

**No. 04-278**

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**IN THE  
SUPREME COURT OF THE UNITED STATES**

**TOWN OF CASTLE ROCK, COLORADO,  
PETITIONER,  
V.**

**JESSICA GONZALES, INDIVIDUALLY AND AS NEXT BEST FRIEND OF HER  
DECEASED MINOR CHILDREN, REBECCA GONZALES, KATHERYN  
GONZALES, AND LESLIE GONZALES,  
RESPONDENT.**

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**APPENDIX TO THE  
BRIEF OF NATIONAL BLACK POLICE ASSOCIATION,  
NATIONAL ASSOCIATION OF BLACK LAW ENFORCEMENT  
OFFICERS, WOMEN IN FEDERAL LAW ENFORCEMENT, THE  
NATIONAL CENTER FOR WOMEN & POLICING, AND  
AMERICANS FOR EFFECTIVE LAW ENFORCEMENT, INC.,  
*AMICI CURIAE* SUPPORTING RESPONDENT**

1a  
**APPENDIX A**

**Colo. Rev. Stat. § 14-10-108 (2004)**

(1) In a proceeding for dissolution of marriage, legal separation, the allocation of parental responsibilities, or declaration of invalidity of marriage or a proceeding for disposition of property, maintenance, or support following dissolution of the marriage, either party may move for temporary payment of debts, use of property, maintenance, parental responsibilities, support of a child of the marriage entitled to support, or payment of attorney fees. The motion may be supported by an affidavit setting forth the factual basis for the motion and the amounts requested.

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(2) As a part of a motion of such temporary orders or by an independent motion accompanied by an affidavit, either party may request the court to issue a temporary order:

(a) Restraining any party from transferring, encumbering, concealing, or in any way disposing of any property, except in the usual course of business or for the necessities of life, and, if so restrained, requiring him to notify the moving party of any proposed extraordinary expenditures and to account to the court for all extraordinary expenditures made after the order is issued;

(b) Enjoining a party from molesting or disturbing the peace of the other party or of any child;

(c) Excluding a party from the family home or from the home of the other party upon a showing that physical or emotional harm would otherwise result.

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**Colo. Rev. Stat. § 14-10-109 (2004)**

The duties of peace officers enforcing orders issued pursuant to section 14-10-107 or 14-10-108 shall be in accordance with section 18-6-803.5, C.R.S., and any rules adopted by the Colorado supreme court pursuant to said section.

\* \* \* \* \*

**Colo. Rev. Stat. § 18-6-803.5 (2004)**

(1) A person commits the crime of violation of a protection order if such person contacts, harasses, injures, intimidates, molests, threatens, or touches any protected person or enters or remains on premises or comes within a specified distance of a protected person or premises or violates any other provision of a protection order to protect the protected person from imminent danger to life or health, and such conduct is prohibited by a protection order, after such person has been personally served with any such order or otherwise has acquired from the court actual knowledge of the contents of any such order.

(1.5) As used in this section:

(a) "Protected person" means the person or persons identified in the protection order as the person or persons for whose benefit the protection order was issued.

(a.5) (I) "Protection order" means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any protected person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises or any other provision to

protect the protected person from imminent danger to life or health, that is issued by a court of this state or a municipal court, and that is issued pursuant to:

\* \* \* \* \*

(B) Sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S., or section 19-3-316, C.R.S., as those sections existed prior to July 1, 2004;

\* \* \* \* \*

(II) For purposes of this section only, "protection order" includes any order that amends, modifies, supplements, or supersedes the initial protection order. "Protection order" also includes any restraining order entered prior to July 1, 2003, and any foreign protection order as defined in section 13-14-104, C.R.S.

\* \* \* \* \*

(c) "Restrained person" means the person identified in the order as the person prohibited from doing the specified act or acts.

(2) (a) Violation of a protection order is a class 2 misdemeanor; except that, if the restrained person has previously been convicted of violating this section or a former version of this section or an analogous municipal ordinance, or if the protection order is issued pursuant to section 18-1-1001, the violation is a class 1 misdemeanor.

(a.5) A second or subsequent violation of a protection order is an extraordinary risk crime that is subject to the modified sentencing range specified in section 18-1.3-501 (3).

\* \* \* \* \*

(3) (a) Whenever a protection order is issued, the protected person shall be provided with a copy of such order. A peace officer shall use every reasonable means to enforce a protection order.

(b) A peace officer shall arrest, or, if an arrest would be impractical under the circumstances, seek a warrant for the arrest of a restrained person when the peace officer has information amounting to probable cause that:

(I) The restrained person has violated or attempted to violate any provision of a protection order; and

(II) The restrained person has been properly served with a copy of the protection order or the restrained person has received actual notice of the existence and substance of such order.

(c) In making the probable cause determination described in paragraph (b) of this subsection (3), a peace officer shall assume that the information received from the registry is accurate. A peace officer shall enforce a valid protection order whether or not there is a record of the protection order in the registry.

