
11. If the defendant reasonably appears to be a victim of ongoing domestic violence, consider a plea to a lesser offense and/or an agreement that will help place controls on the person's continued use of violence without making her or him more vulnerable to ongoing battering or abuse. Specifically, consider whether a plea to the widest range and/or most severe crime furthers the goal of enhancing the safety of the victim in this offense or whether a plea that does not trigger the full range of domestic violence consequences is instead appropriate.
12. Take into account the particular circumstances of the victim and defendant and attempt to minimize the potential disparate impact of the plea agreement, with specific attention to the following:
- No-contact orders and consideration of when a no contact order should be cancelled or modified based on risk factors and possible adverse impact related to economic support, isolating victim from her or his cultural community, and impact on children
  - Fines and costs of mandated programs, probation supervision, and incarceration on economic well-being of victim and children
  - A defendant who is the victim of ongoing violence

- d. A victim with a disability who is reliant on the perpetrator for ongoing care
13. Disseminate information regarding the negotiated plea and sentencing recommendations to the following individuals and agencies, as applicable:
- a. Victim
  - b. Community advocate
  - c. Victim/witness personnel
  - d. Ramsey County Probation
  - e. Investigator
  - f. Arresting officer (in cases where there is no further investigation)
14. Provide the Probation PSI writer with information already obtained by the prosecutor, e.g., past and current DANCOs, OFP and HRO pleadings, including affidavits, arrests and convictions; Project Remand evaluation; medical records, when appropriate and current police report and past domestic violence-related police reports.
15. Take an active role in recommending conditions of probation and responding to violations.
- a. Work with Ramsey County Probation to craft conditions of probation that are clear, concrete, and enforceable.
  - b. Be prepared to request specific and additional consequences in the event of a defendant's violation of a condition of probation.
- c. Review the presentence investigation prior to sentencing and prepare to argue that conditions recommended by Ramsey County Probation be imposed, if in agreement with the conditions.
  - d. Argue for different and/or additional conditions if in the prosecutor's judgment the PSI does not contain complete and appropriate conditions in light of the context and severity of the offense, the danger that the defendant poses to the victim, and the safety needs of the victim and the public.
  - e. Appear at any proceedings that address violations of sentencing conditions, including admit or deny hearings and argue for consequences that account for the egregiousness of the violation, impact on the victim's safety and other circumstances, and impact on public safety.
16. Provide training as applicable to prosecutors, police, probation, and the judiciary on the following topics related to successful intervention in domestic violence-related cases:
- a. Risk factors
  - b. Role of thorough and complete investigation in establishing a sufficient evidentiary base to negotiate an appropriate plea agreement
  - c. Case preparation and evidence-gathering that reduces dependence on the victim
  - d. Presentence investigations that include thorough consideration of risk



Chapter 6

# Ramsey County Attorney's Office and Victim/Witness Services Division

## RAMSEY COUNTY ATTORNEY'S OFFICE

The policies and protocols of domestic violence case processing in the City Attorney's Office are included in Blueprint Chapter 5. The Ramsey County Attorney's Office uses the Blueprint as guidelines in a memorandum of understanding between the County and the City Attorney's Offices. There are some differences in the two prosecuting authorities' approaches to cases, as addressed in the memorandum.

The County Attorney's Office is responsible for prosecuting felonies in Ramsey County, including the City of Saint Paul. The city and county attorneys' offices participate in a joint project to prosecute domestic violence cases where children are involved. The County Attorney's Office is responsible for this unit, the Joint Prosecution Unit (JPU). When prosecuting felony cases the JPU operates under the provisions in the memorandum of understanding (included as an appendix in the Blueprint Supplement).

### Victim/Witness Services Division

Many victims of domestic violence face complex and dangerous implications in cooperating with the legal system. They may be experiencing intense levels of coercion and intimidation from the offender (see appendix, *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*). The fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does. Victims are rarely in a position to "tell all," although they

may do so in unguarded moments. Victim/witness advocates have a key role in providing reassurance and support to victims and taking care that what a victim shares about the offender and the abuse does not endanger her or him. Their role helps maximize the goals of the interagency response to protect victims from retaliation and offer clear alternatives to messages that the victim is crazy, at fault, unbelievable, and unable to make decisions, and that the abuser is unstoppable.

The Victim/Witness Services Division in the Ramsey County Attorney's Office provides information to victims and witnesses of crime about their statutory rights, and assists them in realizing those rights as the case they are involved in moves through the criminal justice system.

Victim/witness advocates become involved in cases immediately after charging in order to initiate early contact with victims about their rights and about community resources. They continue their involvement and assistance until the case reaches disposition. Advocates also assist victims with post-conviction concerns such as restitution collection, property return, and inmate release notification.

Advocates engage in the following activities to fulfill these functions:

1. Make a good faith effort to contact the victim as soon as possible after charging.
  - a. Send a letter inviting the victim to call the advocate.
  - b. Call all available phone numbers to try to reach the victim.
  - c. Contact the investigating officer if unable to reach the victim.
  - d. Contact community resources, such as battered women's shelters and community advocacy programs.
2. Provide information to victims on non-charged cases as requested.
  - a. Discuss reasons for the charging decline decision with the victim and charging attorney.
  - b. Coordinate an in-person meeting between the charging attorney and the victim, as requested.
  - c. Assist the victim in explaining concerns and asking questions about the charging decision.
3. Offer support and resources according to immediate concerns and ongoing needs of the victim and her or his family.
  - a. Establish a supportive relationship by explaining the role of the advocate and what services are available for the victim and family.
  - b. Address emergency issues related to safety, and medical and basic needs.
  - c. Provide a resource list and make referrals to community-based services.
  - d. Discuss programming options for victims of domestic violence.

- e. Explain the VINE program to help the victim access information about the defendant's custody status.
4. Dispense information and education on the court process, including opportunities to participate in accordance with Minn. Stat. § 611A.
    - a. Provide a brochure with a list of victim rights and explain how to access those rights.
    - b. Explain criminal charges and possible dispositions.
    - c. Discuss the roles of the various participants.
    - d. Explain crime victims' rights, including the right to provide input at various points throughout the court process.
    - e. Assist the victim in accessing statutory rights, as requested.
  5. Assist the victim with financial concerns resulting from the crime.
    - a. Provide information on the Minnesota Crime Victims Reparations Board and assist with application as requested.
    - b. Explain what restitution is, how to request it and how to collect it.
    - c. Describe emergency funds for crime victims and how to apply.
    - d. Facilitate property return.
  6. Provide information on pretrial release issues. Explain and answer a victim's questions about:
    - a. Bail/bond and how it works
    - b. Conditional release and the role of Project Remand
    - c. The purpose, function, and content of the no-contact order
    - d. Process for reporting violations of no-contact orders or other conditions of release
    - e. Process to request changes to the no-contact order
  7. Assist victims and witnesses during the trial process.
    - a. Use all possible avenues to locate victims and witnesses.
    - b. Work with the trial attorney to prepare victims and witnesses for trial.
    - c. Arrange logistical support for victims and other witnesses, including transportation, lodging, and interpreters.
    - d. Attend the trial; support the victim and coordinate witnesses.
    - e. Provide support and information regarding the verdict.
  8. Provide information and support through case disposition.
    - a. Explain sentencing proceedings.
    - b. Communicate with the presentence investigator as needed and help facilitate the victim's connection with the PSI writer.
    - c. Explore the options for presenting a victim impact statement.
    - d. Assist with the restitution claim form as appropriate.
    - e. Attend the sentencing hearing.
    - f. Notify the victim of case disposition.
  9. Assist with post-conviction issues.
    - a. Address restitution recovery issues if requested by the victim.
    - b. Check status of reparations claim if applicable.
    - c. Explain probation violation hearings and attend hearings when requested.
    - d. Provide information on inmate release notification options.
    - e. Provide information on the victim's right to object to a defendant's request for expunging the criminal record.
    - f. Provide referrals to community-based resources.
    - g. Explain the appeals process, if applicable.

See the accompanying training memos, included in the Blueprint Supplement.

- *Victim/Witness Advocacy in Domestic Violence Cases*
- *Victim Impact Statements*



Chapter 7

# Ramsey County Probation and Project Remand

# POLICY

## BAIL EVALUATION AND PRETRIAL RELEASE IN DOMESTIC VIOLENCE-RELATED CASES: PROJECT REMAND

Because victims in domestic violence cases can be uniquely vulnerable to coercion and intimidation from defendants, the decision surrounding whether or how to release a defendant before the trial—and under what specific conditions—requires particular attention to the victim’s safety needs and the risk posed by the defendant. In all domestic violence cases, Minnesota law requires that a judge determine whether the defendant’s release poses a threat to the victim, the victim’s family, or the public. The judge must also consider the likelihood that the defendant will re-appear for a trial if released. Once those factors are assessed, the judge is to impose conditions of release or bail, or both. The bail evaluator’s vital role is to gather the information that provides the judge with a foundation for this important series of decisions.

Regardless of the type of crime, bail evaluators must obtain standard information indicative of the defendant’s likelihood to appear at trial: the nature of the defendant’s employment, living situation, education and other ties to the community. In each domestic violence case the evaluator must also determine the level of risk this particular defendant poses to this victim. Establishing risk requires using all available sources of information to gather as much detail as possible about the history, context, and severity of violence in the relationship. The bail evaluator should contact the victim at the earliest opportunity to learn about the history of abuse and violence in the relationship, whether the victim is afraid and of what, and whether the victim is seeking a no-contact order and why or why not. Electronic databases that

contain criminal history information, police reports, and order for protection affidavits are helpful resources for this evaluative process.

Pretrial release decisions balance the constitutional presumption of innocence of the defendant; victim safety, which may require restricting the defendant’s behavior; and steps that will assure the defendant’s appearance at trial. The court has several options: (1) set bail, (2) release the defendant without bail but impose conditions of release, (3) require bail and impose conditions of release, or (4) release the defendant on his or her personal recognizance—a simple promise to remain law-abiding and appear for trial. In domestic violence cases involving battering, an ongoing pattern of abuse, a release on recognizance should be extremely rare.

Once released to the community under conditions imposed by the court, conscientious monitoring and supervision can help discourage and interrupt the domestic violence offender’s efforts to intimidate the victim. Re-offending is common in domestic violence cases.<sup>[1]</sup> The conditions of release should place controls on the defendant’s behavior that will aid in enhancing the safety of the victim and make re-offense less likely. Defendants who are thought to pose a high level of risk to the victim or others should receive more intensive monitoring through frequent and/or in-person reporting. Pretrial release agents should remain alert to indications that the defendant is violating no-contact orders or intimidating the victim and respond promptly to any violations of conditions of release. When the defen-

dant engages in behavior that has safety implications for the victim, the pretrial release agent should bring violations before the judge and request a warrant. Minnesota law requires that the judge who released the defendant issue a warrant directing that the defendant be arrested and taken immediately before the judge, if the judge (1) receives an application alleging that the defendant has violated the conditions of release; and (2) the judge finds that probable cause exists to believe that the conditions of release have been violated (*see* Minn. Stat. § 629.72).

The Minnesota Rules of Criminal Procedure direct the issuance of a summons rather than a warrant unless it appears that the defendant is unlikely to appear for court and continued release poses a danger to an individual or the community. Based on this standard, Saint Paul and Ramsey County request a warrant in only a limited number of cases in order to allow the response to more precisely meet the twin goals of victim safety and offender accountability.

The bail evaluator has just hours to complete the tasks included in the following policies and protocols. Carrying out these responsibilities, as designed, would be impossible without an interagency approach to cases that is built on the premise that each practitioner is accountable to the intervention needs of others working on a case. The agency administration has the responsibility to ensure that the evaluators and pretrial release agents have timely access to the proper data bases, information, and people to follow these protocols.

## Policy: Conducting Bail Evaluations and Supervising Pretrial Release

In addition to adhering to general agency policy, bail evaluators and pretrial release supervisors will take the following actions in responding to domestic violence–related cases, according to their specific roles and job functions, using the protocols, appendices, and training memos referenced and included as part of this policy.

1. Implement the provisions of this policy in accordance with *Protocol 1: Bail Evaluation in Domestic Violence Cases* and *Protocol 2: Conditional Release in Domestic Violence Cases*.

### Project Remand Jail Screeners

2. For all domestic violence–related crimes in which a bail evaluation is completed, present the victim’s or victim’s family account of the crime and address the safety needs of the victim and of the community and the likelihood that the defendant will appear in court (in accordance with Minnesota law, including Minn. Stat. § 629.72).
3. Prepare a written bail evaluation that describes the severity and context of the domestic violence and the risk to the victim and the community, as well as the likelihood that the defendant will appear at trial.
4. Attend Saturday reviews of in-custody defendants to present the bail evaluation to the judge,

including information about the context and severity of the violence.

5. Work in collaboration with victims, cognizant of the principles of continuing engagement.

### Project Remand Court Counselors

6. Attend first appearances to provide bail evaluation to the court, prosecutor, and defense attorney. Answer questions pertinent to the preparation and content of the bail evaluation and to the execution of conditional release as ordered by the judge.
7. Supervise all defendants granted conditional release by the court and monitor compliance with the court’s conditions.
8. Respond promptly to all violations of conditional release in a manner appropriate to the alleged violation.
  - a. Assess each violation for its seriousness and its potential impact on the defendant’s likelihood to fail to appear or for re-arrest, with particular attention to those violations that pose danger to the victim or the public.
  - b. Respond with the course of action appropriate to the nature of the violation.

### **Protocols, appendices, and training memos**

The following protocols are attached to and included as part of the bail evaluation and pretrial release policy:

- › *1: Bail Evaluation in Domestic Violence Cases*
- › *2: Conditional Release in Domestic Violence Cases*

The following appendix is attached to and included as part of the bail evaluation and pretrial release policy:

- Practitioners’ Guide to Risk and Danger in Domestic Violence Cases

See the Blueprint Supplement for appendices referenced in the policy and protocols.

## POLICY: CONDUCTING BAIL EVALUATIONS AND SUPERVISING PRETRIAL RELEASE

### Project Remand Protocol 1: Bail Evaluation in Domestic Violence Cases

1. Make diligent efforts to obtain the arrested person's criminal history (arrests and convictions) by checking available databases, such as JW Jail, MNCIS, BCA criminal history, NCIC and DVS.
2. Review CAD report and affidavits for orders for protection and harassment restraining orders.
3. Review the past bail evaluation conducted on the defendant, if any.
4. Review presentence investigation summaries of violence and abuse.
5. Make diligent efforts to obtain information from the victim directly or through the St. Paul Intervention Project (SPIP) if the victim has given permission to share information. Contact the victim to assist in determining the circumstances, context and severity of the case, the victim's opinion about what pretrial release conditions are most likely to address safety needs, and to refer to other community resources (see appendix, *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*).
  - a. Attempt to contact the victim at all numbers provided on the Victim Information Form. In general, use the following script: "This is (jail screener's name) from Project Remand calling for (victim's name) regarding (defendant's name). It is important that I talk with you as soon as possible. Please call me at 651-266-9445 at your earliest convenience. If you call back and receive a voice mail, please leave your name and phone number and a good time to reach you. Thank you." If the victim does not speak English, use the Language Line for translation services.
  - b. If unable to reach the victim directly, contact SPIP to determine whether the agency has spoken to the victim and whether the victim has given permission to share any information.
  - c. Offer an opportunity to talk about concerns regarding safety, children, and financial concerns to the extent that they apply to conditions of release. Refer the victim to SPIP for further exploration of these issues or for other services.
  - d. Explore the victim's wishes regarding contact with the defendant and what is influencing those wishes. If the victim has strong opposition to a no-contact order, ask for specifics about how it might present problems so that the reasons for opposing a no-contact order can be communicated to and considered by the court. Try to determine if the victim has been pressured to not participate in the court processes. Inform the victim that in most cases a no-contact order will be issued.
  - e. Ask about history of violence, whether or not it has been reported to police. Ask whether the violence has been documented in any way other than police reports (e.g., use of a shelter, conversations with a counselor or social worker, visits with a religious advisor).
  - f. Inform the victim that he or she will receive a call and/or letter from the jail when the suspect is released.
  - g. Request permission to share information about safety concerns with the court and explore any concerns the victim has about holding certain information confidential. Explain that efforts will be made to protect information he or she wishes to hold confidential but that there is a chance the defendant could obtain information via court order. Refer the victim to a community advocate for confidential conversations.
  - h. Ask if and where suspect is employed.
6. Interview the arrested person and determine:
  - a. Where he or she lives, and for how long at that address
  - b. Where he or she resided previous to the current address, if residency at current address is less than three months
  - c. Whether he or she is employed or a student and has income, plus the source of any income
  - d. Whether he or she is currently or has in the past been a member of the armed forces
  - e. Whether he or she is currently on conditional release, probation, or parole
  - f. Whether he or she has obvious mental health or chemical dependency issues that conditions

of release should address (via completing the screening form)

- g. Names and contact information for two people who can verify defendant's information
7. Contact verifiers to determine:
    - a. Where defendant has been living (ask for people other than family members or friends for verification)
    - b. Defendant's employment or school enrollment
    - c. Length of time defendant has resided in the metro area
    - d. Defendant's history of drug or alcohol use, if any
  8. Complete and score the bail evaluation screening form. Point out any previous violations of domestic abuse no-contact orders or orders for protection and whether the current charge is an enhanced violation of past orders. Summarize on the confidential Victim Information Form, the victim's response to risk assessment questions, and any other information about past violence that is uncovered during the bail evaluation.
  9. Note any previous violations of restraining orders (OFP, HRO or DANCO) and whether the current charge is enhanced due to violations of past orders. Note whether the current offense occurred while the offender was on conditional release from a previous pending domestic-related offense.
  10. Place all domestic violence-related bail evaluations in the corresponding bin for review by jail screeners to determine if other actions are needed to complete them, such as an interview of the defendant or criminal history check. If the previous jail screener was unable to contact verifiers or the victim, the next screener will attempt to complete these steps as time and resources permit.
  11. Attend reviews of in-custody defendants and present the bail evaluation to the judge.
    - a. Make diligent efforts to notify the victim of the bail review (pursuant to Minn. Stat. § 629.725).
    - b. Complete the bail evaluation and present it to the judge, along with information from CAD reports, the victim responses to patrol risk assessment questions, affidavits for orders for protection and harassment restraining orders, and presentence investigation summaries of violence and abuse.
    - c. Articulate to the judge the victim's or the victim's family's account of the alleged crime (pursuant to Minn. Stat. § 629.715 and Minn. Stat. § 629.72).
    - d. Relay to the judge pertinent information about:
      - The nature and impact of the current offense
      - Any information about past violence uncovered in the evaluation
- The victim's wishes and concerns regarding conditions of release, with particular attention to the issuance of a no-contact order
  - Whether the defendant is currently on conditional release from another pending domestic violence-related offense
  - Whether the defendant has previously violated no-contact orders or orders for protection
- e. Implement the judge's decision.
    - Hold the defendant for court.
      - o Put the bail evaluation in the bin for Monday court.
    - OR, set bail, with or without conditional release and/or a domestic abuse no-contact order (DANCO).
      - o Record the decision on the Change in Bail form for deputies to enter into JWJ system.
      - o If the judge issues a no-contact order, serve the defendant a copy and explain what it is.
      - o If the judge orders other conditions of release, serve the defendant a copy and explain the conditions.
      - o Inform the defendant about how and when to contact Project Remand.
      - o If the judge orders conditional release, call the victim and inform her or him of the judge's decision. Mail a letter to the victim

that includes copy of the conditional release order, existence of a no-contact order (if ordered by the judge), the defendant's next court appearance, and how to contact Project Remand. Inform the victim that when the defendant is actually released, the jail will provide notification via a call and/or letter.

