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**THE MICHIGAN LAW ENFORCEMENT  
RESPONSE TO DOMESTIC VIOLENCE  
SECOND EDITION**



**Produced by State of Michigan**

**Michigan Law Enforcement Officers Training Council**

**and**

**Domestic Violence Prevention and Treatment Board**

**Lansing, Michigan  
1997**

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# The Michigan Domestic Violence Law Enforcement Training Project

All products of the Michigan Domestic Violence Law Enforcement Training Project were produced in cooperation with law enforcement practitioners, law enforcement trainers, domestic violence service agencies and prosecutorial and judicial representatives.

## First Edition

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## Second Edition

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Points of view in this document and associated training videos are those of the authors and producers and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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## PREFACE TO THE SECOND EDITION

It has been four years since publication of the first edition of the *Michigan Law Enforcement Response to Domestic Violence Instructor Resource Guide*. During that time Michigan enacted a number of laws to enhance the law enforcement response to domestic violence. This required revision of the Laws Regarding Domestic Violence module and the Responding to Domestic Violence module. Also, this edition contains more recent statistics and research findings and includes new video materials to illustrate the content.



## **PREFACE TO THE FIRST EDITION**

In August 1989, the Michigan Department of Civil Rights established an Inter-Agency Task Force which included representatives of the various components of the criminal justice system. Included in the task force were representatives of the Michigan Law Enforcement Officers Training Council (MLEOTC) and the Domestic Violence Prevention and Treatment Board (DVPTB). In September 1991, this inter-agency task force issued an implementation plan in response to a 1989 report by the Michigan Department of Civil Rights on Domestic Violence in Michigan. The plan included recommendations for law enforcement to revise police officer training to emphasize arrest, the establishment of probable cause, report writing, notifying victims of their rights, and enforcement of protection orders. There was also a recommendation that preferred arrest domestic violence response policies be developed by local law enforcement agencies.

In the summer of 1990 MLEOTC and DVPTB took a pro-active approach to the review and implementation of the Department of Civil Rights recommendations by forming a joint MLEOTC/DVPTB Domestic Violence Law Enforcement Response Task Force. The task force consisted of subject matter experts drawn from law enforcement agencies, law enforcement training centers, prosecutors and domestic violence service agencies. The group suggested revisions to existing police training and recommended development of a model policy to assist law enforcement administrators in implementing a preferred arrest domestic violence response policy consistent with the recommended training revisions.

In September 1991, MLEOTC and DVPTB were awarded a joint federal grant by the Office of Victims of Crime, Office of Justice Programs, U.S. Department of Justice. The goal of the grant was to assist in the development and implementation of a state model domestic violence law enforcement response policy and the development of law enforcement training which would emphasize the most effective law enforcement response to domestic violence. A further goal was to ensure that the training developed and implemented would be an ongoing part of the training provided to law enforcement officers.

### **Model Policy**

In January 1992, the MLEOTC and the DVPTB invited sixty representatives from law enforcement agencies, prosecutorial agencies and domestic vio-



## **Preface to the First Edition (*continued*)**

lence service agencies to a two-day conference on domestic violence policy development. The goal of the conference was to raise issues and establish parameters within which a policy development committee would work.

In June 1992, a thirty member Model Policy Development Committee was established to create a model policy for use by law enforcement administrators in developing policies for their own communities. Subcommittees met during the summer and fall of 1992 to develop policies and establish implementation procedures for the model policy. The entire policy development committee met and finalized this model policy in December 1992.

This model policy, presented to professional groups throughout the state during the winter and spring of 1993, was met with enthusiasm. It has been endorsed by the Michigan Law Enforcement Officers Training Council and the Domestic Violence Prevention and Treatment Board. It was published in the February newsletter of the Michigan Association of Chiefs of Police and appears in its entirety in Section five, Appendix A of this resource guide.

## **LAW ENFORCEMENT TRAINING**

The MLEOTC supervises the mandatory basic training of all law enforcement officers in Michigan. A regional system of training centers established at community colleges, universities and police agencies administers the Council's mandated basic training curriculum. All law enforcement officer candidates must successfully complete this mandated training and pass a certification examination at the completion of basic training in order to practice law enforcement in Michigan.

The mandated basic training curriculum specifications were rewritten to reflect the criminal investigation and preferred arrest response established by the 1990 task force and the policy development committee. The new curriculum was pilot tested at selected sites and revised based on the evaluation of the pilot testing. The revised curriculum specifications for the *Investigation of Domestic Violence* were approved and mandated by the Training Council at their June 1993 meeting. The mandated modules appear in Section five, Appendix B.