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**APPENDIX B**

**IACP Model Policy**

Effective Date: Revised: October 1, 1996

Subject: Domestic Violence

Special Instructions:

Reevaluation Date: October 1, 1997

**I. PURPOSE**

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

**II. POLICY**

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

**III. DEFINITIONS**

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

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

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

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

#### **IV. DISPATCHER'S PROCEDURES**

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

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

1. Whether the suspect is present and, if not, the suspect's description and possible whereabouts;

2. Whether weapons are involved;
3. Whether anyone has been injured;
4. Whether the offender is under the influence of drugs or alcohol;
5. Whether there are children present;
6. Whether the victim has a current protective or restraining order; and
7. Whether there is a history of domestic violence complaints at that location.

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

## **V. RESPONDING OFFICER PROCEDURES**

### **A. On-Scene Investigation**

When responding to a family violence call, the officers shall

1. Physically separate parties involved in domestic violence.
2. Restore order by gaining control of the situation.
3. Take control of all weapons used or threatened to be used in the crime.
4. Assess the need for medical attention and call for medical assistance if indicated.
5. Interview all parties.
6. Collect and record evidence and, where appropriate, take color photographs of injuries and property damage.
7. Complete appropriate crime or incident reports necessary to fully document the officer's



response, whether or not a crime was committed or an arrest made.

8. Give the victim a copy of the incident report number.
9. If the offender has left the scene and a crime has been committed, the officers will do the following:
  - a. Search the immediate area if potentially worthwhile;
  - b. Obtain information from victims and witnesses as to where the offender might be;
  - c. Seek an arrest warrant, and
  - d. Refer the matter to the investigative unit.

#### B. Arrest

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

#### C. Victim Assistance/Crime Prevention

Many victims of domestic violence feel trapped in violent relationships because they are unaware that domestic violence is a crime or that resources are available to help them. Also, the offenders may have

threatened further violence if the victim attempts to leave or seek assistance. Therefore, officers are required to provide the following assistance to victims, batterers, and, where appropriate, the children of these individuals:

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

This project was supported by Grant No. 93-DD-CX-K009 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: the Bureau of Justice Assistance, the Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department

of Justice or the International Association of Chiefs of Police.

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

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APPENDIX C

*IACP National Law Enforcement Policy Center*

*Domestic Violence*

*Concepts and Issues Paper*

*Originally Published: August 1, 1990*

*Revised: October 1, 1996*

I. INTRODUCTION

A. Purpose of Document

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

B. Definitions

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

The term family violence generally includes violent behaviors against children, spouses, parents, or other current

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

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

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

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

## II. BACKGROUND

### A. From Private Matter to Crime

By the turn of the 20th century, most states had outlawed wife beating.<sup>1</sup> Nevertheless, Americans have been reluctant to give up the view that family matters, including violence, should be resolved by family members, not public agencies.

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<sup>1</sup>Del Martin, *Battered Wives*, New York, Simon and Schuster, Inc., 1976.

Many victims<sup>2</sup> as well as police have shared this view. In the past, law enforcement dispatchers have ignored domestic calls or assigned them low priority.<sup>3</sup> Officers have failed to make arrests even when serious injuries were inflicted,<sup>4</sup> and have treated as misdemeanors many assaults involving extensive physical harm and weapons.<sup>5</sup>

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

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<sup>2</sup>Patrick A. Langan and Christopher A. Innes, *Preventing Domestic Violence Against Women*, Bureau of Justice Statistics, Special Report, August 1986. According to the National Crime Survey for 1978-82, 49 percent of women who did not report domestic violence incidents to the police claimed they did not call because they considered the incident a private matter.

<sup>3</sup>Michael Steinman, "Anticipating Rank and File Police Reactions to Arrest Policies Regarding Spouse Abuse," *Criminal Justice Research Bulletin*, Vol. 4, No. 3, 1988, p. 1. Also see Eva S. Buzawa, "Police Officer Response to Domestic Violence Legislation in Michigan," *Journal of Police Science and Administration*, December 1982, p. 415.

<sup>4</sup>*Ibid.*

<sup>5</sup>Barbara E. Smith, *Non-Stranger Violence: The Criminal Court's Response*, Washington, D.C., National Institute of Justice, 1983, p. 89.

<sup>6</sup>Morton Bard, *Training Police as Specialists in Family Crisis Intervention*, Washington, D.C., Government Printing Office, 1970.

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

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

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

## B. Factors Influencing Policy Changes

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

In the mid-1970s, battered women collaborated with researchers and other professionals to expose the extent and nature of domestic violence.<sup>7</sup> It became evident there was a critical need to protect and develop services for battered

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<sup>7</sup>Erin Pizzey, *Scream Quietly or the Neighbors Will Hear*, Short Hills, New Jersey: Ridley Enslow, 1977 (published in England in 1974); Del Martin, *Battered Wives*, New York: Simon and Schuster, Inc., 1976 (updated in 1983); and Lenore Walker, *The Battered Woman*, New York: Harper and Row, 1979.

women. Many communities established emergency shelters or networks of safe houses, along with programs to provide counseling, legal advice, financial planning services, and in some jurisdictions, counseling for batterers.