12. Work in collaboration with victims, cognizant of the principles of continuing engagement.
  - a. The principles of continuing engagement with victims of domestic violence include:
    - Whenever possible, minimize the victim's need to confront the offender.
    - When using information provided by the victim, protect her or him from retaliation.
    - Treat each interaction with the victim as an attempt to build collaboration over multiple interventions.
    - Be mindful of the complex and often dangerous implications of a victim's collaboration with interveners.
    - Be aware that the fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does. Victims are rarely in a position to "tell all," although they may do so in unguarded moments. Take great care to not endanger

victims with what they have shared about their lives.

- Engage in dialogue with the victim, thereby avoiding inadvertently treating him or her as simply an information source.
  - In order to avoid unintentionally replicating or reinforcing the actions of the abuser, interveners must offer a clear alternative to messages that the victim is crazy, at fault, unbelievable, and unable to make decisions, and that the abuser is unstoppable.
- b. Incorporate the victim's concerns regarding her or his safety and that of children into the bail evaluation.
  - c. Convey to the court the victim's wishes regarding contact with the defendant with specific information about reasons why the imposition of the order might pose a hardship.
  - d. Promptly provide a written copy by mail of the pretrial release conditions, if conditions are ordered by the court.
  - e. Provide the victim with contact information for the Project Remand court counselor, if a conditional release is ordered by the court, and provide a clear written explanation of how to report violations of conditions of release.

## Between arrest and prosecution, 30% of offenders re-assault.

– S. Goldsmith (1991)

## POLICY: CONDUCTING BAIL EVALUATIONS AND SUPERVISING PRETRIAL RELEASE

### Project Remand Protocol 2: Conditional Release in Domestic Violence Cases

1. If the jail screener has been unable to reach the victim, make diligent efforts to do so prior to the court hearing. Check the Victim Information Form, JWJ, and the police report to find contact information. Determine if a victim/witness or community advocate in court will be able to help facilitate a connection between the victim and Project Remand (Remand).
2. Distribute copies of the bail evaluation to the prosecutor, judge and defense attorney.
3. Discuss the bail evaluation with the prosecutor and defense attorney, including the defendant's criminal history, the victim's account of the offense, the history of violence and risk assessment, and the victim's wishes regarding contact and perspective on the impact of a no-contact order.
4. If conditional release is ordered, meet with the defendant following the court hearing and reinforce the conditions of release, the importance of following the court's orders and possible consequences for violations, and when and how to contact Remand.
5. If the judge ordered a conditional release, contact the victim before the defendant is released from jail to inform her or him of the conditions of release. Send a letter that includes:
  - a. A copy of the conditional release order (black out the defendant's address)
  - b. Information regarding the issuance of a no-contact order
  - c. The date and time of the next court hearing
  - d. Information regarding how to report violations of conditional release and Remand's phone number
6. Verify the address where the defendant will be staying after release. Notify the jail when verification is received (the defendant will be held until address is verified).
7. If the court has issued a no-contact order and a conditional release order, fax a letter with this information to the police department where the victim resides, along with a copy of the conditional release order.
8. Open a file and meet with the defendant.
9. Determine the frequency and manner of contact. In cases of high risk to the victim, consider requiring in-person reporting.
10. Hold twice weekly in-person group intake sessions for defendants who are on conditional release in domestic violence–related offenses.
  - a. Explain conditions of release and emphasize the importance of compliance with conditions—including no-contact orders—and the consequences of violations.
  - b. Have the defendant sign any releases of information required by the Remand counselor.
- c. If the court has ordered a chemical health assessment, provide the defendant with information about where to go and when it must be completed.
- d. If the court has ordered random testing, provide information about how and where the testing will take place.
- e. If a mental health evaluation is required, provide information about where that will be conducted and the time frame for completion.
- f. If the court has ordered that the defendant take psychotropic medications as prescribed, ensure that the defendant has executed a release of information for Remand to talk with the doctor about medication compliance, unless the judge has ordered another method of monitoring.
11. Provide other community referrals to the defendant as deemed appropriate by the Remand counselor or requested by the defendant, e.g., assistance with finding employment, housing, counseling, medical care, education.
12. Contact the victim to discuss any safety concerns and make sure she or he knows about the conditions of release, no-contact order, process for reporting violations, and how to reach the Remand counselor.
13. Refer victim to the Saint Paul Intervention Project and other community resources.

14. Respond promptly to calls from victims and be diligent in attempting to reach victims who leave messages.
15. Thoroughly document in the case notes all contacts with the defendant, the defendant's compliance with conditions, contacts with the victim, and actions taken by the Remand counselor.
16. Respond promptly to **violations** of conditional release not related to victim safety or the safety of the community:
- These violations include:
    - Failure to report or call in
    - Failure to notify Remand about a change in employment or residence
    - Failure to obtain prior permission to travel
    - Failure to execute required releases
    - Failure to complete a chemical health assessment
    - Failure to complete a mental health assessment
    - Failure to take prescribed medications
    - Any other violation not related to victim safety or the safety of the community
  - Evaluate the seriousness of the noncompliance, taking into account the nature of the condition, the reason for the noncompliance, the seriousness of the violation, the defendant's compliance history and information about dangerousness gleaned from the risk assessment and bail evaluation.
- c. Determine the appropriate course of action. For violations not related to safety, the court counselor will employ graduated sanctions and use available resources to re-establish compliance.
- d. Possible graduated sanctions:**
- Verbal warning
  - Written warning letter
  - Increased frequency of phone reporting
  - In-person reporting
  - Increased frequency of in-person reporting
  - In the case of non-compliance with medications, report to and take medications in the presence of a court counselor.
- e. NOTE: Report technical violations to the appropriate judge via a violation hearing and violation report.
- f. Exception: If the defendant's whereabouts are unknown or if the violation raises concerns about the victim's safety, request a warrant.**
17. Process for responding promptly to **drug or alcohol testing violations** of conditional release:
- Drug or alcohol testing violations include any of the following:
    - Reports and tests positive (after baseline)
    - Fails to report
    - Reports and refuses to submit a sample
    - Reports and is unable to submit a sample
    - Reports and submits a sample for which there is a suspicion of tampering (includes "dilutes")
    - NOTE: Failure to report and failure to cooperate with testing are significant because they are often indicative of active drug use by the defendant. When a defendant appears for testing but says he or she is unable to submit a sample, every effort shall be made to facilitate the defendant's successful submission of a sample.
  - Assess the violation taking into account the reason for the violation, the seriousness of the violation, the level of risk the defendant poses, the defendant's compliance history, and information about dangerousness gleaned from the risk assessment and bail evaluation.
  - Determine the appropriate course of action. Implement graduated sanctions and use available resources to address the violation and re-establish compliance with drug testing.
  - Possible graduated sanctions:**
    - Verbal warning



- Written warning letter
  - Increased frequency of drug testing
  - Completion of a chemical health assessment and compliance with all recommendations
  - Increased frequency of phone contact
  - In-person contacts
  - Increased frequency of in-person contacts
  - Attendance at drug educational program
- e. NOTE: Report patterns of drug or alcohol testing violations to the judge via a violation hearing and a violation report.
- f. **Exception: If the defendant's whereabouts are unknown or if the violation raises concerns about the victim's safety, request a warrant.**
18. Respond promptly to **violations of conditional release related to violence or safety.** See appendix, *Practitioners' Guide to Risk and Danger in Domestic Violence Cases.*
- a. Violations related to violence or safety include any of the following:
- Failure to surrender firearms (for those defendants not otherwise prohibited by law from possessing firearms)
  - Minor violations of conditional release or violations of alcohol and drug testing in cases where the risk assessment and bail evaluation indicate a high level of risk
- b. A new offense (whether or not the new offense has been charged), including:
- o Violation of a no-contact order
  - o Violation of a stay-away order
  - o New assault or violent crime
  - o Prohibited person in possession of firearm or ammunition
  - o Other criminal offense
- c. Review the court calendar daily to determine if any Remand client has been re-arrested and is appearing on a new offense. If any Remand client is on the calendar for a new offense, or if the counselor learns by other means of any new violation of the law, the counselor will evaluate the seriousness of the violation and new offense with particular attention to whether it poses a danger to the victim and/or the community.
- d. If the court counselor determines that the violation poses a danger, take action according to whether the case is in-custody or out-of-custody.
- **In-custody cases:**
    - o Add the conditional release violation hearing to the calendar.
    - o Prepare a report for the defense attorney, prosecutor and court summarizing the conditions of release and the violation and making recommendations to address the violation.
  - **Out-of-custody cases:**
    - o Be present to address the court about the violation.
    - o If a victim has reported a violation to Remand, advise the victim to call the police and file a police report. Obtain the police report.
    - o If the court counselor learns through other means, e.g., probation or police response to a gone-on-arrival case, obtain the police report.
    - o Prepare a violation report requesting an arrest warrant outlining the conditions of release and the violation(s). Complete the necessary paperwork for activating an arrest warrant.
    - o Present the violation report and warrant paperwork to the judge and request a warrant.
    - o If the judge **signs the warrant:** (1) contact the victim to let her or him know an arrest warrant was issued; (2) notify the prosecutor and defense attorney that a warrant was issued; and (3) close the file.
    - o If the judge **declines to sign the warrant:** (1) consider increasing the level of moni-

toring of the defendant; (2) document the violations for the file and provide the information to the presentence investigation writer when appropriate; and (3) continue to monitor the defendant's compliance and report any new violations to the appropriate judge.

**19. Court hearings for violations of conditional release**

- a. Prepare and distribute to the court, prosecutor, and defense attorney a written report detailing all violations of the conditions of release with recommendations for court action.
- b. Notify the defendant about out-of-custody hearings and the defense attorney about the date, time, and location of the hearing.
- c. Attend the hearing and be prepared to respond to questions about the report and recommendations.
- d. Discuss violations with the prosecutor and defense attorney, with particular emphasis on those violations that pose a risk to victim or community safety.
- e. If the court places the defendant back on conditional release, recommend that the judge place more stringent reporting requirements on the defendant, e.g., requiring in-person check-ins and/or more frequent reporting.

## The 'Blueprint'

is not a collection of policies by separate agencies; rather, it is a collective policy.

Under the Blueprint we are linked to each other through our common goals; to do what it takes to keep the victim safe, to support each practitioner in doing their job and to hold each offender accountable for their violence.

– John Harrington, St. Paul Police Chief,  
Aug. 24th, 2009

# POLICY

## WRITING THE PRESENTENCE INVESTIGATION REPORT IN DOMESTIC VIOLENCE-RELATED OFFENSES

### Framework

Probation's primary role in any case is to work with offenders who pose a risk to the public and lower that risk to whatever extent possible. In domestic violence cases, very specific, identifiable members of the public bear this risk. Recognizing the nature of the risk; constraining the offender's ongoing coercion, intimidation, and violence; and offering opportunities to change abusive behavior begin with the presentence investigation.

The presentence investigation (PSI) is written for the bench and the supervising probation officer. It puts the event leading to the conviction and the offender's history into a context that allows the court to impose a sentence which addresses victim safety, offender accountability, and offender rehabilitation.\* The PSI also provides the bench with the background information needed to consider any plea agreement in relation to safety, accountability, and rehabilitation; and to make an informed decision regarding whether to accept or reject the agreement. The supervising probation agent will use the PSI to get a full picture of (a) the incident, (b) the impact of the incident on the victim, (c) associated domestic violence, (d) the results of past interventions with the offender, (e) the offender's needs related to making behavioral changes and the victim's needs for safety, (f) other high risk needs that need to be addressed to avoid ongoing criminality, and (g) supervision and treatment needs. Excerpts from the PSI will also be used by practitioners in any future cases involving the

same offender, including charging attorneys, bail evaluators, police investigators, and rehabilitation providers.

The PSI becomes the most detailed description of the offense, the offender, and the situations surrounding the defendant's use of violence and related abusive behaviors. The process of constructing the PSI report reinforces and sets the stage for probation's continuing engagement with the victim during the course of probation. Certain sections of the PSI are important tools for subsequent interveners, especially those providing services mandated by the court. For example, the history section in the PSI assists prosecutors in charging new offenses or arguing appropriate bail conditions on a new arrest. Similarly, a treatment provider who may have limited or no contact with the victim gains enormous insight by reading the history of violence summary as opposed to reading excerpts from the arrest report of a single incident. The PSI's summary of domestic violence, more than any other single document, can provide interveners with the best institutional understanding possible of (a) who is doing what to whom and with what impact, (b) who is likely to do harm in the future, (c) the likely level of continued harm, and (d) what measures by the state and community are most likely to reduce or eliminate that future harm. The Blueprint builds the sharing of this important institutional knowledge into case management processes, within the boundaries of state law and confidentiality regulations and considerations.

The Blueprint is designed to maximize the opportunity to build a collective institutional knowledge of the case, from 911 through discharge, by making the nature of the abuse visible at every opportunity. The probation officer is dependent on practitioners at earlier points of intervention asking, observing, and recording information about the pattern and severity of abuse. The system builds data over time and each new contact with victims and offenders offers a more complete picture of the frequency and severity of the abuse and violence. The PSI process is the most intentional, thorough, and comprehensive opportunity to pull that institutional knowledge of the case together in a coherent description and summary that positions the PSI writer to make a well-founded set of recommendations to the court for incarceration, restitution, and conditions of probation. The protocols, appendices, and training memos accompanying the Blueprint help prepare the PSI writer to address issues of potential recidivism and the specific need for victim safety measures. The investigation is the primary means by which high risk behaviors for homicides and future severe and escalating violence are made visible to the court and subsequent interveners.

The Blueprint is intended to create a standard that ensures fairly similar recommendations, regardless of the individual probation officer handling the case. Given the complexities and variables present in domestic violence cases, a fixed matrix or inflexible recommendations for time to serve are unworkable. Instead, the Blueprint utilizes the sentencing frame-

\*Conditions of probation related to offender rehabilitation in domestic violence cases should provide for ongoing monitoring; allow for swift, sure responses to violations; and provide treatment or counseling groups specific to the context and severity of the violence being used by the offender as well as addressing other high risk needs.

work included in the appendix as an agreed-upon set of benchmarks for time to serve as a condition of probation. The combination of the sentencing framework, common training for probation agents, key documentation from previous interveners, the eye of the supervisor on each PSI, and the collective goals of the department all serve to ensure that probationers will be treated to a fair, victim-protective and uniform response to domestic violence cases. In other words, safety will be the focal point and similarly situated cases will be treated similarly.

The presentence investigation process offers a crucial opportunity for the probation department to engage with victims and offenders in ways that support change while being mindful of the complex and often dangerous implications for the victim of such collaboration.<sup>[1]</sup> Such a relationship includes minimizing a victim's need to confront the offender and protecting victims from retaliation for sharing information. The PSI process also reinforces interagency messages of protection, help, and accountability. Sentencing recommendations that are anchored in a full picture of the abuse and the offender's personal history carry the message that an offender will be held accountable for the harm while also offered support to change violent and abusive behavior.<sup>[2]</sup> The PSI crafted according to this policy and its accompanying protocols carries the message that the state is willing and ready to extend protection and help to the victim of that harm.

## Policy: Writing the Presentence Investigation Report

In addition to adhering to general agency policy, probation officers conducting presentence investigations (PSIs) in domestic abuse–related cases will take the following actions, using the protocols, appendices, and training memos referenced and included as part of this policy.

1. Complete the *Saint Paul Blueprint for Safety* training (according to the training agenda included in appendix).
  - a. Probation officers conducting felony PSIs must also complete the Ramsey County Probation Department's training on the use of the Minnesota Sentencing Guidelines.
  - b. PSI writers should familiarize themselves with the relevant sections of the American Probation and Parole Association's *Community Corrections Response to Domestic Violence: Guidelines for Practice*.
2. Conduct a full presentence investigation on felony and misdemeanor cases.
  - a. Using the sources and elements described in *Probation Protocol 1: Domestic Violence Presentence Investigation*, document the domestic abuse–related factors in the case.
  - b. Highlight the dangerous behaviors used by the defendant in accordance with the appendix,

*Practitioners' Guide to Risk and Danger in Domestic Violence Cases.*

3. In cases where there is information to suggest the defendant is being abused by the person who is the victim of the instant offense, attempt to determine the scope of violence and abuse both experienced by and used by the defendant. NOTE: such cases most often involve female defendants who are ongoing victims of domestic violence.
  - a. If the probation officer determines the defendant is also a victim of ongoing abuse, use the guidelines from the interagency training memo, *Intervention in Cases Involving Victims of Battering Who Use Violence*.
  - b. Make sentencing recommendations that do not make the defendant more vulnerable to her or his abuser, while taking steps to deter the defendant's continued use of violence.
4. Form and develop a working relationship with the victim, using *Probation Protocol 2: Victim Engagement Guidelines* and information from the county's victim/witness advocates and community advocates familiar with the case.
5. Make diligent efforts to obtain a victim impact statement, including:
  - a. Information about the full scope of domestic violence used by the offender
  - b. Impact of the violence in this incident

- c. Impact of any related patterns of abuse by the offender
- 6. Identify and include the following items in the written report, utilizing the appendix, *Recommendations for Sentencing and Conditions of Probation in Domestic Abuse-Related Cases*:
  - a. The sentence allowed by law
  - b. A statement regarding any statutorily mandated minimum period of incarceration, fines or fees, and programming
  - c. Information regarding statutorily mandated notices and firearms forfeiture
  - d. Recommendations for jail time to be served and/or stayed, conditions of probation, no-contact orders, and restitution

- e. A statement for the bench to use in relaying the consequences for failure to abide by the conditions of probation.