# **The 1997 Michigan Domestic Violence Law Enforcement Training Project**

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# **The Michigan Law Enforcement Response to Domestic Violence Instructor Resource Guide (Second Edition, 1997)**

## **ACKNOWLEDGMENTS**

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# **The Michigan Law Enforcement Response to Domestic Violence**

**Instructor Resource Guide  
Second Edition, 1997**

## **INTRODUCTION**

Domestic violence differs from other crimes because of the intimate relationship between the victim and the accused. Notwithstanding this difference, the criminal justice system should respond to domestic violence as they would respond to any crime. Police should investigate, arrest and pursue appropriate criminal remedies when probable cause exists to believe the accused has committed a crime. Prosecutors should charge and proceed with criminal cases against domestic violence assailants, and courts should hold them accountable for their criminal behavior by sentencing them appropriately.

## **INTENT AND USAGE**

*The Michigan Law Enforcement Response to Domestic Violence Instructor Resource Guide* is intended as a tool for instructors. It provides the proper focus for each curriculum specification to ensure students are given the necessary understanding of the nature of domestic violence and the appropriate law enforcement response. The curriculum and training materials are consistent with the State of Michigan Model Policy.

The MLEOTC basic training curriculum specifications and the instructor resource guide consist of three modules: "The Nature and Prevalence of Domestic Violence"; "The Laws Regarding Domestic Violence"; and "Domestic Violence Response Procedures." Each section was designed to be taught by an instructor with professional and educational expertise in the area being taught.

Module one, "The Nature and Prevalence of Domestic Violence" is designed to be taught by an instructor with expertise in the dynamics of domestic violence. The instructor should have experience in working with domestic violence cases. The purpose of this module is twofold. The first goal is to help students understand the nature of domestic violence, creating an understanding of the victim's life circumstances and answering the underlying questions about domestic violence that students bring to the classroom. The second goal is to provide students with an understanding of the types of

## **Instructor Resource Guide (continued)**

assailant tactics and victim behaviors they are likely to encounter at a domestic violence scene.

Module two, "Laws Regarding Domestic Violence" must be taught by an attorney admitted to the State Bar of Michigan. The goal of this module is to provide the student with the understanding that domestic violence is criminal behavior and encompasses a broad spectrum of substantive crimes. The module uses substantive crimes common to domestic violence to illustrate the need for a thorough criminal investigation at the domestic violence scene. Using examples specific to domestic violence, the module is designed to assist students in understanding the probable cause determination upon investigation. The module covers the laws of arrest, including arrest for violation of Personal Protection Orders (PPOs). Finally, the module provides students with the procedural requirements involved in a domestic violence response.

Module three, "Domestic Violence Response Procedures," is designed to be taught by a law enforcement investigation and response instructor. The response procedures module takes the student from the point of receiving initial information and dispatch through documenting the investigation in an official police incident report. The focus of the module is on criminal investigation, arrest on probable cause and victim assistance. The module covers procedures for a safe and effective response and interviewing techniques.

A coordinated community response involving law enforcement, prosecutors, the courts and community service agencies such as domestic violence service programs is the most effective response to domestic violence. To be most effective a preferred arrest policy of law enforcement response to domestic violence must be coupled with other criminal justice policies aimed at ensuring that offenders are prosecuted, punished, and (when appropriate) encouraged to enter rehabilitation programs. A coordinated community response also ensures that victims are offered necessary information, support and services. It is therefore of critical importance that police and other professionals involved in the criminal justice response receive specialized training on the nature of domestic violence so that they can effectively respond to domestic violence in their communities.

# **The 1990 Michigan Domestic Violence Law Enforcement Training Project**

## **Michigan Law Enforcement Officers Training Council Basic Training Curriculum Specifications Development**

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# THE 1990 MLEOTC/DVPTB LAW ENFORCEMENT RESPONSE TASK FORCE

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The 1990 MLEOTC/DVPTB Domestic Violence Law Enforcement Response Task Force broke new ground reaching an interdisciplinary consensus on a coordinated and effective law enforcement response to domestic violence. The work of this task force set the stage. Special thanks go to Cathy Schindler, Project Coordinator.

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THE LAW ENFORCEMENT RESPONSE  
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# NATURE AND PREVALENCE

## MODULE I.H.1. OVERVIEW

---

### Module Goal:

The goal of this module is to provide the student with an understanding of the prevalence of domestic violence and the context in which it occurs. Such an understanding is crucial if officers are to be effective in their response to domestic violence.

### Instructor Requirements:

The objectives in this module are designed to be taught by an instructor with demonstrated expertise in domestic violence dynamics. The instructor must have successfully completed the Training Council approved Domestic Violence Instructor Training Course. Appendix C contains a list of Nature and Prevalence instructors who have completed the mandated instructor training.