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

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

The study found that, according to the victims, only 19 percent of the suspects who were arrested repeated the violence within the next six months, compared to 37 percent



of those who received advice, and 33 percent of those who were separated.<sup>8</sup>

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

In the late 1980s, replications of the Minneapolis experiment were undertaken in six cities.<sup>12</sup> While the full data from one site was never made public, the findings from these replication experiments differ from those in Minneapolis. The Omaha researchers concluded that

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<sup>8</sup>Lawrence W. Sherman and Richard A. Berk, *The Minneapolis Domestic Violence Experiment*, Washington, D.C., Police Foundation Reports, April 1984, p.6.

<sup>9</sup>Sherman and Berk, "The Specific Deterrent Effects of Arrest for Domestic Assault," *American Sociological Review*, Vol. 49, No.2, April 1984.

<sup>10</sup>Sherman and Berk, *Police Foundation Reports*, *op. cit.*, p.2.

<sup>11</sup>E.G. Cohn and Lawrence W. Sherman, "Police Policy on Domestic Violence, 1986" paper presented to annual meeting of the Academy of Criminal Justice Sciences, St. Louis, Missouri, 1987.

<sup>12</sup>The replications, sponsored by the National Institute of Justice, were undertaken in Omaha, Nebraska; Atlanta, Georgia; Milwaukee, Wisconsin; Colorado Springs, Colorado; Charlotte, North Carolina; and Dade County, Florida.

arresting suspects had no more effect on deterring future conflict than did separating or counseling them.<sup>13</sup>

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

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

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

Several significant court cases have also influenced law enforcement to adopt arrest policies. In 1985, a federal jury awarded Tracy Thurman \$2.3 million and found that the city of Torrington, Connecticut, and 24 of its police officers violated Mrs. Thurman's 14th Amendment right to equal

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<sup>13</sup>Franklyn W. Dunford, David Huizinga and Delbert S. Elliott, "The Role of Arrest in Domestic Assault: The Omaha Police Experiment," *Criminology*, Vol.28, No.2, May 1990, p. 204.

<sup>14</sup>Dunford, et. al., p.204.

protection.<sup>15</sup> For eight months, Mrs. Thurman had notified the police repeatedly of her husband's threats on her life. She attempted unsuccessfully to file complaints against him. After one assault, he was convicted of a breach of the peace, and she obtained a protective order. Still, the police failed to arrest him after promising several times to do so. Finally, Mr. Thurman brutally stabbed her.

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

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

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

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<sup>15</sup> *Thurman v. City of Torrington*, 595 F. Supp 1521 (1984).

<sup>16</sup> *Id.* at 1528.

knife, and tried to saw off her leg. He was later convicted of attempted murder.

The New York Court of Appeals in *Sorichetti v. New York*<sup>17</sup> said a municipality cannot be held liable for failure to provide adequate protection absent a special relationship, but that such a special relationship existed in this case because of

*(1) the order of protection, (2) the police department's knowledge of Frank Sorichetti's violent history, gained through and verified both by its actual dealings with him, the existence of the order of protection and its knowledge of the specific situation in which the infant had been placed; (3) its response to Josephine Sorichetti's pleas for assistance on the day of the assault, and (4) Mrs. Sorichetti's reasonable expectation of police protection.*<sup>18</sup>

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

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<sup>17</sup>*Sorichetti v. City of New York*, 492 N.Y.S. 2d 59 (Ct. App. 1985).

<sup>18</sup>*Id.* at 596.

<sup>19</sup>*Bruno v. Codd*, 419 N.Y.S.2d 901 (1979).

<sup>20</sup>*Id.* at 905.

their disciplinary and other regulations to ensure these policies were carried out.

### C. Dispelling Myths and Stereotypes

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

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

One common misconception has been that domestic violence is predominantly a problem among the poor. Poor victims do account for more reported domestic violence. However, many experts believe this is simply because they cannot afford private counseling and other resources

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<sup>21</sup>Langan and Innes, p.1.

<sup>22</sup>*Ibid.*

<sup>23</sup>Police Foundation, *Domestic Violence and the Police: Studies in Detroit and Kansas City*, Washington, DC, 1977.

available to middle- and upper-income persons.<sup>24</sup> Nor is domestic violence a "blue-collar" problem. Batterers include doctors, lawyers, business executives, government officials, police officers, and clergymen, all occupations. Similarly, no assumptions about battering should be based on racial or ethnic stereotypes.