### Protocols, appendices, and training memos

The following protocols are attached to and included as part of the probation presentence investigation policy:

- › 1: *Domestic Violence Presentence Investigation*
- › 2: *Victim Engagement Guidelines in Domestic Abuse-Related Cases*

The following appendices are attached to and included as part of the probation presentence investigation policy:

- Practitioners' Guide to Risk and Danger in Domestic Violence Cases

- Domestic Violence History Form
- Recommendations for Sentencing and Conditions of Probation in Domestic Violence-Related Cases

The following training memos are included as a part of the probation presentence investigation policy:

- › *Victim Impact Statement*
- › *Intervention in Cases Involving Victims of Battering Who Use Violence*
- › *Conditions of Probation*

See the Blueprint Supplement for appendices and training memos referenced in the policy and protocols.

## POLICY: WRITING THE PRESENTENCE INVESTIGATION REPORT IN DOMESTIC VIOLENCE-RELATED OFFENSES

### Probation Protocol 1: Domestic Violence Presentence Investigation

1. Make diligent efforts to obtain records of the instant offense and history of domestic abuse from the sources listed below:

Reports related to the **instant offense**:

- 911 CAD report or call transcript
- Initial patrol officer reports

- Follow-up investigative reports (including statements by victims, witnesses and defendant; plus risk assessment information)
- Related child protection reports (when available)
- Medical reports
- Order for protection proceedings and affidavits describing the need for protection related to this incident

- A description of the instant offense from an interview with the offender
- A description of the instant offense from an interview with the victim

Reports related to the history of **domestic violence-related behaviors** used by the defendant against this or other victims (regardless of conviction):

- 911 calls/CAD reports involving the defendant in other reported domestic abuse–related events
  - Domestic abuse–related police reports from Saint Paul Police Department and surrounding jurisdictions (when possible and indicated by defendant’s history)
  - Outcome of other domestic abuse–related criminal and civil cases
  - Domestic violence incidents reflected in records related to orders for protection, harassment orders, or criminal no-contact orders or actions involving the offender
  - Findings of child protection or other government agency investigations of violent or abusive behavior if there are incidents of children being drawn into the violence
  - Prior PSIs, including PSIs from other jurisdictions (when available)
  - Reports from rehabilitation or treatment programs previously used by the offender, if available
  - Juvenile probation and court records (when available)
  - PSI writer interview with the defendant
  - PSI writer interview with the victim
- a. Immediately after being assigned the case, request that the prosecutor provide to the PSI writer any documents from the above list included in the police investigation file and any additional information the prosecutor deems useful in preparing a PSI.
- b. As soon as possible after ascertaining the availability of these records from the prosecutor, contact the Saint Paul Police Department Family Violence and Sexual Assault Unit to obtain any domestic violence–related police reports, CAD reports coded as domestics where officers enter a brief report when there is no probable cause to arrest, and protection and harassment order affidavits.
  - c. Contact the prosecution victim/witness advocate listed in the CAIS (County Attorney Information System) to obtain current contact information for the victim and information the advocate might have pertinent to sentencing and restitution.
2. In the section of the PSI that addresses aggravating circumstances, describe the non-confidential information gathered on the defendant’s use of violence, intimidation, coercion, and related forms of domestic abuse against this victim and other victims. The documentation should allow the PSI reader to put the instant offense into a larger context of abuse, if it exists. Put any confidential information from the victim or other sources in the confidential section of the PSI.
- a. Address the violence and abuse in the instant offense first and then make visible what is known about a pattern of abuse and aggression by the offender.
  - b. Provide a brief summary or use excerpts from previous documentation, noting the date and source of the information. Be as explicit as possible about the presence of risk factors, acts of coercion, intimidation, violence, or aggression.
  - c. Focus the aggravating circumstances on those factors identified as dangerous in the appendix, *Practitioners’ Guide to Risk and Danger in Domestic Violence Cases*.<sup>[3]</sup> Pay specific attention to:
    - The full scope of domestic violence–related behaviors used by the offender
    - Frequency and any changes in the pattern of violence and related abusive behaviors
    - Severity of the violence and related abusive behaviors
    - Any apparent patterns in the circumstances under which the violence or abuse occurs
    - Extent to which others are drawn into the abuse, including immediate and extended family members, clans, friends and associates, gang affiliates
    - Use of children against the victim or direct aggression toward children in this or past relationships

- Other institutions involved with the offender or victim in relation to the domestic violence
  - Use of coercion, intimidation, emotional abuse, abusive control toward other intimate partners, and/or a partner’s children
  - Use of sexual coercion, intimidation, or abuse in this or past relationships
  - Any indicators the severity of violence or abuse is escalating or already at risk of causing serious injury or harm
  - Relationship of mental illness to defendant’s actions and past efforts to seek help
  - Relationship of alcohol and drug use to defendant’s actions and efforts to seek help
3. As applicable to the case, document the mitigating circumstances, using the sources of information noted previously. Mitigating circumstances include the lack of a pattern of ongoing coercion, intimidation or violence; or information to suggest the defendant is an ongoing victim of substantial domestic violence by the person she or he has assaulted. In these cases, attempt to determine the scope of violence and abuse both experienced by and used by the defendant.
  4. Transfer the public records information contained in the aggravating and mitigating circumstances section to the Domestic Violence History Form for use by the supervising probation officer and any rehabilitation programs, as well as practitioners acting on any subsequent cases involving the offender, such as the FVSA unit, bail screeners,

service providers, prosecuting attorneys, and judges.

This summary helps differentiate the scope of violence and danger in domestic violence cases and assists intervening practitioners in adjusting their interventions to the level of risk and danger posed by the offender.

5. Write a recommendation for sentencing and conditions of probation, utilizing the guidelines in the appendix, *Recommendations for Sentencing and Conditions of Probation in Domestic Abuse-Related Cases*.
6. Make both the confidential and non-confidential portions of the PSI readily available for review by the prosecution and defense attorneys in advance of the sentencing date.

## POLICY: WRITING THE PRESENTENCE INVESTIGATION REPORT IN DOMESTIC VIOLENCE-RELATED OFFENSES

### Probation Protocol 2: Victim Engagement Guidelines in Domestic Violence-Related Cases

1. Work in collaboration with victims, cognizant of the principles of “continuing engagement.”
  - a. Whenever possible, minimize the victim’s need to confront the offender.
  - b. When using information provided by the victim, protect her or him from retaliation by not identifying the victim as the source of the information or the person making the sentencing decision.
  - c. Treat each interaction with the victim as an attempt to build collaboration over multiple interventions.
  - d. Be mindful of the complex and often dangerous implications of a victim’s collaboration with interveners.
  - e. Be aware that the fundamental purpose of battering, which characterizes the majority of domestic violence criminal cases, is to control what the victim says, thinks, feels, and does. Victims are rarely in a position to “tell all,” although they may do so in unguarded moments. Take great care to not endanger victims with what they have shared about their lives.
  - f. Engage in dialogue with the victim, thereby avoiding inadvertently treating her or him as simply an information source.
  - g. In order to avoid unintentionally replicating or reinforcing the actions of the abuser, offer a clear alternative to messages that the victim is

- crazy, at fault, unbelievable, and unable to make decisions and that the abuser is unstoppable.
2. As part of the presentence investigation process, obtain contact information from the victim/witness advocate on record and make diligent efforts to interview the victim in order to:
    - a. Obtain information about the frequency, severity, and circumstances surrounding the use of violence, coercion, abuse, and intimidation.
    - b. Obtain information about the impact of the instant offense and the surrounding abuse and violence, if applicable, on the victim. Include attention to:
      - Physical harm
      - Emotional harm
      - Sexual coercion or harm
      - Harm to victim's relationship with her/his children
      - Harm to her/his children
      - Harm to family and associates (e.g., friends, coworkers, neighbors)
      - Economic harm
    - c. Explore whether the victim wishes to provide a Victim Impact Statement to the court. In Joint Prosecution Unit or felony cases, link victims who want to consider such a statement with the victim/witness program.
    - d. Obtain the victim's input on the (a) sentence, (b) restitution, and (c) conditions of probation. Include attention to:
      - Time to serve
      - Limited or no contact with the victim or victims
      - Treatment services for battering, chemical dependency, and mental illness
      - Conditions which could provide protection for the victim
      - Specialized counseling within chemical dependency or batterers' treatment programs regarding the use and abuse of children
      - Specialized counseling related to chemical dependency, depression, the use of sexual coercion, and childhood trauma
    - e. Ascertain whether the victim would like to put in place either of the following:
      - Follow-up contact with the supervising probation officer
      - Notice by the supervising probation officer to a community advocacy group with information about the probationer's status and probation conditions and the name and contact information for the supervising agent
    - f. Provide the victim with the following:
      - Information regarding how to change his or her decision regarding whether to have follow-up contact with the supervising probation officer
      - A list of available community advocacy groups
  3. Use all contacts with the victim to relay the messages of the interagency approach: (a) the focus is on the defendant's actions and behaviors and the resulting harm; (b) interveners are there to help, protect, and build safety; and (c) offenders will be held accountable and offered opportunities to change violent and abusive behavior.
  4. Conduct the PSI cognizant of the role of probation to work with offenders who pose a risk to the public—in domestic violence cases a specific member of the public and potential future victims—and reduce that risk to whatever extent possible while offering the probationer an opportunity to change abusive behaviors.
    - a. Encourage victims who want a sentence of probation to consider reporting all acts of intimidation, coercion, and threats or acts of violence to probation. Provide a number where she or he can leave a confidential, detailed message.
    - b. When victims want to talk confidentially about the circumstances of their case and need to problem solve refer them to the services offered by Saint Paul Intervention Project (SPIP) and Bridges to Safety.



- c. Explain that victims can be present and speak at sentencing and provide them with a connection to victim/witness support services.
5. Make diligent efforts to contact the victim prior to the supervising agent's first meeting with the offender in order to begin building a collaborative relationship between the victim and the probation office to hold the probationer accountable and keep the victim safe.
    - a. Be prepared for a strong sense of mistrust or even hostility toward the system by the victim and work in ways to build trust over time.
    - b. Inform the victim of the probation office goals regarding public safety, victim safety, and offender accountability and rehabilitation.
    - c. Use the interview to increase your understanding of the offender's pattern of violence, particularly any "markers" of escalation, as addressed in the appendix, *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*, and the victim's capacity for self-protection.
    - d. Ensure that victims have information about how probation will be involved with the victim and the offender during the period of probation supervision.
    - e. Encourage victims to keep the supervising agent informed of changes in their lives related to their safety and the offender's compliance.
  6. Communicate with key persons connected to the offender in a manner that protects the victim and others subject to possible retaliation, while safeguarding the offender's right to fairness.
  7. Ensure that the offender has signed any releases of information during the presentence investigation allowing the supervising agent to exchange information with the victim and service providers.
  8. Unless the victim has asked not to be contacted, contact the victim periodically throughout the probationary period. Check on the victim's welfare.
  9. When acting on a violation of probation related to the victim:
    - a. Give the victim prior notice of the action whenever possible and whenever doing so would not compromise the agent's ability to proceed with the violation.
    - b. Obtain victim input on the probation response to the violation.
    - c. Obtain victim input on whether the violation has an impact on her or his safety.
    - d. Inform the victim of the date, time, and place of any revocation hearing.
    - e. Obtain the victim's input on whether imposing sanctions for the violation will enhance or decrease her or his safety.

## When intervention

was swift and certain, the rate of offenders entering the batterer intervention groups increased from 70% to 95% and the completion rate rose to 70%.

– E. Gondolf (2004)

## POLICY

## PROBATION SUPERVISION IN DOMESTIC VIOLENCE-RELATED OFFENSES

## Framework

The research on the effectiveness of rehabilitation groups in reducing domestic violence<sup>[4]</sup>—particularly the ongoing coercion, intimidation, and violence that characterizes battering—is mixed. However, the research is clear on the deterrent effects of close probation supervision of domestic violence probationers coupled with swift and sure responses to all violations: such a response can reduce future abuse. Domestic violence is a complex crime. It encompasses very different acts of violence occurring in very different circumstances for very different reasons, so a single approach to deterrence will not work.<sup>[5]</sup> The PSI writer should provide as full a picture as possible of the kind of violence, the frequency and severity of violence, and the circumstances under which the probationer uses that violence. The supervising probation officer manages risk. That task is fourfold: (1) to work with the probationer to help change the behaviors that have resulted in a conviction; (2) to stay aware of signs that the abuse and violence might be reoccurring; (3) to find the right (and available) kinds of rehabilitation programs; and (4) to act swiftly each time the probationer pushes against the controls over his or her abusive behaviors.

The criminal justice system processes events, i.e., particular crimes that occur at a particular time. Not until sentencing and probation does the system begin to look at the context of that crime and attempt to remedy both the event and the circumstances that surround it. At this time community

agencies are also drawn into the process of change. The interagency approach to the case suddenly expands as programs specializing in chemical dependency, battering, victim support, community education, and economic assistance come together to prevent further abuse. The probation officer is the linchpin that connects these possibilities for change together in an accessible and meaningful way for the probationer.

Our collective interagency approach is designed to stop violence against the victim, both the current victim and future ones who can so quickly fill those shoes if the abusive behavior continues. Engaging with the victim helps probation officers understand what makes the ongoing situation dangerous and what particular signs might signal reoccurring violence.<sup>[6]</sup> If the victim is linked to an advocacy program that is also working cooperatively with the probation department, it is far more likely that steps can be taken to disrupt escalating violence.<sup>[7]</sup>

The supervising probation officer is the only practitioner in the system that develops an ongoing relationship with the probationer. As such, the probation officer is best-positioned to relay and reinforce the messages intended by the overall response: change is possible, being accountable is the first step toward change, continued abuse will not be tolerated, and there is a network of help available to support a probationer's efforts to change abusive behavior.<sup>[8]</sup>

## Policy: Supervising Probationers in Domestic Violence-Related Cases

In addition to adhering to general agency policy covering supervision of probationers, probation agents will take the following actions in supervising probationers in domestic abuse-related cases, using the protocols, appendices, and training memos referenced and included as part of this policy. The provisions of this policy and related protocols generally apply to supervision of domestic violence offenders on release from prison and to domestic violence offenders whose supervision has been transferred to or from another probation office. Supervised release and transfer cases will also be processed in accordance with the specified appendices.

1. Promptly notify the victim of the probationer's status and probation conditions; and of the name and contact information for the supervising agent, as specified in *Protocol 3: Supervision of Domestic Violence Probationers*.
2. Make diligent efforts to contact the victim prior to the supervising agent's first meeting with the probationer and meet with the victim by phone or in person to implement the provisions of *Protocol 2: Victim Engagement Guidelines in Domestic Abuse-Related Cases*.
3. To ensure that the probationer understands what is required, promptly meet with the probationer to review and, if necessary, clarify each condition of probation, each notification (including firearms

restrictions and other prohibitions), and the supervision process. Conduct the review using *Protocol 3: Supervision of Domestic Violence Probationers* and *Protocol 4: Violations and Probation Revocation* with the accompanying notices.

4. Ensure that the probationer signs permissions allowing the release of records, information sharing regarding programs and services related to probation conditions, and information sharing regarding continued or escalating risk.
5. Assist the probationer in entering and successfully completing rehabilitative services.
6. Conduct routine monitoring for probation compliance and indications of any increasing risk to the victim or other parties, per *Protocol 3: Supervision of Domestic Violence Probationers*.
7. Respond to violations of probation in accordance with *Protocol 4: Violations and Probation Revocation* to ensure sure and swift consequences for failure to adhere to probation conditions.
8. Use diligent efforts to shield the victim or victims from retaliation when taking enforcement action for probation violations.
9. Maintain case notes in sufficient detail to: (a) consistently monitor and enforce probation conditions, (b) keep other interveners informed of the probationer's actions, and (c) guide others who

might need to act for the supervising agent in his or her absence.

### **Probation supervision: protocols, appendices, and training memos**

The following protocols are attached to and included as part of the policy on probation supervision in domestic abuse cases:

- › *3: Supervision of Domestic Violence Probationers*
- › *4: Violation and Revocation of Probation*

The following appendices are attached to and included as part of the policy on probation supervision in domestic abuse cases:

- Practitioners' Guide to Risk and Danger in Domestic Violence Cases
- Notice of Post-Conviction Firearm and Other Prohibitions
- Monitoring Conditions of Probation in Domestic Violence—Related Cases
- Domestic Violence Resources
- Supervised Release in Domestic Violence Cases
- Probation Transfer in Domestic Violence Cases

### **Training Memos**

The following training memos are attached to and included as part of the policy on probation supervision in domestic abuse cases:

- › *Probation Violation Law*
- › *Legal Considerations in Probation Violations Based on a New Offense*

See the Blueprint Supplement for appendices and training memos referenced in the policy and protocols.

## POLICY: PROBATION SUPERVISION IN DOMESTIC VIOLENCE-RELATED OFFENSES

### Probation Protocol 3: Supervision of Domestic Violence Probationers

1. Promptly notify the following parties of the probationer's status and probation conditions and the supervising agent's name and contact numbers, using the appropriate notification letter and process.
  - a. Victim (prior to first meeting with probationer)  
NOTE: The victim's name is not confidential but her or his address and phone number are. Do not include the victim's address in information forwarded to other parties without the victim's permission.
  - b. Probationer
  - c. Saint Paul Police Department Family and Sexual Violence Unit, with request to notify probation of any new police contacts with the probationer
  - d. If requested by the victim, Saint Paul Intervention Project asking them to contact the victim and set up support services during probation period
2. Promptly meet with the probationer to review the following:
  - a. Each condition of probation, both standard and special conditions
  - b. Notifications related to firearms and other weapons restrictions and other prohibitions
  - c. Process of supervision, including contacting and reporting to the supervising agent
3. Ensure that the probationer understands the meaning of all probation conditions and the process of supervision by taking the following measures:
  - a. Explain and conduct supervision in the probationer's first language or provide interpretation or communication assistance to probationers with limited English proficiency or with hearing or speech disabilities.
  - b. Explain and conduct supervision using language and communication strategies that address the probationer's literacy level and cognition.
  - c. Avoid professional jargon.
  - d. Allow the probationer to have a support person present during the initial interview.
4. Ensure that the probationer signs releases which allow:
  - a. Release of records:
    - From probation to court-ordered programs and service providers
    - From court-ordered programs and service providers to probation officers
  - b. Information sharing and discussion regarding attendance, indications of continued or escalating risk, and the offender's cooperation with the program:
    - From probation to all programs and service providers to which the probationer has been court-ordered and vice versa
5. Provide appropriate program referrals utilizing the related appendix, *Domestic Violence Resources*.
  - a. Refer the probationer to specialty programs appropriate to the following:
    - Severity of offense and risk posed by the offender
    - Whether the probationer was the object of an ongoing pattern of violence from the victim in this case
    - The probationer's cultural identity and social needs (to the fullest extent possible).
  - b. Use lengthier programs for higher risk probationers (though not necessarily more rigorous programs).
  - c. Use programs that allow quick entry into programming, unless there is reason for delay which outweighs the beneficial effect of immediate programming.
  - d. Be aware of other risk needs that should be addressed to avoid ongoing criminality.
  - e. Require that probationers attend assigned programs as soon as possible. If there is a significant delay and an opening in an alternative
    - From all court-ordered programs and service providers working with the probationer to probation
    - Between all programs and service providers to which the probationer has been court-ordered

group is available, require probationers to attend the alternative group while waiting to get into assigned programming.