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

Nevertheless, batterers do have common characteristics that are important to understand if we are to stop blaming the victim for the violence. Batterers are likely to deny or minimize their behaviors. They often blame others for their problems or abusiveness (Ashe drove me to it@). They tend to be jealous and possessive; in the extreme, they may constantly follow their spouses around and closely monitor their activities. In addition to inflicting repeated physical harm on their spouses, they exhibit "a cohesive pattern of coercive controls that include verbal abuse, threats, psychological manipulation, sexual coercion and control over economic resources."<sup>26</sup> This pattern also includes

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<sup>24</sup> Gail A. Goolkasian, *Confronting Domestic Violence: A Guide for Criminal Justice Agencies*, National Institute of Justice, May 1986, p.3.

<sup>25</sup> David Adams, "Identifying the Assaultive Husband in Court: You Be the Judge," *Response*, Vol. 13, No.1, 1990, p.15.

<sup>26</sup> Adams, p.14.

periods of remorse and loving behavior, giving some victims hope that the abuser will change.

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

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

### III. POLICY AND MANAGEMENT ISSUES

#### A. Officer Compliance and Training

Historically, officers have valued the freedom to use their discretion on duty. Although some jurisdictions report high officer compliance once domestic violence arrest policies are in place, some resistance to a mandatory policy should be

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<sup>27</sup> Gail A. Goolkasian, "Confronting Domestic Violence: The Role of Criminal Court judges," Washington, DC, National Institute of Justice, *Research in Brief*, November 1986, p.2.

anticipated. Even the Minneapolis experiment ran into difficulties because of officers' reluctance to use the proscribed responses. Early indications are that the departments with greatest compliance are those operating in an arena where system-wide support is in place (prosecutors, courts, treatment services, and others). Law enforcement administrators must determine how they will get officers to arrest all or most suspects, and provide for the training and support needed to make quality arrests that succeed in accomplishing overall goals.<sup>28</sup>

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

Also arguing in favor of a mandatory policy are increasing community expectations that police will treat spouse abuse as seriously as any stranger-to-stranger crime. Failure to do so risks not only court action but a more general loss of agency credibility in the community. Domestic violence victims clearly have high expectations of the police. On the National Crime Survey, the most common reasons given for reporting a domestic crime were to keep it

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<sup>28</sup> Steinman, p.2.

<sup>29</sup> Steinman, p.4.

<sup>30</sup> Ronald Dolon, James Hendricks and M. Steven Meagher, "Police Practices and Attitudes Toward Domestic Violence," *Journal of Police Science and Administration*, Vol.14.,No.3, 1986, pp. 192-197.



from happening again (37 percent) and to "prevent this incident from happening" (24 percent).<sup>31</sup>

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

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

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

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<sup>31</sup>Langan and Innes, p.3.

<sup>32</sup>Sherman and Berk, *Police Foundation Reports*, op. cit., p.6.

<sup>33</sup>Gail A. Goolkasian, *Confronting Domestic Violence: A Guide for Criminal Justice Agencies*, Washington, DC, National Institute of Justice, May 1986, p.24.

intervention strategies for affected employees, or disciplinary or criminal sanctions where appropriate.

## B. Officer Safety

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

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

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

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<sup>34</sup> Joel Garner and Elizabeth Clemmer, "Danger to Police in Domestic Disturbances-A New Look," National Institute of Justice, *Research in Brief*, November 1986.

### C. Victim Assistance and Crime Prevention

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

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

Similarly, in New York City the police department works with the Victim Services Agency to provide telephone follow-up on domestic incidents. Where multiple incidents have been reported, unannounced home visits are made. In Phoenix, mental health professionals and trained volunteers form two-person family stress teams to assist officers. The

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<sup>35</sup>D.P. Van Blaricom, "Domestic Violence," *Police Chief*, June 1985, p.64.

teams use a radio-equipped, unmarked car during the busiest weekend hours and provide on-site crisis intervention and counseling at the officer's request.<sup>36</sup>

#### D. Reporting Requirements

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

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

#### IV. CONCLUSIONS

In 1984, the Attorney General's Task Force on Family Violence concluded that the "legal response to family violence must be guided by the nature of the abusive act, not the relationship between the victim and the abuser."<sup>37</sup> The model policy supports this view. Acts of domestic violence are crimes. Law enforcement officers should make arrests

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<sup>36</sup> Maryann Conrad and Thomas M. Jahn, "The Family Stress Team Approach in Curbin Domestic Violence," *Police Chief*, June 1985, p. 67.

<sup>37</sup> Attorney General's Task Force on Family Violence, *Final Report*, Washington, D.C., U.S. Department of Justice, 1984, p.4.

whenever probable cause and legal authority exist. Support for this view is widespread, based on the experience of advocates for battered women, current social science research, changes in state laws, and the courts.

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

Among those who advocate a comprehensive approach to addressing domestic violence is Dr. Lawrence Sherman, lead researcher for the original domestic violence experiments in Minneapolis and a recognized expert on the subject. In an exhaustive assessment of the research to date,<sup>38</sup> including the

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<sup>38</sup>Lawrence Sherman, *Policing Domestic Violence: Experiments and Dilemmas*, New York: The Free Press, 1992.