- f. Provide rehabilitation programs with the PSI, the Domestic Violence History Form, and a summary of the sentence and probation conditions.
  - g. Provide rehabilitation programs with information regarding any concerns that the victim has asked probation to share.
  - h. Provide probationers with information regarding community and social service resources that would be helpful, though not required, to successfully complete probation.
6. Coordinate between the probationer and treatment programs or social service agencies to ensure programming that fits the severity of the offense, risk to the victim (including secondary victims), and promotes compliance. Assist the probationer in entering and successfully completing rehabilitative services.
  7. When sharing confidential information with treatment or other program providers, make clear that confidential information cannot be shared with the offender.
  8. Be aware of and responsive to situations and behaviors associated with an increased risk for re-offense with probationers who engaged in a patterned use of intimidation, coercion, and violence toward the victim or victims. See

appendix, *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*. Be aware of the following factors that often precede new assaults:

- a. Inability of probationer to stop excessive drug or alcohol use
  - b. The victim making a permanent break with the probationer
  - c. The victim entering a new relationship
  - d. The victim cooperating with any adversarial legal action against the probationer
  - e. Obsessive behaviors toward the victim or children
  - f. Stalking or surveillance of the victim or her/his family and/or friends
  - g. Pressuring his/her way back into the victim's home
  - h. The victim seems unable to speak to the probation officer without fear or exhibits anger toward intervening practitioners
9. Be cognizant of and responsive to situations and behaviors associated with an increased risk for re-offense with probationers who have documented histories of being abused by the victim in the case and who are now on probation for using reactive violence.
    - a. Indications of victims of abuse who kill their abusers are:

- Access or prior use of weapons
- More than 10 violent incidents in the last year at the hands of her or his abuser
- Prior police intervention in one or more domestic violence calls
- Isolation from family and friends
- Prior strangulation by her or his abuser
- Traditional relationship (married, children, lengthy relationship)
- Being continually subjected to sexual and or physical abuse by her or his abuser
- Increased sense of entrapment

- b. Indicators of probability of reoffending include:
  - Inability to stop drug and alcohol use
  - Probationer's abuser extending the abuse to the children
  - Probationer experiencing continued sexual and physical abuse by her or his abuser
  - Increased economic dependence on abuser or financial instability
10. Be cognizant of and responsive to situations and behaviors associated with an increased risk of violence by probationers with mental health problems.

- a. Not having access to or not using prescribed medication
  - b. Becoming homeless
  - c. Being noncompliant with case management, Adult Mental Health Rehabilitation Services (AMHRS) programs, or other mental health programming
- 11.** Be cognizant of and responsive to situations and behaviors associated with an increased risk of violence by probationers with drug and alcohol addictions or abuse. These include:
- a. Failure to maintain abstinence when use is associated with violence
  - b. Failure to complete treatment when use is associated with violence
  - c. Becoming homeless
- 12.** Conduct routine monitoring for:
- a. Compliance with all probation conditions
  - b. New no-contact orders, orders for protection, and police contact
  - c. Changes in life circumstances that might indicate risk
  - d. Alcohol and drug use if related to probation conditions or the victim's concerns
  - e. Participation in and compliance with rehabilitation programming
- 13.** Whenever any of the following events occur, consult with a supervisor about whether, in light of any safety concerns, it is advisable to contact the victim:
- a. Suspected violation of probation
  - b. Offender misses two program groups in a row
  - c. A new no-contact order
  - d. A new order for protection
  - e. A dirty UA
  - f. Offender misses two meetings with probation officer
- 14.** To the extent possible, collaborate and conduct field work with local police.
- a. Monitor the probationer's activity in the community.
  - b. Check on the welfare of victims.
  - c. Assist police investigations of new incidents of alleged domestic violence, particularly when the probationer is gone when the police arrive on the initial call and remains at large in the community.
  - d. Assist the police in locating probationers in order to execute warrants.
  - e. Identify probationers needing increased monitoring in the community.
  - f. Build relationships in the community.
- 15.** Respond to violations of probation in accordance with *Protocol 4: Probation Violations and Revocation* to ensure sure and swift consequences for continued acts of intimidation, coercion, or violence.
- 16.** Make every attempt to shield the victim or victims from retaliation when taking enforcement action for probation violations.
- 17.** Maintain case notes in CSTS in sufficient detail.
- a. Provide the documentation necessary to consistently monitor and enforce probation conditions.
  - b. Keep other interveners informed of the probationer's actions.
  - c. Ensure consistency across a temporary or permanent change in the assigned agent.
  - d. Prepare required reports to the court and other parties.
- 18.** As necessary for any scheduled judicial review hearings, provide the court with periodic updates regarding the offender's compliance with probation.
- 19.** Whenever possible, notify the victim in advance of the offender's discharge from probation, sentence expiration, or discharge from the workhouse.

## Appendices to Probation Supervision

### Protocol 3

- Practitioners' Guide to Risk and Danger in Domestic Violence Cases
- Notice of Post-Conviction Firearm and Other Prohibitions
- Notification Letters
- Monitoring Conditions of Probation in Domestic Abuse—Related Cases
- Domestic Violence Resources

# Cognitive-Behavioral programs

for batterers were the most commonly used, effective for most offenders, and less costly to administer.

– E. Gondolf (2004)

## POLICY: PROBATION SUPERVISION IN DOMESTIC VIOLENCE-RELATED OFFENSES

### Probation Protocol 4: Violation and Revocation of Probation

1. On suspicion of a probationer's violation of any condition of probation, investigate to determine if the suspicion is **correct, provable, and linked to victim safety** (including secondary victims); proceed with the violation any time there is probable cause for the violation and it appears likely that the clear and convincing standard can be met.
2. Consult with a supervisor and, except in extraordinary circumstances, take one of the following actions when it appears the probationer has violated probation:
  - a. Respond with a negotiated, non-incarceration option, such as increased reporting, increased monitoring, or residence restrictions, and document the violation and response in CSTS notes.
  - b. Issue a probation officer's order to detain (Blue Warrant, Minn. Stat. § 401.025 or 244.195).
  - c. Return to court for a probation violation proceeding.
3. Consider the following factors when determining the appropriate response to a violation:
  - a. Whether the violation is based upon a new allegation of assaultive, threatening, or stalking behavior, or a crime against the property of the current or a former victim
  - b. Ongoing risk assessment to determine factors and behaviors linked to victim safety (as included in the appendix, *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*), the strength of those links, and adapting the probation response accordingly
  - c. Concrete changes the probationer has made to date
  - d. General community safety
  - e. Current and past adjustment to probation
4. If the violation is based upon an allegation of assaultive, threatening, or stalking behavior or a crime against any victim, the property of a current

- or a former victim, or violation of a no contact order provision, do not wait for a new charge to be resolved before filing a violation.
5. After filing a violation, contact the appropriate prosecuting attorney with notice that the violation has been filed and to request the participation of a prosecuting attorney at all court proceedings, including the admit/deny hearing. Discuss any prosecution concerns about proceeding with the violation before the new charge and inform prosecutors whether probation is making either of the following requests:
    - a. That the probation violation hearing be held immediately, without waiting for the new charge to be resolved, as addressed in the training memo, *Legal Considerations in Probation Violations Based on a New Offense*
    - b. That the probationer be held without bail pending resolution of the probation violation in those cases where the court chooses not to hear the violation before the new charge is resolved
  6. In responding to violations without a strong link to victim safety and which do not involve allegations of assaultive, threatening or stalking behavior or a crime against the property of the current or a former victim, consider whether a negotiated option or order to detain is an adequate response.
  7. Except in extraordinary circumstances, recommend a warrant (as opposed to summons) when bringing a violation to court.
  8. Discuss the case with the supervisor before filing for a violation hearing if there are doubts about provability.
  9. Prepare the following documents when submitting the violation to the court:
    - a. Recommendation of the Probation Officer and Order Vacating Stay of Execution of Sentence
    - b. Order of the Court Vacating Stay of Execution of Sentence
    - c. Probation Violation Report
  10. Clearly identify the condition(s) the probationer is alleged to have violated and detail the ways in which it has been violated. Never place responsibility for an arrest, probation violation, or other consequence on the victim or other third party.
  11. Use available opportunities to make it clear that an arrest, probation violation, or other consequence is the result of the probationer's behavior and the probation officer's exercise of his or her authority and duties.
  12. In recommending a consequence to the court for a probation violation, consider the issues related to different kinds of domestic violence cases, as addressed in the appendix, *Recommendations for Sentencing and Conditions of Probation in Domestic Violence-Related Cases*, and the following guidelines:
    - a. The primary consideration should be the effect of continued probation on the safety of the victim (including secondary victims).
    - b. Strongly consider recommending that the probationer serve part or all of the remaining time whenever the violation involves the factors or behaviors included in the appendix, *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*.
    - c. Where revocation is not being recommended, consider what sanctions and additional conditions, if any, are likely to increase victim safety and probationer accountability.
    - d. When the conviction includes a violation of an order for protection and the probationer refuses or fails domestic violence treatment, recommend that the sentence be executed pursuant to Minn. Stat. § 518B.01, subd. 14 (b).

## Appendices to Probation Supervision Protocol 4

- Practitioners' Guide to Risk and Danger in Domestic Violence Cases
- Recommendations for Sentencing and Conditions of Probation in Domestic Abuse-Related Cases



# POLICY

## ADMINISTRATION AND SUPERVISION OF THE RAMSEY COUNTY PROBATION RESPONSE TO DOMESTIC VIOLENCE CASES

### Framework

Domestic violence is a complex crime because it encompasses very different acts of violence occurring in very different circumstances for very different reasons and a single approach to deterrence will not work. The presentence investigation writer is charged with providing as full a picture as possible of the kind of violence, the frequency and severity of violence, and, when possible, the circumstances under which the offender is using the violence. It is this picture that enables the differentiated response to the various types of domestic violence cases before the court.

Close supervision of domestic violence offenders coupled with sure and swift response to violations helps reduce repeat violence. When a defendant is placed on probation community agencies are also drawn into the process of change. The inter-agency approach expands as programs specializing in chemical dependency, battering, victim support, community education, and economic assistance come together to prevent further abuse. The probation officer is the linchpin in connecting these possibilities for help in an accessible and meaningful way for the probationer.

The supervising probation officer is also the only practitioner in the system that develops an ongoing relationship with the offender. As such, probation officers are the best-positioned to relay and reinforce the messages intended by the overall response; namely, that change is possible, being accountable

is the first step toward change, continued abuse will not be tolerated, and there is a network of help available.

Ramsey County Probation administrators and supervisors have a key role in providing the environment, support, and oversight that makes this response possible.

### Policy: Administering and Supervising the Probation Response

In addition to adhering to general agency policies, agency administrators and supervisors will take the following actions in organizing the Ramsey County Probation response to domestic violence offenders, using the protocols and training memos referenced and included as part of this policy and according to their respective roles and job functions.

1. Implement the provisions of *Probation Protocol 5: Organizing the Probation Response to Domestic Violence Offender*.
2. Ensure that the following elements are established and provided in the probation response to domestic violence cases:
  - a. Availability of accessible programs for offenders on probation in domestic abuse–related cases
  - b. Efficient and timely access to records by supervising probation agents
  - c. Language interpretation services

- d. Program evaluation and quality control specific to all domestic abuse–related policies and protocols
- e. Training focusing on the *Saint Paul Blueprint for Safety*
- f. A combination of hiring practices and/or training that results in probation agents that develop a complex understanding of domestic violence

The following protocol is attached to and included as part of the probation administration policy:

- › *Protocol 5: Organizing the Probation Response to Domestic Violence Offenders*

## POLICY: ADMINISTERING AND SUPERVISING THE PROBATION RESPONSE

# Probation Protocol 5: Organizing the Probation Response to Domestic Violence Cases

Prepare for implementing this protocol by reading the following probation polices and related protocols:

- › *Domestic Violence Presentence Investigation*
- › *Victim Engagement Guidelines in Domestic Abuse–Related Cases*
- › *Supervision of Domestic Violence Probationers*
- › *Violation and Revocation of Probation in Domestic Abuse–Related Cases*

Agency supervisors and administrators are responsible for organizing the probation response to domestic violence offenders, as noted below, according to their respective roles and job functions.

1. Conduct regular reviews of presentence investigation reports and provide feedback and guidance to PSI writers.
  - a. Each quarter, review three presentence investigations completed in domestic abuse–related cases by each probation officer assigned to complete PSIs with an eye toward its compliance with the Blueprint policies and protocols.
  - b. Pay particular attention to whether and how the PSI pays attention to victim safety needs (including secondary victims) and reflects the needs of specific populations.
  - c. Meet with the PSI writer as needed to review the results and provide feedback and guidance.
2. Conduct regular reviews of the probation response to domestic abuse–related cases, with specific attention to enforcement of conditions of probation and the response to violations.
  - a. Each quarter, review three domestic abuse–related cases by each probation officer assigned to supervise such cases.
    - Review each case for compliance with policies and protocols.
    - Pay particular attention to whether and how the supervising agent responds to reported or possible violations.
    - Meet with the supervising agent as needed to review the results and provide feedback and guidance.
  3. Assign all cases where strangulation or stalking is part of the current offense, or where there is a history of such actions, to high risk supervision.
  4. After reviewing the ODARA and LSI-R assessments and reviewing the aggravating circumstances of a case, as they relate to the factors discussed in the *Practitioners’ Guide to Risk and Danger in Domestic Violence Cases*, determine the level of supervision appropriate for each probationer.
  5. Ensure that interpreters are available to probation officers as needed in communicating with offenders and victims.
    - a. Where possible, assign the offender to a probation agent who can communicate in the offender’s language.
    - b. Utilize the Language Line or other designated sources for interpreters.
6. Work toward ensuring a manageable case load for each probation officer as follows:
  - a. 30 to 40 cases per agent for high-risk offenders
  - b. 45-50 cases per agent for moderate risk offenders
7. When resources do not permit lower case loads, identify and implement alternative procedures, including the use of group supervision. If the case loads preclude probation officers from carrying out the policies and protocols of the department, the supervisor shall prioritize the tasks to be performed by the agents.
8. Ensure that agent referrals to domestic abuse treatment utilize programs that reflect guidelines for maximizing the effectiveness of such programs, including:
  - a. Enrollment in the most appropriate program as soon as possible after the start of probation
  - b. Swift and certain response for noncompliance with program requirements
  - c. Strong communication between program facilitators and probation
  - d. Intensive programming if the offender has engaged in severe and/or ongoing violence, intimidation, and coercion of an intimate

partner in conjunction with a history of non-domestic violence crime

9. Work with domestic abuse and other treatment programs to provide sliding fee scales.
10. As resources permit, develop and implement an in-house open-start oversight group for offenders to provide agents and probationers with programming options when entry into a domestic abuse treatment is delayed or when appropriate domestic abuse programming is not available.
11. Establish procedures for a response to victims who contact the office prior to assignment of a supervising agent.
12. Maintain current lists of community resources to which offenders and victims can be referred for assistance.
13. Work with other agencies to establish procedures whereby other intervening agencies provide automatic notification of their contacts with offenders.
14. Work toward developing outcome and compliance measures for domestic violence–related cases.
15. Provide or arrange for specialized training for probation officers recommended by the *Saint Paul Blueprint for Safety*, including training on conducting the presentence investigation and supervising offenders in domestic abuse–related cases.
16. Update policies, protocols, and training memos annually to reflect changes in law.
17. Assess the availability of accessible programs for offenders on probation in domestic abuse–related cases, including:
  - a. Reasonable waiting lists
  - b. Accommodation of language
  - c. Accommodation of cognitive and physical disabilities
  - d. Cultural accessibility
  - e. Geographic accessibility
  - f. Financial access
  - g. Programming that addresses multiple needs
18. Work with other agencies to ensure efficient and timely access to records by probation agents, including access to records related to:
  - a. Court proceedings
  - b. Past probation PSI’s and case notes
  - c. Criminal history
  - d. All new local police contact
  - e. Past and current protection or harassment order affidavits and outcomes.
  - f. Past police reports related to domestic violence on the probationer
  - g. Child protection reports relevant to the probationers domestic violence offenses
  - h. Juvenile court records
19. Conduct program evaluation and quality control specific to Blueprint policies and protocols and communicate with probation officers to clarify and reinforce policies and protocols.
20. Institute a combination of hiring practices and/or training that results in an understanding of domestic violence by all probation agents on staff.

## For these cases,

protection of the victim and all that entails simply has to be job one. It's great when we see justice system partners interacting in ways that say we're all in this important work together. For corrections specifically, we need to do the work that will reduce and manage offender risk, while at the same time gaining victim trust.

– Carol Pender-Roberts  
Director, Ramsey County  
Probation

## To us,

implementing the Blueprint is homicide prevention.

– John Choi, St. Paul City Attorney  
Aug. 24th 2009

Chapter 8

# Ramsey County Second Judicial District

# The Blueprint Framework

For almost three decades advocates have voiced concern that too little is being done to stop domestic violence. Researchers have sent mixed messages about what works and what does not. Organized opposition to reform has grown. As one criminal court judge shared with a colleague:

*I've always thought that in domestic violence cases I could be the only person in the courtroom—no defendant, no victim, no attorneys; not a clerk or deputy in sight, not a motion to rule on or decision to make—and still I'd be absolutely sure I was doing something wrong.*

The judge's frustrations are shared by many in the criminal justice system. Intimate partner violence is a complex crime. The offender's control over the victim can make effective intervention incredibly difficult and time-consuming for a resource-starved institution.

The good news is that our overall national strategy of using the legal system to stop the violence has made a difference, particularly in homicide rates.\* Spousal homicides dropped by 46% between 1976 and 2004. The number of black males killed by their partners dropped an astounding 82%, black females by 56%, and white males by 55%. Between 1976 and 1992 there was also a 48% drop in severe violence.<sup>[1]</sup> Battered women and their children face a very different reality today than did their grandmothers.

Yet few in the “system” are comforted by these statistics when police calls and courtroom calendars are still overflowing with domestic violence–related cases. The Blueprint for Safety (Blueprint) proposes the next level of change. It rests on years of national experience in interagency coordination; research on arrests, sentencing, and treatment of batterers; and statistical trends. It rests on the practical experience of each of the Saint Paul and Ramsey County agencies that worked through the details of this country's first fully integrated interagency domestic violence policy.

The Blueprint is anchored in six foundational principles that we have identified as essential to intervention that maximizes safety for victims of domestic violence and holds offenders accountable while offering them opportunities to change. These principles are:

1. Adhering to an interagency approach and collective intervention goals.
2. Building attention to the context and severity of abuse into each intervention.
3. Recognizing that most domestic violence is a patterned crime requiring continuing engagement with victims and offenders.
4. Ensuring sure and swift consequences for continued abuse.

5. Using the power of the criminal justice system to send messages of help and accountability.
6. Acting in ways that reduce unintended consequences and the disparity of impact on victims and offenders.

The Blueprint calls on agencies from 911 through probation to centralize attention to victim safety and offender accountability at every stage of case processing. The Blueprint focuses on organizing each intervening practitioner's responses through a set of carefully crafted agency policies and protocols, buttressed by multiagency training programs and a series of supervisory oversight agreements within and between agencies.

The Blueprint does not contemplate extending policy making to the bench. However, its development has resulted in changes that will affect the bench. Successful implementation relies on the bench to support the Blueprint's basic tenets: (a) an over-reliance on victims, who are most vulnerable to the violence, for holding offenders accountable will not be successful in reducing levels of violence in the community; (b) the criminal justice system can reduce recidivism as well as the escalation and severity of many offenders' violence through sure and swift responses to patterns of aggression, violence, coercion, and intimidation; and (c) a just system requires that its many interveners have the capacity to make visible the specifics of the violence and its impact on the community and the victim,

\*See Chapter 9, Endnotes, for research, academic literature, and intervention models

and craft resolutions that fit the response to the level and severity of the offense. \*\*This chapter is an attempt to describe a set of practices that have been found to reduce recidivism.

## Policy Changes under the Blueprint for Safety: Police, Bail Evaluators, Prosecution, and Probation

As part of implementing the Blueprint, the Saint Paul Police Department, Ramsey County Sheriff's Office (including jail, courthouse security, and warrants), Project Remand, the City and County Attorney's offices and Ramsey County Probation have produced the policies, protocols, and training memos found in this document. They all are guided by the six foundations of effective intervention and common goals. Much of what each agency does will remain the same, but each will also make several key changes in its response to domestic violence cases. Some of these changes, as highlighted in the following section, are likely to affect the cases before the bench, either in the presentation of the case or the relief requested.

### Risk information

All practitioners will be trained to identify and document the presence of risk and danger factors, as related both to specific actions of an offender and to high risk circumstances. This risk alert system

will result in everyone, and particularly the bench, having more details about the scope of the abuse in a given case. This added information should be available at many points of intervention, from charging and bail setting to sentencing and revocation hearings. The Blueprint's documentation system is designed to help each intervening practitioner, including the judge, understand the context of a given domestic abuse-related incident.

Responding patrol officers will now ask the victim at the scene three risk questions and record the information in the incident report: (1) Do you think he or she will seriously injure you or your children? (2) When were you most hurt or afraid? (3) How frequent is the violence and is the frequency changing? Most victims of ongoing patterned abuse will tell the responding officer more about the history of violence than they will tell any subsequent intervener from the criminal justice system. In felony cases, investigators will follow up with a more extensive interview focused on risk. A victim's perception that she or he is at risk is among the most accurate predictors of severe dangerousness. Unfortunately, a victim's perception of low danger may not be similarly accurate and an engaged discussion with a victim can alert intervening practitioners to the more likely level of risk. Under the Blueprint, police will also ask about and document information about the presence and use of firearms in the home.

Even when the victim cannot be reached by bail evaluators or the prosecutor prior to the first

appearance, asking risk questions at the scene will frequently result in the information being available to prosecutors, bail evaluators, defense attorneys, probation, and the court to use in relation to charging, bail, and no-contact order requests. Bail evaluators will use this information as one of the elements in preparing a domestic violence-specific risk assessment for the court. Prosecutors may also present information to the court concerning the context and severity of the violence based on the information developed in the current case as well as any previous institutional contacts with the offender. This additional information will allow prosecutors to identify higher risk cases and request higher bail and conditions of release. It is also likely to result in an increase in requests to surrender firearms. At the same time, the bench can expect that in some cases the identified risk will be lower and prosecutors will request bail and conditions of release accordingly.

### Stalking

Patrol officers will be trained to be alert to signs that a particular event may be part of an overall pattern of stalking, which is a significant marker of dangerousness in domestic violence cases. While stalking may involve celebrities or other well-known individuals as the target, the largest number of stalkers consists of male former partners of women, and of that group most are men who have had a history of sexual or physical violence in the relationship. Seventy-six percent of females murdered by an intimate partner had been stalked during the preceding year.<sup>[2]</sup> Yet this

\*\* See Chapter 1, Foundation, for a discussion of the Blueprint's foundational principles, basic assumptions underlying its recommended policies, and the *Practitioners' Guide to Risk and Danger in Domestic Violence Cases*.

commonly committed domestic violence crime is under-reported, identified, and charged. Under the Blueprint, police investigators and prosecutors will pay increased attention to whether the current incident is part of an overall pattern of stalking. Greater attention to this crime is likely to result in an increase in the number of stalking charges in domestic violence related cases. Even when the case is not charged as stalking, recognizing the elements of such behavior is important for overall risk management.

### Gone-on-arrival cases

As a group, domestic violence suspects who are gone when the police arrive at the scene are twice as likely to re-offend as those who stay.<sup>[3]</sup> Gone-on-arrival cases can and do easily get put on the back burner in a system that is stretched to the limits of its capacity to function. Out of necessity, the attention goes to in-custody cases. Under the Blueprint, investigators and prosecutors will give gone-on-arrival cases high priority when they include multiple high risk factors, suspects who are on probation or supervised release, or chronic offenders. As a result, some of these cases should come before the court more quickly. In the past, there has often been no bail, or comparatively low bail, in gone-on-arrival cases because the person has essentially been out without bail for some time. In high risk cases the court is likely to see an increase in requests for warrants and higher bail.

### More differentiation of cases

Domestic violence covers a wide variety of offenses—from the one-time single push to the batterer who repeatedly and relentlessly beats the victim to the defendant who fights back illegally in response to ongoing battering and to the defendant whose violence springs from mental illness. The Blueprint provides mechanisms to adjust the level of intervention to the level of violence and the context in which it is committed, both of which are indicators of danger. The policies for a *batterer*—someone who engages in a patterned use of violence, intimidation, coercion and entrapment—are different from the policies for someone who assaults his or her partner but is not engaging in a patterned set of abusive behaviors. Under the Blueprint, the charges and the requests made to the court should be more tailored to the level of violence and dangerousness in the particular case. In high risk cases, prosecutors may request higher bail or insist on plea agreements with higher caps on time to serve. In some circumstances, such as when the defendant is a victim of on-going violence, prosecutors may agree to recommend a deferred sentence. Probation officers may elect to use negotiated, non-incarceration responses to some probation violations in low risk cases. They are likely to pursue an immediate judicial response where the probation violation involves renewed violence or increased risk to the victim.

### Standardized language for probation conditions

When observing sentencing and interviewing practitioners as part of the Blueprint design process, it quickly became clear that there was no consensus as to what was required by a number of commonly used conditions of probation. Two examples of conditions without a common understanding include the requirement that the defendant “remain law-abiding” or “have no same or similar offenses.” In an effort to (a) be consistent in what PSI writers recommend in these cases and (b) ensure clarity in the probation officer’s and probationer’s understanding of the meaning of a condition, the Blueprint includes standardized and more precise language for recommended probation conditions. The list of possible probation conditions in domestic violence cases is quite extensive—not with an eye toward increasing the number of conditions the bench orders, but in an effort to cover what a specific case might warrant. More precise language during sentencing will help promote a common understanding of what is required of the defendant. The standard conditions developed by probation are available in an appendix to the Blueprint for those judges who elect to utilize them, either “as-is” or as a starting point in developing their own standard conditions for use during sentencing. This list identifies a set of standard conditions for all cases, as well as a set of standard conditions for domestic violence-related cases. It also includes more specialized, less frequently needed conditions.



## Making the violence visible

At each point of intervention, beginning with the 911 call taker, there is an expectation that practitioners will look for, identify, document, and account for the context of individual acts of violence. As described previously in this chapter, each practitioner has instructions on what to ask, what to document, where to disseminate that information, and how to adjust the response based on knowledge of the violence. The purpose of this process is not solely to identify risk. It is also to allow practitioners dealing with offenders or victims, whether in their own agencies or the public setting of the courtroom—to speak openly about the violence. Under the Blueprint it is no longer possible to process an entire case and find that no one spoke aloud about the harm, violence, and indignities perpetrated by one person (the offender) against another (the victim). This approach has a number of implications for the bench. At bail and pretrial hearings, prosecutors will make a conscious effort to ensure that the reason for the criminal proceeding does not disappear. They will more frequently articulate the acts of violence being alleged and the severity of those acts. Along with making clear to the victim and defendant what is being condemned, making the violence more visible can help the court in deciding on the proper response in a particular case by focusing on the specific behavior rather than the broad range of behaviors covered by the criminal charge or the term “domestic violence.” The

Blueprint anticipates that the bench will take various opportunities to let victims and offenders know that the court understands the nature of the violence and does not dismiss or deem it irrelevant to what happens in the courtroom. Such a response counters what one victim noted in one of the focus groups conducted in developing the Blueprint:

*Anyone would have thought we were there on a dispute between neighbors about a dog. There was no mention of what he did, what my children saw and suffered through, or what scars we will live with for years to come. He walked out with a grin. That can't be right.*

## Probation violations based on new offenses

Probation officers will be requesting that violations based on new offenses be heard prior to the resolution of the new criminal charge in cases where the new offense involves assaultive or threatening behavior against any person or involves any crime directed at the victim of the current offense. The City Attorney's Office has agreed that they will discuss these probation violations with the probation officer, will be available to handle the violations hearings, starting with the admit/deny hearing, and will not routinely seek to have these cases continued until after the new charge is resolved. The County Attorney's Office has agreed to discuss probation

violations with the probation officer. To the extent that resources permit, in those cases where the County Attorney's office concurs with proceeding prior to the new charge, they will be available to handle the hearings, including the admit/deny hearing, and will not seek to continue the violation hearing until after resolution of the new charge.

## Messages

The vast majority of domestic violence–related cases that come into the criminal justice system involve battering. Only a small percentage of these cases involve isolated incidents or someone assaulting another person and there is no pattern of abuse. Battering is not meant here as a legal term, but as a sociological term describing a pattern of ongoing violence used to control the behavior of an intimate partner. It is not a single event nor can it be understood simply by counting the number of events in an offender's case file. In many instances the behavior has been reinforced over months or years. It often intensifies and is most lethal when a victim seeks to make a permanent break in the relationship. It always involves a coercive pattern of behaviors that are in themselves harmful and often debilitating to the victim. As with any patterned behavior, change generally requires continuing intervention over a period of time.

Under the Blueprint, criminal justice interveners—including 911 operators, police, prosecutors, and

probation officers—will coordinate their efforts to ensure that batterers and victims receive consistent messages of accountability and victim safety. *You are here because it is alleged that you did \_\_\_\_ ... If you want to stop the violence there is help... If you are doing what is alleged and you don't stop the violence there will be consequences... The violence is not the victim's fault...* Consistent messages from multiple practitioners in multiple settings promote change by challenging the beliefs used to justify the battering.

A judge's attention to the alleged violence is not inconsistent with his or her obligation to avoid prejudging a particular case. Prior to a determination of guilt, statements can be focused on the alleged violence without comment on the defendant's responsibility. At the point of sentencing and during probation, a judge can relay more direct messages that challenge justifications for battering. As the person embodying society's response to breaches of its core values, the judge is in a unique position to challenge a batterer's rationalizations by articulating the societal values underlying the criminal code and the basis for the sentence or enforcement action. As one mother of a victim stated:

*I watched him as the judge sentenced him and I thought, finally, he is listening to someone. He knows all the lying is not going to help him right now. It didn't matter to me that he only got six months of jail time; I could see he was shook to the core. Something had gotten through to him. The*

*judge just said it, 'I can't with any good conscience look at the pictures of your wife and think of her testimony in this trial and then do as you ask and simply let you move on. I want you to stop; stop for a good while and think about what you have done and what it is likely you will continue to do until you finally stop looking for someone else or something else to blame for what you've become.' He just said it all right there.*

Such statements reinforce the expectation of behavioral change and place responsibility for the behavior on the defendant. They enlist the authority of the judiciary to reinforce the efforts of other practitioners to support change in those who wish to stop their use of violence, and to hold accountable those who do not.

### Chapter 8 sources


As stated earlier, the Blueprint project did not attempt to develop a policy for the bench. The Second Judicial District has a domestic violence manual, *Guidelines and Procedures for Domestic Abuse-Related Criminal Cases* (Manual). The Manual was developed by the Domestic Violence Coordinating Council, a working group with representatives from all intervening agencies including the bench. The Manual is intended to be “a comprehensive and accurate reference on all aspects of criminal domestic abuse cases for our bench and Ramsey County agencies.” The third edition of the manual was approved

by a unanimous vote of the Criminal Team of the Ramsey County bench in January 2008.

The following section of the Blueprint is a compilation of (a) key provisions from the Second Judicial District Manual, (b) statutory provisions, and (c) Blueprint recommendations for additional or alternative practices. The Manual addresses some policy issues as matters of current bench practice—for example, the practice of holding people arrested for domestic violence until the first appearance. Other policy issues are addressed as directives—for example, the issuance of pretrial no-contact orders. In light of the judge's obligation to consider each case on its merits, the Blueprint incorporates the Manual as a guideline for decision-making and statement of customary practice rather than as a mandatory set of policies. The Blueprint additions, in turn, are recommendations and not policies that have been adopted or approved by the Ramsey County Bench. It is anticipated that these recommendations will be considered when the Domestic Violence Coordinating Council develops the fourth edition of the Manual for Ramsey County.

## BLUEPRINT KEY


The following key will assist the reader in understanding whether a particular provision is from the Manual, statute or The Blueprint:

- Provisions from the existing Manual – Set in standard type, referenced by brackets and page (e.g., [Manual at 5]).
- *Statutory Reference and Number* – Set in italics and referenced by statute number.
- **Blueprint suggestions**  For additional or alternative policies.

## Pretrial Release

1. Release pending first appearance in arrests for domestic abuse, harassment, violation of an order for protection or violation of a domestic abuse no-contact order (DANCO):
  - a. Weekday arrests: bench policy is that the arrestee will remain in custody until court.
  - b. Weekend arrests: the weekend judge will review detentions in the same manner as felony arrests. If there is probable cause to detain, the arrestee will remain in custody until Monday court. [Manual at 5].

2. In making the pretrial release determination for a person arrested for domestic abuse, harassment, violation of an order for protection, or violation of a domestic abuse no-contact order (DANCO) the judge must review the facts and determine:
  - a. Whether the release poses a threat to the alleged victim, another family or household member, or to public safety.
  - b. Whether the release involves a substantial likelihood that the arrested person will fail to appear at subsequent proceedings.
3. *The prosecutor is responsible for presenting relevant information regarding the victim's or victim's family's account of the alleged crime (Minn. Stat. § 629.72, subd. 2).*

Blueprint policies and procedures governing police patrol response and reports will help ensure that the prosecutor can present information to the court about the victim's account of the alleged crime and accounts from others present. 

4. A domestic violence risk assessment should be made based on all the information before the judge. Use of the research-based risk and lethality assessment tool included in the appendix (*Domestic Violence Risk Assessment Bench Guide*) to review the lethality considerations is recommended [Manual at 5].

Under the Blueprint, information relevant to risk will be available at bail hearings, including: (1) responses to questions asked by patrol officers about the current event and the history of violence; and (2) public information from any presentence investigations in previous cases involving the defendant.

Research has identified additional risk factors beyond those included in Ramsey County's current risk assessment tool. These include: stalking behaviors (not convictions), the victim's attempts to make a permanent break in the relationship, serious injury to the victim, and the perpetrator's almost daily impairment by alcohol or other drugs. Violence with a pattern of coercion is a serious marker of risk and danger. Coercion may be displayed as control of children, finances, or activities; demanding sex and sexual aggression; intimidation; hurting pets; or isolating the victim from support systems. See the appendix, *Practitioners' Guide to Risk and Danger in Domestic Violence Cases* and related training memo included in the Blueprint Supplement.

5. The judge may order both bail and conditions of release (Minn. Stat. § 629.72, subd. 2(b))

The Blueprint has identified the following as considerations for ordering bail and/or conditions of release:

- a. Tailoring conditions of release to enhance the safety of the victim and ensure the appearance of the defendant
- b. When the risk to the victim is significant, using high bail with substantial conditions to limit the defendant's behavior
- c. As resources permit, using monitoring of the defendant and requirements to report to pretrial release personnel in order to reduce new offenses
- d. Using bail and conditions of release appropriate to the risk

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6. Conditions of pretrial release may include any of the following:

(a-f Minn. Stat. § 629.72, subd. 2(b))

- a. Enjoining the defendant from further domestic abuse or harassment
- b. Prohibiting the defendant from harassing, annoying, telephoning, contacting or otherwise communicating with the alleged victim, directly or indirectly
- c. Directing the defendant to stay away from the alleged victim's home or any other location where the alleged victim is likely to be
- d. Prohibiting the defendant from possessing a firearm or other weapon specified by the court
- e. Prohibiting the defendant from possessing or consuming alcohol or controlled substances
- f. Any other specific condition required to protect the safety of the alleged victim and to ensure the appearance of the defendant at subsequent proceedings

g. Restraining the defendant from damaging, selling or encumbering any jointly-held property

h. No contact with children, if any, except through family court order

i. Requiring that the defendant be accompanied by a police officer when retrieving personal property from the victim's home.