This project was supported by Grant No. 95-DD-BX-K014 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: the Bureau of Justice Assistance, the Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective

(continued...)

available findings of the six replication experiments previously mentioned, Dr. Sherman draws several conclusions and recommendations that deserve attention here.

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

Notwithstanding the foregoing, the results of domestic violence research generally and the replication experiments in particular show that the impact of arrest varies by jurisdiction due primarily to differences in population composition. For example, analysis of the data suggests that unemployed suspects become more violent if arrested, but that employed suspects do not. According to Sherman, this consistent pattern found among the cities in the replication experiments supports the position that criminal punishment depends largely upon a suspect's "stake in conformity" that is, how much he has to lose from the social consequences of his arrest. Unemployed and unmarried individuals experience the greatest escalation in violence after arrest, a

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bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

pattern that was the most consistent finding among the domestic violence replication experiments, while those with jobs and families may be more responsive to arrest or the threat of arrest. Arrest is also only a deterrent in cases where it is perceived as "legitimate." The values of a subculture of the community and the neighborhood social context (e.g. saving face in front of peers by defying authority and the arrest) are factors that mitigate the perceived legitimacy of arrests for domestic violence. In fact, subcultural values may in some cases even support or condone the use of violence within the family as an acceptable means of dealing with problems. As such, the capacity of arrest to change the behavior of domestic violence perpetrators is substantially diminished or even counterproductive.

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

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

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

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

Third, special units and policies should focus on chronically violent couples. A limited number of couples and addresses produce the vast majority of domestic violence complaints. In Minneapolis, for example, over half of the domestic violence calls for service originated from just 3



percent of locations in the city. Identifying and targeting both offenders and locations are important steps in managing the police response to domestic violence. The use of specially trained personnel may be one approach to dealing with targeted locations and offenders.

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

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**APPENDIX D**

**Colorado Spring Police Department, *General Order 510:*  
*Domestic Disturbances* (2003).**

**Colorado Spring Police Department  
General Order 510  
Section 5: Special Populations  
Domestic Disturbances**

Active date: **11/13/2003**

Supersedes date: **9/24/2002**

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**.03 Discussion**

Domestic disturbance calls for service are serious matters requiring appropriate handling by police officers, particularly when there is probable cause that crimes against persons have been committed. Failure to take the appropriate action often leads to later personal crimes involving the same parties and to repeated calls for police service. State statute requires that peace officers arrest any suspect when probable cause exists that an offense involving domestic violence has been committed.

**.04 Policy**

In domestic disturbance calls, when probable cause is present for crimes relating to domestic violence, officers shall arrest the suspect. The overriding concern is taking appropriate action that assures the protection and safety of the victim and other potential victims. When probable cause is present, the officer will arrest the suspect regardless of the expressed wishes of the victim, and whether or not the victim agrees to

sign a complaint. All persons arrested for offenses related to Domestic Violence, both felony and misdemeanor, will be booked into secure detention and required to post bond on the charges.

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## **.10 Arrest of Domestic Violence Assailants**

If the officer finds probable cause that a crime has been committed, within the definition of domestic violence, suspect and victim are or have been involved in an intimate relationship, the officer shall arrest the suspect without undue delay. All persons arrested on offenses relating to Domestic Violence, including felonies, misdemeanors, and City ordinance violations, will be booked into secure detention, CJC or Spring Creek, as appropriate, and required to post bond.

When visible injuries are present, officers are required to document them with photographs, whenever possible. Any other evidence shall be collected to the degree it is reasonably possible, and preserved in accordance with existing policy.

All Domestic Violence initial investigations and arrests will be documented on a Domestic Violence (DV) Form, as follows:

- If possible, the officer will obtain the victim's signature on the "complaining witness" line on the face of the Domestic Violence Form. The refusal of a victim to sign the complaint does not eliminate the requirement that the suspect be arrested if probable cause is established.

- The victim will be asked to complete and sign a written Victim's Statement, as well as the face of the form, but shall not be required to do so. The fact that a victim declines to sign a complaint, or complete a statement, does not alter the obligations of the officer to make an arrest, based on probable cause. In the event the victim does not complete a written statement, probable cause for the arrest must be clearly established in the investigating officer's written statement.
- If the victim is transported to the hospital or indicates that he/she will seek medical attention, the "Authorization to Release Medical Information to the District Attorney/Law Enforcement" form shall be signed, by the victim, and forwarded to the appropriate Investigations unit. On older DV packets, this release is a signature line on the back of the last page.
- The victim of domestic violence shall be advised that he/she has the right to be notified when the suspect is released from jail. If the victim requests notification, the officer shall obtain the victim's signature on the "Victim Notification" line, located on the back of the last page.
- Officers will provide the victim with the blue Victim Copy of the DV packet, incidental to their initial on-scene investigation, whether or not a suspect has been arrested or a pickup placed for a suspect at large. The original Victim Copy should not be returned to CSPD files, nor should it be left with the original DV packet when a pickup is placed.