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7. The judge shall issue a warrant for violation of pretrial release if he or she:

- a. Receives an application alleging violation; and
- b. Finds probable cause for violation (Minn. Stat. § 629.72, subd. 5)

8. Revocation of release and the imposition of high bail with restrictive conditions of release may be appropriate under either of the following circumstances:

- a. The release violation involved a new act of violence, destruction of property, using a child to coerce or intimidate, sexual aggression, or any form of physical intimidation against the victim.
- b. The defendant was already at high risk for continued or escalating violence and/or the new offense involves stalking behavior, refusal to conform to monitoring requirements, or continued use of alcohol or drugs.

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## First Appearance

1. If advised by the clerk that the defendant has not already been booked, the court will issue a booking order [Manual at 12].

2. Continued release of out-of-custody defendants making a first appearance:

- a. Generally, the same factors relating to setting bail and conditions of release for defendants who are out of custody apply to both in-custody and out-of-custody defendants.
- b. A defendant's knowing avoidance of law enforcement's attempts to investigate the crime or locate him or her is an additional risk factor. Consider evaluating the circumstances of the defendant's absence from the scene of the crime as an additional factor in determining whether bail or conditions of release should be imposed when the defendant is out-of-custody at the first appearance.

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## Pretrial No-Contact Orders

1. The Ramsey County District Court Domestic Violence Coordinating Council recommends the following in domestic abuse-related cases [Manual at 19]:

- a. Unless exceptional circumstances exist, judges should issue a no contact order in any domestic abuse-related case.
- b. Where either the defendant or the victim objects to the issuance of a DANCO (or NCO), the presiding judge carries the burden of decision-making and should make an objective assess-

ment of the facts, including a review of police reports and any other information relevant to danger assessment and victim safety.

- c. Judges should listen respectfully to the victims and take their concerns into consideration. Victims have a right to speak and be heard in open court; they should not, however, be required to speak or voice an opinion. A judge's contact with victims should be confined to information-gathering, not discussion and/ or problem solving. The court has no jurisdiction over domestic abuse victims in criminal cases.

Under the Blueprint, additional information about the history of violence and the context and severity of the violence will be available to the court to help assess the level of risk and the need for a no-contact order when ruling on requests for such orders.

Pretrial no-contact orders can have negative, unintended consequences for the victim of the assault, particularly when the victim is dependent on the defendant for financial or child care support. The Blueprint encourages careful evaluation of the need for a no-contact order in any case in which the victim objects to issuance of the order.

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2. When a no-contact order is issued and the charged offense allows, a domestic abuse no-contact order (DANCO) should be issued. [Manual at 18]. *A DANCO may be issued only when the underlying*

*crime being prosecuted meets one of the following statutory provisions:*

- a. "Domestic abuse" (Minn. Stat. § 518B.01, subd. 2)
  - b. Harassment (if committed against a family or household member)
  - c. Violation of an order for protection (OFP)
  - d. Violation of a prior DANCO (Minn. Stat. § 518B.01, subd. 22).
3. Minn. Stat. § 299C.46, subd. 6 allows entry of DANCOs into the statewide data communications network and entry of a photo of the defendant if verified by the court.
- a. If a photo is available to the court, the court should verify on the record that the photo is an image of the defendant in order to enter the photo into the data base along with the order. [Manual at 20].
  - b. Use the standard NCO check-off (No—Not a Domestic Abuse NCO) for non-DANCO orders. [Manual at 18].
4. While criminal courts issuing a no-contact order may also issue an order for protection (OFP), per Minn. Stat. § 518B, obtaining the OFP separately in family court is recommended because that court is set up to handle family issues—such as visitation and support—which are beyond the criminal court's purview [Manual at 20].

- a. Criminal courts should avoid dealing with visitation and related family issues in pretrial NCOs. These matters are best addressed by the family court or in an OFP hearing [Manual at 31].
- 5. Modification or cancellation of a pretrial no-contact order will not be heard based on ex parte communications [Manual at 32].
- 6. Modification or cancellation of a pretrial no-contact order should be calendared as follows:
  - a. The preferred practice is to calendar at the next regularly scheduled appearance in court [Manual at 32].
  - b. If the victim or any party wants a request to modify or cancel a no-contact order heard before the next regularly scheduled hearing it will be heard by the judge who issued the order and the calendaring will be done by the judge's clerk [Manual at 32].
  - c. Requests to modify or cancel a pretrial NCO between the time of plea and sentencing should be addressed in the presentence investigation (PSI) and decided at sentencing [Manual at 33].
- 7. Notice of a request to modify or cancel a pretrial NCO must be given to all interested parties, including the prosecutor and Project Remand, if applicable [Manual at 32].

a. The clerk scheduling the hearing should inform the person requesting a hearing that it is his or her responsibility to ensure that the necessary people are notified, including: the prosecutor, defendant, victim, and any agency such as Project Remand currently supervising the defendant. More hearings may proceed as first scheduled if the clerk makes clear that such notice is required to all the specified people.

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- 8. When a pretrial no-contact order is modified—but not cancelled—the court should issue a new written pretrial NCO.
  - a. The new order should be forwarded to the appropriate law enforcement agency in the same manner as the original NCO [Manual at 33].
- 9. In determining whether to cancel or modify a no-contact order the court should consider:
  - a. Preference of the (1) victim, (2) defendant, and (3) prosecutor
  - b. Reason for each party's preference in canceling, modifying, or maintaining the NCO
  - c. Facts of the case
  - d. Defendant's history
  - e. Victim safety

- f. A review of danger and lethality considerations (per the appendix, *Domestic Violence Risk Assessment Bench Guide*)
- 10. The victim should not be asked in front of the defendant if she is afraid of the defendant [Manual at 33].

The Blueprint encourages the court to evaluate the need for and possible consequences to the victim of a no-contact order in any case in which the victim objects to the issuance of the order.

The Manual states that it rarely, if ever, makes sense to lift a no-contact order. This is not the position of many victims of violence, however. During development of the Blueprint there was fairly uniform agreement among practitioners that no-contact orders should remain as the default practice of the court during the pretrial stage and that lifting them pretrial should be the rare exception. There was less uniformity of agreement about no-contact orders post-conviction. Some practitioners argued that the court should impose a no-contact order against the victim's wishes only in rare cases after conviction. Others argued the no-contact order should not be lifted until the offender has completed or at a minimum started a rehabilitation program. There is some research suggesting that long term no-contact orders imposed by the victim are not helpful and in some ways undermine the goals of victim engagement.

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## Trial

1. *When ordering cases for trial, domestic assault cases have the following priority as required by law (Minn. Stat. § 630.36):*
  - a. *Felony with defendant in custody*
  - b. *Misdemeanor with defendant in custody*
  - c. *Child abuse cases with defendant on bail*
  - d. *Domestic abuse cases with defendant on bail*
  - e. *Other felonies with defendant on bail*
  - f. *Other misdemeanors with defendant on bail*

In certain limited circumstances it may be advisable to send a patrol officer or investigator to the victim's residence to facilitate the victim's appearance at trial.

In rare cases when the community or children are at high risk of serious or lethal harm, granting a prosecutor's request for a warrant may be appropriate, understanding that there is a reasonable likelihood that the perpetrator may use severe violence on the victim in retaliation for testifying. (See the related training memo, *Compelling a Domestic Violence Victim to Testify*, included in the Blueprint Supplement.)

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## Pleas

1. Plea petitions are required for all felony and gross misdemeanor pleas and for all enhancable misdemeanors [Manual at 24].
2. At the time of the plea, a clear advisory to the defendant of the court's position regarding sentencing will increase the likelihood that sentencing will occur in an orderly and timely manner. The following advisories are recommended at the plea hearing:
  - a. If the defendant violates conditions of release, the court will not be bound by the plea agreement (including any cap on time to serve) and the defendant will not be allowed to withdraw his plea [Manual at 25].
  - b. Inform the defendant of the court's practice regarding allowing the plea to be withdrawn under any of the following conditions [Manual at 25].
    - i. The court decides not to follow the plea agreement
    - ii. The court decides not to follow the plea agreement because the PSI contains new information bearing on sentencing that the court or attorneys were not aware of at the time of sentencing
    - iii. The court decides not to follow the plea agreement because the PSI contains new negative information regarding the defendant which the defendant was aware of, but the court or attorneys were not
- c. The defendant will not be allowed to withdraw an otherwise valid plea simply because the defendant does not like the court's subsequent sentencing decision. [Manual at 25].
3. *The victim has the right to be present at the plea hearing and to be heard on any objection to the plea agreement (Minn. Stat. § 611A.03, subd. 1 (b)).*
4. Accept the plea on the record at the time it is entered [Manual at 25].
  - a. *A plea of guilty accepted and recorded by the court constitutes a conviction (Minn. Stat. § 609.02, subd. 5.).*
  - b. Pleas that are not accepted at the time of the plea cannot be used to enhance an offense which occurs between the plea and sentencing.
5. Alford/Goulette and Norgaard/Crossley pleas
  - a. Defendants who do not admit to the elements of the offense may be un-amenable to domestic violence treatment. To facilitate treatment, a factual admission of guilt is preferable to a plea where the defendant does not admit to the elements of the offense.
  - b. This consideration regarding admission to the elements of the offense does not apply when the defendant is sentenced to an executed felony sentence, or when a misdemeanor or gross

misdemeanor sentence is being fully executed [Manual at 26].

Under the Blueprint there will be additional information available at the plea regarding the history of violence. This includes information gathered by the police. It also includes information gathered by probation if there has been a prior presentence investigation for a domestic violence–related involving the defendant. When deciding whether to accept the plea agreement, the judge will have the option of asking for that additional information.

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## Presentence Investigation

1. *A presentence investigation is required whenever a defendant is convicted of the following offenses (Minn. Stat. § 609.2244, subd. 1.).*
  - a. *Any domestic abuse offense* (per statutory definition)
  - b. *Any other offense arising out of the same circumstances surrounding a domestic abuse arrest*
  - c. *Violation against a family or household member of:*
    - i. *Order for protection*
    - ii. *Harassment restraining order*
    - iii. *Obscene or harassing phone calls*
  - d. *Terroristic threats*

2. No PSI is required if the defendant has either already served expiration of the maximum applicable misdemeanor or gross misdemeanor sentence; or agrees at the time of the plea to serve the maximum sentence [Manual at 41].
3. *Regardless of whether a PSI is ordered, the victim must be contacted regarding the victim impact statement and restitution (Minn.Stat. § 611A.038 and 611A.04).*

## Sentencing

1. The *Domestic Violence Risk Assessment Bench Guide* may be useful in assessing the danger to the victim and/or family when considering conditions of probation [Manual at 40].
2. Under the Blueprint, the *Practitioner’s Guide to Risk and Danger in Domestic Violence Cases* (see the appendix and related training memo in the Blueprint Supplement) is the basis for probation officers identifying risk to the court.
3. Firearms forfeiture is statutorily mandated in certain cases. State law imposes a ban on the possession of firearms in domestic violence cases. In some cases, the court can determine the length of the ban. See the appendix, *Firearms Prohibitions*, (Blueprint Supplement).
4. *Minn. Stat. § 518B.02, requires a domestic abuse counseling or educational program.*

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- a. *Minn. Stat. § 518A.02, subd. 2(j) prohibits referral to marriage or couples counseling until, among other things, domestic abuse programming has been completed.*
  - b. Under the Blueprint, anger management classes do not meet this requirement for a domestic abuse counseling or educational program.
5. The appendix, *Minimum Sentences in Domestic Violence Cases* (Blueprint Supplement), includes a chart of statutorily mandated programming in domestic violence cases.

The Blueprint encourages judges to read the conditions of probation during sentencing to ensure that the defendant has the notice necessary to allow enforcement of probation conditions.

Probation officers will use standardized language in recommending conditions of probation in order to facilitate the defendant’s clear understanding of the conditions of probation and to help to ensure that the conditions are accurately conveyed to others, including the supervising probation officer and the victim.

The Blueprint encourages judges to standardize the language for the most common probation conditions and to use that language during sentencing. The appendix, *List of Probation Conditions to Consider in Domestic Violence–Related Cases* (Blueprint Supplement), includes an extensive list of sample probation conditions with suggested standard language.

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## 6. Restitution

- a. *Victims are entitled to restitution, including but not limited to the following [Minn. Stat. § 611A.04]:*
  - i. *Out-of-pocket losses resulting from the crime, including medical and therapy costs*
  - ii. *Replacement of wages and services*
  - iii. *Funeral expenses*
- b. *Whenever possible, judges should set the amount of restitution owed at sentencing [Manual at 43].*
- c. *Restitution requests shall be submitted in affidavit form [Manual at 42].*
- d. *For restitution to be considered at sentencing (Minn. Stat. § 611A.04):*
  - i. *Affidavits must be received by court administrator at least 3 days prior to sentencing.*
  - ii. *Court administrator shall distribute affidavits to defendant and prosecutor at least 24 hours prior to sentencing.*
- e. *If the affidavit is not received prior to sentencing, the court may order restitution and leave the amount open for a limited period of time to allow an affidavit to be submitted [Manual at 42].*
- f. *The defendant may challenge the amount of restitution by requesting a hearing within thirty days of the later of (1) sentencing; or (2) written notification of the amount of the request (Minn. Stat. § 611A.045, subd. 3(b)).*
- g. *Minn. Stat. § 611.04, subd. 1(b) sets out the procedures for hearings on requests to amend or set restitution after the sentencing.*
- h. *The restitution order should address the following in addition to specifying the amount to be paid:*
  - i. *Whether restitution is to be collected from prison wages when a felony defendant is committed to the Commissioner of Corrections [Manual at 42]*
  - ii. *Specify that restitution shall be made to the victim or, if the victim is reimbursed by the reparations board, to the board. [Manual at 43]*
  - iii. *Specify the full amount of restitution that may be docketed as a civil judgment when only partial restitution is ordered (Minn. Stat. § 611A.04, subs. 1(c) and 3).*

**7. Stay to Serve:** Because of victim safety concerns, when the court orders execution of the maximum sentence, the defendant should **not** be given a “stay to serve” [Manual at 24].

**8. Victim’s Rights at Sentencing.** *The victim has the right to:*

- a. *Be present at sentencing.*
- b. *Express orally or in writing any objection to the proposed disposition (Minn. Stat. § 611A.03).*
- c. *Submit a victim impact statement and choose whether to submit the statement orally, in writing, or by having the prosecutor read it (Minn. Stat. § 611A.038).*


## Probation Violations

1. *The signing judge shall specify on the pick-up order whether the defendant is to appear before the judge or be heard on the LEC calendar by whichever judge has the 1:30 calendar [Manual at 39].*
2. *When a probation violation is based upon alleged behavior that could be the basis of a new criminal charge the probation violation may be heard prior to the resolution of any new criminal charges (Minn. R. Crim. Proc. 27.04, subd. 2 (4)).*

a. As part of the common goals of the Blueprint's interagency approach, police, prosecution, and probation have all adopted policies to facilitate the imposition of swift, sure consequences for violations of law or probation. In most cases when a probation violation is based upon allegations of a new offense involving violence against any person or new offense against the property of the victim, prosecutors and probation officers will request that the violation be heard without waiting for resolution of the new offense (See Blueprint Chapter 7, *Probation Protocol 4: Violation and Revocation of Probation*).

b. A memorandum of law, *Legal Considerations in Probation Violations Based on a New Offense* (Blueprint Supplement), addresses the legal considerations regarding this approach and concludes that no grant of immunity is required or advisable.

Research on re-offense indicates that the judicial presence is a strong deterrent to re-offense in domestic violence cases. Among the tools available to the court is the use of judicial reviews for defendants on probation. A scheduled return to court for a review of the probationer's compliance can (a) reinforce the probationer's awareness that violations will have consequences, (b) decrease the delay between noncompliance and the judicial response, and

(c) reinforce positive change. The Blueprint suggests using judicial reviews in appropriate cases when resources permit, and especially in cases involving chronic offenders who have not responded well to rehabilitation efforts. 

The following appendices and training memo are included as part of this and published in the Blueprint Supplement.

□ *Blueprint Bench Appendix*

- Weekend Post-Arrest Procedures
- Law Related to Pretrial Release
- Special Evidentiary Issues in Domestic Abuse Trials
- Memorandum on the History of Relationship Factors in Domestic Abuse Cases Before and After *McCoy*
- Firearm Prohibitions
- Minimum Sentences in Domestic Violence Cases
- Memorandum on Consecutive Sentencing
- Domestic Violence Risk Assessment Bench Guide
- Using the Probation Conditions List
- List of Probation Conditions to Consider in Domestic Violence–Related Cases
- General Standard Conditions of Probation

- Domestic Violence–Related Standard Conditions of Probation
- Special Conditions of Probation to Consider in Domestic Violence–Related Cases
- Memorandum on Legal Considerations in Probation Violations Based on a New Offense
- Practitioners' Guide to Risk and Danger in Domestic Violence Cases
- Memo: Compelling a Domestic Violence Victim to Testify
- Court Administration in Domestic Violence–Related Cases

## Courts are most

likely to see entrenched batterers who have had no prior involvement with the system and less likely to see offenders who use occasional violence and have no criminal record.

– E. Buzawa, et al. (1998)

## Chapter 9

# Endnotes

# ENDNOTES

## RESEARCH, LITERATURE, AND INTERVENTION MODELS

This chapter is a collection of endnotes referenced throughout the Blueprint, with an accompanying bibliography of works cited. It is not intended to be read as a stand-alone section, but to expand upon and buttress the Blueprint as a whole. We know that if people are to use the Blueprint and adapt it to their own communities, they need to be well-versed in the findings of researchers and practitioners who have paid attention to domestic violence over the past several decades. We wanted readers to have a solid selection of research and commentary to work with as they made decisions about their policies and protocols. The material was challenging to compile because the research in this field is scattered, filled with contradictions, and often politically charged.

These endnotes integrate data from empirical studies, academic research, domestic violence and criminal justice literature, and national resources developed by and for practitioners. In reviewing the literature we tried to make selections that raised questions and made visible the assumptions we used in crafting the Blueprint policies and protocols.

### Chapter 1: Foundations

#### Foundations for Effective Intervention

##### 1. Interagency approach and collective goals

[1]

“The core tenet of most coordinated criminal justice responses [is] the belief that a criminal justice system that predictably and routinely entangles offenders in multiple ways improves the odds that any given offender will encounter a response that may alter his behavior.” (Worden, 2003, p. 14)

Shepard (1999) offers a brief overview of the components of a coordinated community response (CCR) and how they work. Shepard and Pence (1999) provide more in-depth information on building a CCR.

A number of studies found that a coordinated intervention in domestic violence cases could have a positive, even cumulative, effect on the behavior of the offender (Murphy, et al., 1998, pp. 278-279; Saunders, 2008, p. 165; Syers and Edleson, 1992, p. 484; Tolman and Weisz, 1995, p. 482; Worden, 2003, p. 13; 2001).

Sullivan (2006, p. 205) reports an increased responsiveness to victims and improved interagency interactions through a CCR.

Some studies found CCR’s did not fully accomplish their goals or encountered unintended consequences

for some victims. These studies are useful to those crafting interagency responses as they help to understand and avoid the pitfalls of this work.

Bouffard and Muftic (2007) report that the effectiveness of a CCR was related to the quality of the batterer’s treatment.

- Salazar et al. (2007) found unintended consequences of CCR efforts when an increase in domestic violence arrests led to a rise in victim arrests.
- An audit of five jurisdictions in CA concluded that batterer intervention programs were not working as intended (California State Auditor, 2006).
- A study of ten CCRs funded by the Centers for Disease Control found great variation in CCR quality, but no significant impact on domestic violence rates overall (Klevens et al., 2008).

The *Greenbook* reports on interagency coordination efforts around the intersection of domestic violence and child maltreatment in six demonstration communities across the U.S. (Edleson et al., 2004, pp. 62-63) While the CCRs were one of the successes of the project, they faced problems with differences in agency structures, philosophies, power, and trust. Participants reported obstacles to collaboration, including: length of the process, lack of time, and differences in organizational cultures.

In a study of interagency coordination, Gondolf (2009) found a number of problems related to personnel issues: new staff and leadership who were unfamiliar with the goals and history of the CCR, varying levels of involvement or resistance, and loss of trained personnel leaving gaps in institutional knowledge. While caseloads increased, there were also interagency barriers: differing intervention priorities, communication breakdowns, and financial stressors.

Worden (2003) mentions unintended consequences and resistance from key leadership as detriments to coordinated intervention. This author recommends caution in selecting outcome measures and definitions of success.

The literature also demonstrates facets of CCR's that work well.

“One large scale study of women in the justice system found that the more battered women perceived different agencies as working together, the more highly they rated them in terms of helpfulness and effectiveness and the more satisfied they were both with the legal system in general and with their own individual case outcomes in particular” (Goodman and Epstein, 2008, p. 85).

Russell and Light (2006) found that victims responded well to police when officers were proactive and part of an integrated team.

Sullivan (2006, p. 205) says “strong leadership, a shared mission, shared power, and a membership

extending across more fields” are needed to accomplish goals.

Worden (2003) recommends building on current relationships and resources with a committed core group.

In a review of 41 coordinating councils, Allen (2006, p. 48) concludes that to create an effective CCR requires an inclusive environment, broad participation, and shared decision-making.

## 2. Attention to context and severity

[2]

While the law brackets physical violence as specific criminal acts, other professional fields use a definition of battering that includes a variety of physical, sexual, and emotional behaviors. For examples, see Asmus et al., 1991; Dutton and Goodman; Follingstad et al., 1990; Johnson and Ferraro; Ptacek, 1999; Russell, 1990; Sullivan, 2006; Stark, 2007; Shepard and Campbell, 1992; Stark and Flitcraft, 1996; Tjaden, 2005.

[3]

“A more discriminating understanding of the nature of specific IPV [intimate partner violence] crimes, including the element of coercion, would help secure more appropriate sentencing, as well as treatment for the perpetrators, and more effective safety planning for victims (Erskine, 1999),” (as cited in Dutton, et al., 2005, p. 2).

A major debate in the literature is the efficacy of mandated policies—for both practitioners and victims.

Victims face economic and extralegal household realities that may depend on an intact family unit (Hotelling and Buzawa, 2003, p. 33). For some victims, the ability to drop charges may give them the power they need to negotiate for change in the relationship (Ford, 1991). Other victims face retaliation and rage from offenders for the system's intervention and expectations of accountability (Ptacek, 1999).

Goodman and Epstein (2008, p. 93) note that, “survivors who are forced into ... inflexible models may well reject them altogether.” In Indianapolis, Ford and Breall (2000, p.8) found that when victims were given a choice of whether or not to drop the charges against the offender, and they chose *not* to drop the charges, they were less likely to experience re-abuse over the next 6 months.

While some victims are more satisfied with an intervention if they have some control over the system's response to their case, O'Sullivan, et al. (2007) lay out the complex legal and ethical dilemmas for practitioners facing such requests for flexibility. Their work evaluates victim safety, empowerment, and recidivism for two prosecutorial approaches to filing domestic violence cases.

[4]

For example, see the following fatality reports:

- Minnesota Coalition for Battered Women ([http://www.mcbw.org/files/u1/2008\\_Femicide\\_Report\\_FINAL\\_0.pdf](http://www.mcbw.org/files/u1/2008_Femicide_Report_FINAL_0.pdf));
- Washington State Coalition Against Domestic Violence (<http://www.wscadv.org/projects.cfm?aId=390C83A4-C298-58F6-00EC20DCACFA40D5>);
- Wisconsin Coalition Against Domestic Violence ([http://store.wcadv.org/merchant.mvc?Screen=CTGY&StoreCode=WCADV&Category\\_Code=PUBL-COMP](http://store.wcadv.org/merchant.mvc?Screen=CTGY&StoreCode=WCADV&Category_Code=PUBL-COMP));
- Additional information and links to domestic violence homicide studies in other states are available from the National Domestic Violence Fatality Review Commission at [www.ndvfri.org](http://www.ndvfri.org)

[5]

Stark (2007) estimates that coercive control is involved in at least 60% of domestic violence cases and is probably higher in criminal justice system cases where women seek help.

Dutton, et al. (2005, p. 2) argue “that measurement of violent acts alone cannot adequately characterize

violence in intimate partner relationships (DeKeseredy and Schwartz, 1998; Dutton, 1996; Edleson and Tolman, 1992; Smith, Smith, and Earp, 1999; Yoshihama, 2000). Rather it is necessary to understand the use of, and response to, IPV in the context of the relationship and the cultural, social, and institutional systems within which the perpetrator and victim live (Dutton, 1996; Edleson and Tolman, 1992).”

Johnson and Ferraro (2000) point out the importance of making distinctions in the motives of the batterer, types of violence that are used, and cultural or social positions of the victim and the perpetrator.

Belknap and Sullivan (2003) reported on non-physical behaviors perpetrated against women in the six months before their partner was arrested. Table 1.6 shows how victims ranked frequency of occurrence for such items as “Tried to control her activities,” “Discouraged her contact with family/friends,” and “Forbid her from leaving her home.”

Dutton, et al. (2005) reports on the development of a measurement of coercion, demands, and surveillance. Examples of items on their Demand Subscale include “Wearing certain clothes,” “Using street drugs,” “Bathing or using the bathroom.” Coercion Subscale items include threatening harm to partner, self, or others. Surveillance Subscale items include “Kept track of telephone/cell phone use,” “Checked or opened your mail,” or checked the odometer on the car.

### 3. A patterned crime requiring continuing engagement

[6]

Websdale (1999) reminds us that homicides are often preceded by multiple criminal justice interventions.

In the Quincy study, Buzawa et al. (1998, p. 189) found about half of the offenders had prior arrests for violent offenses and within two years of the last criminal justice intervention, 44% of the offenders were rearrested for domestic violence.

Hart notes that between the arrest and prosecution, 30% of offenders may re-assault (Goldsmith, 1991, p. 7) and as many as half of domestic violence victims may be threatened with retaliation for cooperation with prosecutors (Davis, et al., 1990, p. 19).

Batterers can reoffend quickly. Goodman and Epstein (2008, p. 75) say that “20% to 30% of arrested offenders re-assault their partners before the court process has concluded or shortly afterward, often as retaliation for involving them in the court system (M.A. Finn, 2003; Ford & Regoli, 1992; Goodman, Bennett, & Dutton, 1999; Hart, 1996).”

According to Gondolf and White, 20% of offenders will re-assault regardless of the intervention (2001, p. 361).

In another study, 14% of the victims reported threats from the perpetrator since disposition of their

case, 8% had property damaged, 9% experienced new violence, and 37% of perpetrators had been verbally abusive. (Smith, et al., 2001, p. 72)

Batterers can be very resistant to change despite arrest, intervention, or group treatment. (Goodkind, et al., 2004, p. 515)

Offenders with a ‘stake in conformity’ (employed, married, stable housing) are least likely to reoffend after interaction with the justice system. (Roehl, et al., 2005, p. 14)

However, the high-risk offender with a criminal history tends not to change their behavior with criminal justice intervention. “For high risk offenders, even a ‘model’ court has not broken their pattern of intimidation and control and the interventions they have used to date are insufficient. Stopping chronic and/or serial batterers is apt to be a long, difficult process, not easily impacted by any one criminal justice intervention, especially one that is fundamentally compromised by long prosecutorial and judicial delays and restricted to misdemeanor type sentences.” (Hotaling and Buzawa, 2003, p. 26)

From their study of batterers in four cities, Heckert and Gondolf concluded that “men in the repeat re-assault category were slightly more likely to use a chain of tactics, or multiple tactics, in their violent incidents. That is, their violence was more likely to be excessive and unrelenting.” (2004, p. III-15-8)

Buzawa et al. (1998, pp. 205 and 198) found that courts are most likely to see entrenched batterers

who have had prior involvement with the system) and less likely to see those batterers who use occasional violence and have no criminal record. They suggest that the level and conditions of an intervention could be linked to risk markers made visible for each offender.

[7]

Stark (2007, p. 94) points out that the harm in domestic violence is not only due to the number of violent events, but to an accumulation of multiple harms. It is the cumulative effect, rather than a set of isolated acts that impact the victim of battering.

Erskine (1999, pp. 1207-1232) discusses the importance of exploring ongoing patterns of intimidation and coercion to determine appropriate charges for a range of criminal or violent behaviors.

A critical part of accurate risk assessment is discussing with the victim her experiences over time and marking changes in frequency and severity. (Block, 2000, p. 290)

[8]

When victims are satisfied and work well with the prosecutor’s office, prosecution rates increase, there are a greater number of guilty verdicts, and victims are more likely to report continued abuse. (Buzawa and Buzawa, 2003; Belknap and Graham, 2003; ; O’Sullivan et al., 2007)

However, when a prosecutor and victim want or need different outcomes from intervention, a victim’s “nonparticipation may be chosen in response to the prosecutor’s noncooperation with her plan for securing herself from continuing violence.” (Ford and Breall, 2000, p. 7)

80% of the women who called police wanted protection (Ford and Breall, 2000). But “a battered woman who has made prior attempts to seek prosecution of civil protection orders, only to have the perpetrator escalate his violence, may be unwilling to face the risk that prosecution will further endanger rather than protect her.” (Roehl et al., 2005, p. 15).

Goodman and Epstein (2008, p. 92) explain that when a victim perceives that her needs do not fit what the system offers, “she is likely to feel disserved or even betrayed by the police. [Police] actions may expose her to a wide range of future harms, including retaliatory violence, poverty, homelessness, and loss of community. As a result, [she] may well decline to call the police if she ever again finds herself subjected to intimate partner violence. Her friends, hearing her story, may well do the same.”

Goodman and Epstein (2008, p. 94) go on to explain that “one study ... found that participants who reported feeling in control of the process of working with service providers were far more likely to rate the services they received as helpful and to use them again (Zweig, Burt, & Van Ness, 2003). Similarly, a study within the criminal justice system

found that victims who chose not to report recidivist abuse to officials were those who felt they had ‘no voice’ in a previous prosecution.” Also see Belknap and Sullivan (2003, p. 6).

[9]

In Indianapolis, Ford and Breall (2008, p. 92) found that any action by the prosecutor lowered the risk of re-abuse by 50% for 6 months.

A victim’s cooperation is affected by delayed hearings, threats, and violence that continue during the process, and perceived lack of attention or support from prosecutors. (Tolman and Weisz, 1995, p. 482)

Ultimately, a victim needs to determine whether the system can provide adequate protection against the offenders’ violence.

Fleury-Steiner et al. (2006, pp. 339 and 338) interviewed 178 women whose partners had been through the court system. 19% of these women had been assaulted between the time of the arrest and the closure of the case. The re-abuse continued for 38% of these victims during the first six months after the case closed and 35% experienced continued abuse in the second six-month period. These researchers concluded that if the system is not able to protect the victim while a case is pending, batterer and victim both receive clear messages about the lack of offender accountability and victim safety.

In making decisions about collaborating in a criminal justice case against the perpetrator, victims

face “practical and relational obstacles” such as exposure to retaliation, escalating violence, forced separation, or the financial hardship of an arrest. (Goodman and Epstein, 2008, p. 97; Johnson, 2007, pp. 498-510; Dugan et al., 2003, pp. 20-25; Hart, 1996)

When the case proceeds, a victim may face an increase in controlling behaviors including stalking the loss of victim status, and fears of being arrested or losing custody of the children. (McFarlane, et al., 1999, p. 311; Belknap and Sullivan, 2003, p.10.)

[10]

See Johnson and Ferraro (2000, p. 949); Stark (2007).

[11]

Worden suggests that “the efficacy of many innovations [in intervention] may be contingent on the consistency of the messages that are exchanged among the victims, offenders, and practitioners” (2003, p. 10).

Interactions with the police create an important baseline for the victim’s level of trust in the rest of system. Belknap and Sullivan (2003) found that whether victims believed the state was a resource for their help seeking was based on positive interaction with an officer who listened without judgment and communicated empathy. Victims saw police as helpful when they provided legal information, advocacy support, attended to medical care, and paid attention to the needs of the children.

Goodman and Epstein (2008, p. 78) note, “Other research has shown that women who experience government officials as listening to their stories and responding to their individual needs are more likely to feel treated fairly and therefore to cooperate with the prosecutor’s requests than are women who feel forced into a mandatory model dismissive of their input (Erez & Belknap, 1998; Ford & Regoli, 1993).”

A perpetrator may not stop battering the victim, but victims do not stop working toward non-violence. (Campbell et al., 1998, pp. 743-762).

Goodkind et al. (2004) studied the safety planning strategies victims with children used; in particular, see Table 1: Safety Planning Strategies Endorsed and Consequence of Using Strategy (p. 520).

Researchers at Texas Women’s University (2003) designed a one-hour phone contact for use with the victim during the processing of a protection order. Their study demonstrated that “abused women offered a safety intervention at the time of applying for a protection order quickly adopt safety behaviors and continued to practice those safety behaviors for eighteen months” (p.8).

Practitioner’s can support a victim’s safety planning by providing tactical information about the legal process, legal options, appropriate referrals, and specific communication about the risk of severe violence and lethality. (Johnson, 2007; Kropp, 2008, p. 213)



#### 4. Sure and swift consequences

[12]

Gondolf (2004) noted a reduction in no-shows and improved completion rates of batterer intervention programs when offenders moved through the system quickly. When intervention was swift and certain, the rate of offenders entering the groups increased from 70% to 95% and the completion rate rose to 70% (p. 619). Gondolf linked the effectiveness of batterer programs to a streamlined system where violations were treated with a ‘swift and certain’ response, offenders identified as high risk received increased sanctions, and risk markers were monitored throughout the intervention (see discussion on page 624).

Two additional studies by Gondolf (2000; 1999) verify the impact of swift and sure response for domestic violence offenders.

In domestic violence cases, the specific language of swift and sure is not commonly used, but several authors do recommend aggressive or prompt response to violations of court orders. (Buzawa et al., 2000; Hofford, 1991, pp. 12-17) One of the four lessons reported from the Judicial Oversight Demonstration project was the importance of “procedures to monitor or educate defendants and provide a quick court response to violations of no-contact orders and other bond conditions.” (Visher et al., 2007, p. 9)

To review a theoretical frame for choice theory and negative sanctions see Pratt (2008) and Kurbrin, et al. (2009).

A research study conducted by Weisburd, et al. (2008) demonstrated the impact of swift and certain responses to probation violators.

[13]

In their seminal study of the criminal justice system in Quincy, MA, Buzawa et al. (2000, pp. 9, 10, 18, and 12) found that 84% of offenders had prior arrests, 54% had six or more prior charges, and 14% had at least 30 criminal charges. In the Quincy study, nearly three-quarters of the victims had made prior calls to the police about that perpetrator. “Less than half the victims were living with the offender at the time of incident, but three-fourths of victimizations occurred in their homes.” Even as a model proactive court, in Quincy “the system does not appear to prevent recidivism among ‘hard-core’ re-offenders.” The population of batterers in that study recidivated within one month after arrest.

Bouffard and Muftic (2007, p. 364) reported that batterers who had been in the system with a prior domestic violence case were significantly more likely to be no-shows for batterer group intake than those without a domestic violence record.

#### 5. Messages of help and accountability

[14]

Dutton and Goodman (2005) describe a process of coercion and control created by both demands and threats: threats that the victim knows from past experience to be credible. In summary, a history of exposure to negative consequences from previous threats assures compliance with future demands. This dynamic of threats and consequences form a “cumulative pattern” of control that is not dependent on physical contact. To break that pattern, the victim assesses resources and options for safety that are as credible as the perpetrator’s threats. For additional information about the process of coercion and control, see Dutton et al. (2005) and Stark (2007).

[15]

In his observation of courtroom interactions in domestic violence cases, Ptacek (1999, pp. 172-178) studied how the interaction between judges, victims, and offenders can support or deter the battering dynamic. He points out that the behaviors demonstrated in the courtroom can (intentionally or not) become another resource the perpetrator can use for intimidation or coercion in the future. To that extent, a victim’s experience of the criminal justice intervention can reaffirm the perpetrator’s messages. Ptacek created a graphic titled “Judicial Responses that Reinforce Women’s Entrapment” to describe some of the behaviors he observed. To demonstrate the potential parallels that victims

may find in criminal justice interventions, he lays the judge's behaviors alongside behaviors used by perpetrators. Ptacek's graphic is available in a report by Levey, et al. (2000, p. Appendix I-2).