Misdemeanor Arrest--If the officer finds probable cause that a misdemeanor crime has been committed, within the definition of domestic violence, the officer shall complete a DV Form Summons and Complaint as follows:

- Charges shall be written into County Court rather than Municipal Court, unless the only violation for which probable cause exists is a Municipal Code violation having no corresponding State charge.
- The officer will write "Post Bond" in the defendant's signature block of the DV Summons & Complaint. When an arrest is made, the defendant's copy will be left with booking personnel when the suspect is booked into CJC or Spring Creek. If the form being used still contains a Personal Recognizance Bond and No Contact Order section, the officer will draw a line through the entire section and will not otherwise use it.
- When officers making a misdemeanor DV arrest determine that during the same criminal episode the suspect has committed non-DV misdemeanor offenses, against other victims with whom they have no intimate relationship, the charges should be written on separate summonses, having the same court date and cross referenced to each other. The DV charges relating to the original victim will be written on a DV form, used as a Summons & Complaint, and the other charges written on a regular, non-DV summons that identifies the victim of those offenses. If an offense report number is needed, the same number will be used on both summonses. The suspect must be booked into CJC on the DV misdemeanors, however, may be served

and released on the non-DV charges at the officer's discretion.

\* \* \* \* \*

## **.11 Domestic Violence Investigations**

Officers should remain cognizant of the fact that cases involving allegations of domestic violence may receive increased scrutiny from supervisors, prosecutors, judges, and community groups. For this reason, officers should make reasonable efforts to conduct as thorough an investigation as is practicable, under the circumstances, even in cases involving relatively minor criminal allegations. Officers should attempt to personally interview victims and suspects, as well as identify and interview witnesses, whenever practical. When visible injuries are present, officers shall photograph them whenever possible, and should carefully describe them in the narrative portion of their report or the DV packet. A statement from the attending physician should be included in the officer's report, if the victim receives medical treatment incidental to the initial investigation. Officers should review the victim's written statement, if any, for thoroughness and elements of the crime alleged, and should document their own observations, including those facts that serve to corroborate or refute statements of involved parties, on the Summons Narrative, the old form, or PC Affidavit on the new form portion of the DV packet or in offense report supplements. Officers may, at their discretion, require a case report if they feel it will facilitate the investigation or thorough documentation of details in supplemental reports.

Arrests for events that did not occur within an officer's presence must be based on probable cause, regardless of the insistence or reluctance of a party to sign a complaint. It is

the responsibility of investigating officers and supervisors to determine if probable cause exists for an arrest; when it does, the facts supporting it must be clearly documented by the officer, the victim, or both. When probable cause cannot be established, officers shall not take a signed complaint, make an arrest, or file criminal charges, even if a complainant demands to sign a complaint. When officers are uncertain whether or not probable cause exists, supervisory guidance should be obtained. Colorado statute stipulates that an officer is not required to arrest both parties merely because both claim to be victims, nor does it require an officer to arrest either party when the officer believes that no probable cause exists.

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## **.12 Domestic Violence Pickup Procedure**

If the suspect cannot be located prior to going off-shift, the officer shall complete a pickup in accordance with SOP P1-23 and deliver it along with the following paperwork to Records and ID. Copies of the DV paperwork may be faxed to records and ID and the original paperwork described below sent via interoffice mail.

**Misdemeanors:** The completed DV Form Summons & Complaint, with an original probable cause affidavit. The handwritten Summons Narrative or PC Affidavit portion on the back of Page 1 of the DV Packet may be used as the PC Affidavit in misdemeanor cases, so long as it is legible and contains sufficient detail to establish probable cause. When so used, this original page will be signed by the officer affiant and notarized.

**Felonies:** A completed DV Form, used as a felony face sheet, with an original PC affidavit and Information for

Preliminary Procedure attached. Felony PC Affidavits should not be handwritten, but will be typed on a separate page. The original must be signed and notarized. A photocopy of the PC Affidavit will be attached to each copy of the packet.

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## **.50      Restraining Order Violations**

Officers are required to make a custodial arrest of any person who violates a valid Restraining Order issued in this, or any other state, if probable cause exists that the restrained person has been properly served with or received actual notice of the order, and has violated any provision of the order. In determining probable cause, officers shall use information concerning active restraining orders obtained through the CBI Central Registry maintained on the CCIC computer system, as part of their basis for determining whether probable cause of a violation exists. However, officers should exercise extreme caution if basing their probable cause for an arrest exclusively upon information from the registry, and shall make every reasonable effort to confirm through other sources that the restraining order is valid and active. This can be accomplished through viewing a printed copy of the order provided by the victim, through admissions from the suspect that he/she is aware of the order's validity, through interviews with third parties who were witnesses to its service, by contacting the issuing court, or other investigative means. ...

\* \* \* \* \*

Cash Or Surety Bond - Before Domestic Violence suspects are released from jail, a Mandatory Restraining Order (MRO) prohibiting the arrestee from harassing or



intimidating the victim will be issued by the Court or by jail personnel acting on the Court's order, which will remain in effect until final disposition of the criminal case. In some instances No Contact provisions may be added to the MRO, which will expire three judicial days from the time of signature (when the defendant is released from jail). If an officer receives a call for service from a victim who claims the suspect has violated the MRO or No Contact provisions of a bond issued from jail, the officer must verify the order through personal inspection, the Central Registry, or by calling CJC Intake to verify the defendant's bond and the expiration date of the No Contact provision. If the violation is prior to the No Contact expiration, probable cause exists to arrest the suspect for:

18-6-803.5 C.R.S. Violation of Restraining Order  
18-8-212 C.R.S. Violation of Bail Bond Conditions

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*- Colorado Springs Police Department*

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**APPENDIX E**

**United States Department of Justice, Office of Violence Against Women & International Association of Chiefs of Police, *Protecting Victims of Domestic Violence: A Law Enforcement Officer's Guide to Enforcing Orders of Protection Nationwide* (visited Feb. 7, 2005)**  
<[www.vaw.umn.edu/documents/protesct/protect.html](http://www.vaw.umn.edu/documents/protesct/protect.html)>.

This project was supported by a Cooperative Agreement awarded by the Violence Against Women Grants Office, Office of Justice Programs, U.S. Department of Justice, to the International Association of Chiefs of Police.

Publication Date: Not Available, *available at*  
<http://www.vaw.umn.edu/documents/protect/protect.html#id2633419>

**What is full faith and credit?**

- In 1994, Congress enacted the Violence Against Women Act (VAWA) directing jurisdictions 1 to give full faith and credit to valid orders of protection issued by other jurisdictions. 18 U.S.C. § 2265.

Simply stated, *full faith and credit* requires that:

- Valid orders of protection must be enforced to protect victims of domestic violence wherever a violation of an order occurs, regardless of where the order was issued.

What does this mean for victims?

- Abused persons who are granted orders of protection can now call upon law enforcement to protect them and to take all appropriate action against abusers nationwide.

What does this mean for abusers?

- The abuser is bound by the terms and conditions of the order of protection and may be arrested and charged with violating the order and committing other substantive crimes wherever the abuser violates a valid order. It does not make any difference where the order was granted. The abuser must be arrested for a violation of an order of protection if the law of the jurisdiction where the violation occurred requires an arrest.

What does this mean for law enforcement?

- If an order of protection is valid in the issuing jurisdiction, it must be enforced in every other jurisdiction. Some jurisdictions grant orders:
  - to victims who might not be eligible for orders in the enforcing jurisdiction
  - for periods of time longer than authorized in the enforcing jurisdiction
  - containing directives against abusers that might not be available in the enforcing jurisdiction

A responding officer **MUST ENFORCE** the terms and conditions of the order as written. Officers are not required to know the laws of the issuing jurisdiction in order to enforce orders of protection. Officers in the enforcing jurisdiction must comply with all laws, policies, and procedures of their own jurisdiction concerning violation of orders of protection, such as mandatory arrest and victim notification, if applicable.

**Why is Full Faith and Credit Important?**

- When victims of domestic violence leave, they and their children are at an increased risk of violence. Abusers

who cross jurisdictions in pursuit of victims may be engaged in stalking, which is a significant risk indicator of life-threatening violence.

\* \* \* \* \*

## **What is an Order of Protection?**

\* \* \* \* \*

### **Determining the Terms and Conditions of an Order of Protection**

- After providing for victim and officer safety, it is essential that the officer read the order in its entirety. An order may state something in one paragraph and specify exceptions in another. For example, an order may state that the abuser is to have "no contact" with a victim in one paragraph, and then in another state that contact may occur to arrange for visitation with the children. In this case, if the abuser contacted the victim for any reason other than to arrange for visitation, the order was violated.

\* \* \* \* \*

## **What Enforcement Action should be Taken?**

### **Immediate Action**

- Ensure the safety of all involved
- Seek medical attention, if necessary
- Safeguard the victim from further abuse
- Secure and protect the crime scene
- Seek voluntary surrender of firearms for safekeeping purposes
- Seize firearms subjects to State, territorial, local, or tribal prohibitions

- Identify whether an order of protection has been violated
- Evaluate the validity and enforceability of the order
- Arrest for violation of the order where required by the enforcing jurisdiction
- Arrest for any other criminal offenses
- Seek an arrest warrant, when required, related to the criminal conduct if the abuser is not at the scene
- Attempt to locate and arrest the abuser

\* \* \* \* \*

## **Helpful Interventions**

\* \* \* \* \*

### **Assessing Lethality**

Factors to consider in determining serious injury/lethality potential:

- Threats of homicide/suicides
- History of domestic violence and violent criminal conduct
- Stalking
- Depression or other mental illness
- Obsessive attachment to victim
- Separation of parties
- Drug or alcohol involvement
- Possession or access to weapons
- Abuse of pets
- Destruction of victim's property
- Access to victim and victim's family and other supporters

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## **Questions Frequently asked about Full Faith and Credit**

What if the abuser has violated the order of protection and then fled the scene?