[16]

Descriptors of entitlement are found in the writings of practitioners with extensive experience facilitating batterer intervention programs. These practitioners are in agreement about entitlement as a foundational element of battering.

Bancroft (2002, p. 54) describes entitlement as a belief (and attitude) that the batterer alone has the right to privilege and status in this relationship.

F. Mederos (2004, p. 15) adds that entitlement is the expectation that a partner will fulfill a specific (gendered) role in the relationship and that the perpetrator has the right to use violence, anger, or other forms of abuse for failure to meet those expectations.

Also see Pence and Paymar (1993).

[17]

49% of batterer groups use a cognitive-behavioral approach. (Saunders, 2008. p.157).

From a longitudinal study of batterer programs, Gondolf (2004, p. 623) concluded that cognitive-behavioral programs for batterers were the most commonly used, effective for most offenders, and less costly to administer. Also see Hamberger (1997);

Pence and Paymar (1993); Sullivan (2006, p. 204); White and Gondolf (2000).

[18]

“Violence is simply a tool ... that the perpetrator uses to gain greater power in the relationships to deter or trigger specific behaviors, win arguments, or demonstrate dominance.” (Dutton, et al., 2005) In the development of a coercion scale, these same authors identified nine areas where offenders focused demands on victims: personal activities and appearance, support systems, household responsibilities, economic resources and work, health, physical intimacy, legal help seeking, immigration, and children or parenting (pp.1-3).

Stark (2007, pp. 228-278) argues that in large part the historic concept of domination has been replaced by *coercive control*: coercion as force or threats used to yield a desired response and control as both structural and tactical. Control could involve deprivation, manipulation, demanding compliance while controlling resources, behaviors, and support systems. Stark uses the terms microregulating and microsurveillance to emphasize the intrusion of coercive acts in the lives of victims. When combined, the product of coercion and control is entrapment.

[19]

Dutton and Goodman (2005, p. 747) point out that a victim's cultural, religious, and economic realities give coercive tactics and threats their meaning.

For a listing of control tactics embedded in messages that are used by perpetrators before and after criminal justice intervention See Table 1.6 in Belknap and Sullivan (2003, n.p.).

[20]

Fleury-Steiner et al. (2006, p. 329) found that a victim's decision to use the criminal justice system in the future was connected to their financial dependence on the perpetrator, safety from abuse during prior interventions, and support from practitioners.

One of the conclusions from the Judicial Oversight Demonstration Initiative was that judges can make a difference in victim safety and offender accountability. (Visher et al., 2007, p. 2)

From observations of restraining order hearings in Dorchester and Quincy, MA, Ptacek (1999) identified five types of authority judges present to victims and offenders. The messages carried by the court's demeanor can be of believability, support, seriousness of the charge, or a dismissive 'wink and a nod.' The court's response to a victim can counteract messages of the batterer, but are particularly important information for the victim's strategic planning.

Victims fear that criminal justice practitioners will believe the offender, not make an arrest, or take no action. (Russell and Light, 2006, p. 389)

Prosecutors send clear messages by communicating to the victim how the criminal justice system works

and just what it can and cannot do. (Hotaling and Buzawa, 2003, p. 38)

Messages of support are also sent through the types of institutional resources that are offered: advocacy, culturally sensitive programs and referrals, translation and TDDY services, etc.

[21]

Colia Ceisel (Public Defender Ramsay County, Retired), Presentation at Saint Paul Police Department Training, June 28, 2009. For more discussion on batterers' defenses of violence, see Bancroft (2002, pp. 296-301); Buzawa and Buzawa (2003, pp. 147-148); and Loue (2001, p. 119).

## 6. Reducing unintended consequences of interventions and the disparity of impact

[22]

There is no significant statistical difference in the rate of battering by race, but race, class, gender, disability, and cultural beliefs all create a context for engagement with practitioners in the system.

75% of victims don't report abuse to the police, but "the reluctance to report is especially common in marginalized populations." (Goodman and Epstein, 2008, p. 100) Also see Worden (2001, p. 3).

Ptacek (1999, p. 181) argues that factors such as ethnicity, language barriers, or disability are compounded by inequities embedded in society's structures and institutions. Facing bias or

discrimination within the system, on top of the battering in the relationship, impacts a victim's interactions with the criminal justice system.

A number of studies demonstrate the differences in how cultural or racial backgrounds impact how people experience the criminal justice system.

Ferraro (2008, p. 201) notes that a history of 'intense policing' of African American males is a factor that can influence a victim's decisions to engage with the criminal justice system. Calling outsiders into a community can lead to the victims own arrest, the involvement of child welfare, deportation, loss of housing, or retaliation from a partner.

A cross-cultural study in Seattle (Senturia, et al., 2003, p. 36) found social and cultural differences affected victims' interaction with service systems. Calling the police intersected with victims' economic, racial, and social conditions that presented cultural, legal, and language barriers for victims. Victims' decision-making included extra legal considerations such as housing, transportation, community based services, and access to legal resources. This population was afraid of losing housing, being arrested, or exposed to multiple agency interventions. They were uncertain of the ability of police or the courts to protect them. Generally, the women in this study contacted services when they learned of their availability, the violence escalated, or they perceived an increased risk. For study participants, practical information

and supportive messages received from officers were powerful determinants of a victim's satisfaction with criminal justice interactions.

Gillum (2009) discusses the limitations of mainstream services in reaching African American communities.

Williams (1994) and Gondolf (2008) agree that ethnically sensitive batterer intervention groups may be key to improving the completion rates for African American batterers.

In their study of Latina immigrants, Ammar, et al. (2005) found that a victim's legal status, the severity and frequency of the violence, and safety of the children were primary factors in a decision to call the police. 75.6% of the victims in this study did not speak English. Officers at the scene gathered information about the incident from someone other than the victim 31% of the time and from the perpetrator at almost 10% of these calls (p. 241).

Certified translators and culturally appropriate responses are key to safety for non-English speaking victims. (Lemon, 2006)

For information on risk markers for severe violence and lethality related to race, see the training memo, *Risk and Danger in Domestic Violence Cases*, included in the Blueprint Supplement.

For statistical information on prevalence of domestic violence among racial minorities and Hispanics, see Tjaden and Thoennes (2000).

## Conclusion

[23]

Minnesota Coalition for Battered Women (2008).

## Underlying Assumptions

[24]

For a summary of homicide trends in intimate relationships, visit the Bureau of Justice Statistics report at <http://www.ojp.usdoj.gov/bjs/homicide/intimates.htm>

For a discussion of national data sources and statistics, see Stark (2007 pp. 53-56).

## Chapter 2: 911 – Ramsey County Emergency Communications Center Building a Safety-Oriented Response

[1]

Campbell, et al., (2003 pp. 15-19).

[2]

An estimated 42-66% of suspects are ‘gone on arrival’ (Klein, 2008, Part 1, p. 17).

In the Quincy study of a proactive court model, “those offenders who left the scene had twice the number of past criminal charges and twice the

recidivism rate of those present when police arrive.” (Buzawa, et al., 2000, p.22)

[3]

Bonomi, et al. (2006, p. 1360) studied how often domestic violence victims called police. They found victims made more 911 calls if the perpetrator used a weapon (96% more), the victim experienced sexual abuse (58% more), or the physical violence was severe (40% more).

[4]

New laws criminalizing batterer interference with 911 calls have been enacted in Alaska, Washington, Connecticut, Indiana, Maine, Minnesota, North Carolina, Texas, and Wyoming.

[5]

In the Quincy, MA study, 68% of 911 calls to the police were made by the victim. Buzawa et al. (2003, p. 21) found that when third parties called, “the odds are 2-1/2 higher that such cases will involve a major injury to the victim compared to cases in which the victim calls [the] police herself.”

Hutchison (2003; cited in Smith, p. 45) found that almost two-thirds of calls to police were made by victims. In this study, 14% of third party calls were made by a neighbor/friend, 9% by a child, 4% by a family member, and 4% by a stranger.

[6]

Block (2003, p. 6).

## Chapter 3: Saint Paul Police Department

[1]

Risk markers that are clearly documented and clearly communicated are important for practitioners’ and victims’ accurate assessment of danger. (Kropp, 2008) Russell and Light suggest a focus on evidence that will prove a pattern and escalation over time (2006, p. 387). Buzawa, et al. suggest the level and conditions of an intervention could be linked to risk markers made visible for each offender (1998, p. 198).

[2]

Worden (2000) notes that “the quality of police report writing and investigation may spell success or failure for evidence-based prosecution initiatives” (p. 7). In Hartley and Ryan’s study of prosecution strategies, they warn that “victim character assassination seemed especially intense in cases in which the investigation was incomplete or there was a lack of physical evidence” (2003, p. 16). Worden notes the importance of thorough investigation, documentation, and reporting to convictions and findings of probable cause (2000, p. 7).

[3]

Batterers can be very resistant to change (Goodkind, et al. 2004, p. 515); 20% of offenders will re-assault regardless of the intervention (Gondolf and White

2001, p. 361). However, a number of research studies suggest that a coordinated intervention can have a positive, even cumulative, effect on the behavior of the offender (Murphy et al., 1998, p. 278; Saunders, 2008, p. 165; Syers and Edleson, 1992, p. 484; Tolman and Weisz, 1995, p. 482; Worden, 2003, p. 13).

[4]

Interaction with an officer sets the tone for a victim's satisfaction with the criminal justice system, cooperation with prosecution, and inclusion of criminal justice as a future resource in safety planning (Belknap, 2003, p. 6; Hotaling and Buzawa, 2003b; Johnson, 2007, p. 507; Russell and Light, 2006). Victims who felt the police response did not provide for their safety were less likely to report re-abuse (Hotaling and Buzawa, 2003b, p. 20).

Russell and Light (2006) found that victims responded well to police when officers were proactive and part of an integrated team. Victims who were offered emergency transportation or notification of the offender's release (Russell & Light, 2006, p. 390), certified translators and culturally appropriate resources (Lemon, 2006), or were met with a demeanor that was empathetic and nonjudgmental (Belknap, 2003) were more likely to be empowered by their interaction with the police.

Also see Chapter 1, Section 3 (A patterned crime requiring continuous engagement). Endnote #11

for discussion of continuing practitioner-victim engagement.

[5]

Bonomi et al. report that victims called the police when the incident involved a weapon, sexual abuse, or severe physical violence (2006, p. 1360). Buzawa et al. found that 68% of calls were made by the victim, but when third parties called, the odds of the victim having a major injury were two and one-half times higher than when a victim called directly (2000, p. 21). Senturia, et al. found that a cross-cultural population of victims contacted police when the violence escalated or they perceived an increased risk (2003, p. 35).

[6]

See the endnotes for Chapter 1, Section 5, (*Messages of help and accountability*). These endnotes reference coercion and control (#14 and #18); courtroom interactions that support or deter battering (#15); batterer entitlement (#16); and victim interactions with the criminal justice system (#20).

### Conducting Investigations in Domestic Violence-Related Cases

[7]

The International Association of Chiefs of Police National Law Enforcement Policy Center recommends that investigators in domestic violence cases cross-screen for sexual abuse and abuse of other household members and animals. (Thomas, 2006,

p. 2) When high-risk markers are visible, Erskine (1999) argues that charges of coercion, intimidation, harassment, or stalking can be added to present a more complete picture of the nature and harm done to a victim. Fleury-Steiner, et al. (2006) found that 19% of victims in their study had been re-abused while their case was open. They note that filing charges such as witness tampering sends a powerful message to both parties about the level of protection the system will provide (p. 338).

### Supervising Investigations in Domestic Violence-Related Cases

[8]

Effective coordinated interagency responses to domestic violence require strong leadership (Sullivan, 2006, p. 205), active participation (Allen, 2006, p. 62) and system accountability and monitoring (Shepard and Pence, 1999).

## Chapter 4: Ramsey County Sheriff's Office

[no end notes]

## Chapter 5: Saint Paul City Attorney's Office

### Charging Decisions

[1]

Vorenberg, (1981, pp. 1521, 1555).

[2]

National Prosecution Standards (§ 1.1 NDAA, 2nd Ed. 1991), asserting that the primary responsibility of prosecution is to see that justice is accomplished.

[3]

Long and Kristiansson (2007, p. 1-6).

[4]

Police report writing and investigation are important to successful evidence-based prosecution and convictions (Buzawa- et al., 2003, p. 22; Worden, 2003, p.).

[5]

Asmus et al.(2005, p. 115); Dutton and Goodman (2005).

[6]

From a study of women's responses to battering, Campbell et al. report that severity of abuse was only one factor in women's decisions to remain in a violent relationship (1998, p. 757).

Victims weigh safety and extralegal realities such as finances or housing against the potential for effective treatment and cessation of violence from the criminal justice system's intervention. (Worden, 2003, p. 4).

[7]

For victim ambivalence regarding prosecution, see: Buzawa, Hotaling, and Byrne (2003); Buzawa et al. (2000); Ford and Breall (2000).

[8]

Dutton and Goodman (2005) and Johnson and Ferraro (2000).

[9]

See discussion of threatened retaliation and re-assault under Hart in Chapter 1, endnote #6.

[10]

Belknap and Sullivan (2003); Buzawa, et al. (2003); Ford and Breall (2000); Goodman and Epstein, (2008).

[11]

McFarlane, et al. (2002): 51-68.

Strack and McClane (1999).

[12]

McFarlane, et al. (1999).

Campbell, et al. (2003).

[13]

Ford and Breall (2000).

[14]

In addressing issues related to defendants who are victims of ongoing abuse, prosecutors are encouraged to read Mary Asmus, *At a Crossroads: Developing Duluth's Prosecution Response to Battered Women Who Fight Back* (2004, Rev. 2007).

[15]

Johnson and Ferraro (2000) use the term *violent resistance* to differentiate acts that do not necessarily meet the legal standards for self-defense.

### Bail and Pretrial Release Recommendations

[1]

Prosecutor’s Toolkit published by the National Center for the Prosecution of Violence Against Women of the American Prosecutors Research Institute. Available at: [http://www.ndaa.org/apri/programs/vawa/vaw\\_home.htm](http://www.ndaa.org/apri/programs/vawa/vaw_home.htm).

Long and Kristiansson (2007).

[2]

Required under Minn. Stat. § 629.72 when setting conditions of release for an arrest for domestic abuse, harassment, or violations of an order for protection or a domestic abuse no-contact order.

[3]

This discussion and list of pretrial release practices that maximize safety for victims of domestic violence has been adapted from Sadusky (2006).

### Plea Agreements and Sentencing Recommendations

[1]

Klein (2008, Part II, p. 40).

[2]

Dutton and Goodman (2005); Johnson and Ferraro (2000).

[3]

Erskine (1999) argues that when high-risk markers are visible, additional charges of coercion, intimidation, harassment, or stalking present a more complete picture of the nature and harm done to the victim.

Hofford (1991; pp. 12-17) promotes maximum supervision of domestic violence offenders. She argues that “the risk of recidivism is extremely high; felonious assaults are frequently reduced to misdemeanors in these cases; the community is at risk of future violence; a great majority of offenders have substance abuse problems. In addition, it is likely that perpetrators of family violence have committed the crime a number of times in the past; these offenders typically rationalize their criminal behavior; they know and have easy access to their victims.”

Buzawa et al. (2003, p. 20) suggest that prosecutors “strive to file felony charges as opposed to misdemeanor charges, especially in very serious cases with hardcore offenders.” Also see Ford and Breall (2000).

[4]

Johnson (2008, p. 10) discusses defendants who are also victims of domestic violence. He points to a pattern that is visible in these relationships where one partner uses violence but not coercive control and the other partner uses both physical violence and coercive control.

### Chapter 6: Ramsey County Attorney’s Office and Victim/Witness Services Division

[no end notes]

### Chapter 7: Project Remand and Ramsey County Probation

[1]

Catteneo and Goodman (2005).

### Writing the Presentence Investigation Report

[1]

A victim’s perception of danger is a powerful predictor of re-assault (Roehl, et al., 2005, p. 14; Gondolf, 2004; Weisz, et al., 2000).

Ongoing risk assessment in domestic violence cases is discussed in Kropp (2008) and in Douglas and Kropp (2002).

**NOTE:** *While a victim’s prediction of reabuse should be taken seriously, victims can fail to recognize the potential for femicide or attempted femicide*

(Roehl et al., 2005, p.14; Weisz et al., 2000, p. 7)/

[2]

Belknap and Sullivan (2003); Ford and Breall (2000); Ptacek (1999)

[3]

For discussions of assessment tools and risk factors, see Campbell (2005); Campbell et al. (2003); Goodman et al. (2000); Kropp (2008); and Websdale (2000).

### Probation Supervision

[4]

The research on the effectiveness of batterer intervention groups in reducing violence is mixed, but overall shows some positive impact.

For a summary of batterer intervention see Gondolf (2004) and Saunders (2008).

For a critique of experimental studies, see Gondolf (2001).

[5]

Dutton et al. (2005) present an overview of domestic violence when criminal conduct is linked to coercion. They point out that “coercion in which an assault is imbedded helps to define its level of severity” (p. 2).

In discussing domestic violence, Erskine (1999, p. 1209) addresses multiple criminal acts, from misdemeanors to felonies.

[6]

Adding a victim’s prediction of reassault significantly increases the accuracy of risk assessment, as addressed by; Gondolf and Heckert (2003); Heckert and Gondolf (2004); and Weisz, et al. (2000, p. 86).

[7]

Sullivan and Bybee (1999, p. 43) found that, compared to victims who did not work with advocates, victims who worked with advocates were more than twice as likely to live without violence for the next two years.

Research from Quincy, MA by Buzawa et al. (2000) also found victim advocacy had a positive impact on prosecution.

The effect of working cooperatively with victims is discussed in Belknap and Sullivan (2003); Ford and Rogoli (1993); and Goodman and Epstein (2008).

[8]

Recent work on motivational interviewing shows promise for increasing compliance and decreasing abuse for domestic violence offenders. Motivational interviewing trainings for probation officers are available from the National Institute of Corrections (NIC). Also see Walters et al. (2007).

## Chapter 8: Ramsey County Second Judicial District

[1]

For a summary of homicide trends in intimate relationships, visit the Bureau of Justice Statistics report at <http://www.ojp.usdoj.gov/bjs/homicide/intimtes.htm>.

For a discussion of national data sources and statistics, see Stark (2007).

[2]

McFarlane et al.(1999, p. 311).

[3]

Klein (2008, Part I, p. 40).



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