- Determine if abuser's actions warrant arrest
- Follow departmental procedure for dealing with a criminal suspect who has fled the scene
- Conduct safety planning and refer victim to appropriate court or advocacy agency

\* \* \* \* \*

## **Enforcing Orders of Protection**

*Federal law requires that all valid orders of protection granted by a court of any jurisdiction be recognized and enforced as if they were issued by a court where the violation occurred.*

## **Responding Officer's Procedures**

A responding officer must enforce the terms and conditions of the order as written by the issuing jurisdiction.

The order of protection is presumed valid if it has the correct names of the parties, has not expired, and is signed by an issuing authority. It should be enforced pursuant to departmental policy and the laws of the enforcing jurisdiction.

## **Immediate Action**

If the named respondent committed an offense under the criminal laws in the officer's jurisdiction and/or violated the court order, the officer should:

- Arrest respondent pursuant to the enforcing jurisdiction's law and departmental policy
- Initiate criminal complaint against respondent for the crime(s) committed and for violation of the order

### **Office of the Attorney General Washington, D.C. 20530**

"Through its full faith and credit provision, the Violence Against Women Act is designed to ensure that valid protection orders are enforced in each and every jurisdiction in America. The statute affords important and often lifesaving protection for victims of domestic violence who cross state or tribal lines--whether to go to work, visit relatives, or seek safe haven from abuse. Law enforcement officers play a crucial role in ensuring that protection orders are enforced so that a victim is safe no matter where in the country she goes. I hope that you will find this booklet helpful in your efforts to stop domestic violence and save lives."

Janet Reno  
Attorney General of the United States

### **International Association of Chiefs of Police**

To America's Law Enforcement Officers:

Protecting victims of domestic violence is a critical part of our job. The actions you take in these situations can clearly save lives. Orders of protection are issued to ensure the safety of victims of domestic violence. We need to enforce these orders to the best of our abilities. The "full faith and credit" component of the 1994 Violence Against Women Act requires law enforcement officers to enforce valid orders across the boundaries of states, tribes and territories. Once an order of protection is issued by a jurisdiction, it is

enforceable in any other jurisdiction in the United States . Both the Attorney General and the IACP are deeply concerned about domestic violence. This booklet is an excellent primer on orders of protection and full faith and credit. I urge you to read it--and act on it.

Bobby D. Moody  
IACP President



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**APPENDIX F**

**Colorado Spring Police Department, *General Order 612:*  
*Domestic Disturbances (2003)* .**

**Colorado Spring Police Department  
General Order 612  
Section 6: Enforcement of Criminal Laws  
Restraining Orders**

Active date: **9/26/2002**  
Supersedes date: **9/24/2002**

**.04 Policy**

If any officer has reasonable grounds to believe that the subject named in an active Restraining Order has violated that order, the officer shall take the appropriate action described in this directive. Service of Civil Restraining Orders shall be done as described in Paragraph .12 below.

\* \* \* \* \*

**.10 Enforcement of Restraining Orders**

Enforcement of all restraining orders shall be in accordance with section 18-6-803.5, CRS, Violation of Restraining Order, and any rules adopted by the Colorado supreme court pursuant to said section.

A person commits the crime of violation of a restraining order if such person contacts, harasses, injures, intimidates, molests, threatens, or touches any protected person, or enters or remains on premises, or comes within a specified distance of a protected person or premises, and such conduct is prohibited by a restraining order, after such person has been personally served with any such order or otherwise has acquired from the court actual knowledge of the contents of any such order.

### Permanent Or Temporary Retraining Orders And EPO's:

If any officer has probable cause to believe that the subject named in an active Temporary or Permanent Restraining Order or Emergency Protection Order has violated or attempted to violate that order as described above and the restrained person has been properly served with a copy of the restraining order or the restrained person has received actual notice of the existence and substance of such order, the officer shall arrest according to procedure. The arrested person shall be removed from the scene of the arrest and shall be taken to the Criminal Justice Center for booking. The arrested person will be booked into jail on a Summons and Complaint for 18-6-803.5 C.R.S. Violation of Restraining Order. Any person violating a restraining order issued pursuant to cases involving domestic violence as defined in 18-6-800.3 .C.R.S. shall be booked into jail on a Domestic Violence Form Summons and Complaint.

In determining probable cause, officers shall use information concerning active restraining orders obtained through the CBI Central Registry maintained on the CCIC computer system as part of their basis for determining whether probable cause of a violation exists. However, officers should not base their probable cause for an arrest exclusively upon information from the registry, and shall make every reasonable effort to confirm through other sources that the restraining order is valid and active.

Note: As is the case with any Court order, a restraining order may be modified or terminated only by the Court. The parties to the order do not have the authority to modify or terminate the order themselves. The fact that the victim may have "invited" the suspect to violate the restraining order does not alter the fact that the order has been violated and the offender shall be arrested.

*- Colorado Springs Police Department*