### Number of Hours of MLEOTC Mandated Instruction:

3 hours

### Summary of Module Objectives:

- ① Demonstrate an Understanding of the Historical Context and Changes in Society's Understanding of Domestic Violence.
- ② Demonstrate an Understanding of the Nature of Domestic Violence.
- ③ Demonstrate an Understanding of the Behaviors Used by Domestic Violence Assailants.
- ④ Demonstrate an Understanding of Assailant Behavior Officers Might Encounter at the Domestic Violence Scene.
- ⑤ Demonstrate an Understanding of Victim Behaviors Officers Might Encounter at the Scene of Domestic Violence.
- ⑥ Demonstrate an Understanding of the Consequences Victims May Face as They Consider Leaving the Assailants.
- ⑦ Demonstrate an Understanding of the Consequences Victims May Face When Following Through with a Case in the Criminal Justice System.
- ⑧ Demonstrate an Understanding of Indicators that Can Assist Officers in Assessing When an Assailant Might kill.

# NATURE AND PREVALENCE

## MODULE I.H.1. OVERVIEW

---

### **Teaching Requirements:**

Each student must pass a comprehensive examination to be certified as a law enforcement officer in Michigan. The instructional materials contained in this module are designed to provide direction to your instruction to ensure the students receive the preparation they require to successfully perform the tasks outlined in the module objectives. Unless the objectives are properly taught, it will not be possible for the students to demonstrate competence in this area.

# NATURE AND PREVALENCE

## MODULE I.H.1. OVERVIEW

---

### Objective I.H.1.1.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Historical Context and Changes in Society's Understanding of Domestic Violence.**

#### Performance/Testing Criteria:

- a. Describes the changes surrounding society's understanding of and response to domestic violence.
- b. Describes how domestic violence affects the entire community:
  - (1) family, friends, children and even neighbors of the victim are often hurt or killed by the assailant;
  - (2) children suffer physical, psychological, emotional and behavioral trauma from living in a battering environment;
  - (3) medical costs, work loss and public safety costs are significant; and
  - (4) without intervention, children learn that violence is an acceptable way to solve problems and violence remains a continuing community safety problem.
- c. Describes the role of a domestic violence service program in a coordinated community response:
  - (1) provides shelter to victims;
  - (2) provides support and legal advocacy for victims;
  - (3) provides services to children; and
  - (4) some programs provide counseling services to assailants.

# NATURE AND PREVALENCE

## MODULE I.H.1. OVERVIEW

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### Objective I.H.1.2.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Nature of Domestic Violence.**

#### Performance/Testing Criteria:

- a. Recognizes that domestic violence is not limited to any race, age, socioeconomic class, educational level or occupation.
- b. Describes domestic violence as a pattern of learned behavior which occurs over time that:
  - (1) is used by assailants to get victims to do what the assailants want;
  - (2) includes a variety of abusive and criminal behavior;
  - (3) includes the use of violence and/or the threat of violence;
  - (4) often increases in severity and frequency over time; and
  - (5) can ultimately end in homicide.
- c. Recognizes that domestic violence is *not*:
  - (1) just an argument or disagreement between partners;
  - (2) a problem that can be worked out by talking;
  - (3) a minor or isolated incident; or
  - (4) caused by drugs or alcohol.

# NATURE AND PREVALENCE

## MODULE I.H.1. OVERVIEW

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### Objective I.H.1.3.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of the Behaviors Used by Domestic Violence Assailants.

#### Performance/Testing Criteria:

- a. Describes some of the types of criminal behavior used by assailants:
  - (1) physical abuse (e.g., hitting, pushing, shoving, kicking, choking, use of a weapon, etc.);
  - (2) sexual abuse (e.g., forces sex on the victim, physically attacks body parts, rapes the victim in front of the children);
  - (3) threats of violence (e.g., against victim, children, family, friends, etc.);
  - (4) stalking (e.g., following, calling, appearing at victim's home or place of work, etc. (may also include threats));
  - (5) kidnapping;
  - (6) destruction of property; and
  - (7) injuring or killing pets.
  
- b. Describes other types of abusive behavior the assailant may use:
  - (1) emotional abuse (e.g., humiliation, manipulation through lies and mind-games, criticism, name calling, etc.);
  - (2) economic abuse (e.g., keeps the victim from working, controls the finances, makes the victim ask for grocery money, etc.);
  - (3) children used as pawns (e.g., threatens violence against the children, uses parenting time to harass or keep track of the victim, etc.);
  - (4) intimidation to instill fear through looks, gestures and actions (e.g., smashing objects, destroying property, placing self between victim and an escape route, etc.);
  - (5) isolation of the victim by controlling who the victim sees and talks to, belittles the victim's family and friends;
  - (6) threats to commit suicide and leave the victim responsible for the suicide; and
  - (7) repeated threats to engage in the above behaviors.

# NATURE AND PREVALENCE

## MODULE I.H.1. OVERVIEW

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### Objective I.H.1.4.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of Assailant Behavior Officers Might Encounter at the Domestic Violence Scene.

#### Performance/Testing Criteria:

- a. Describes how assailants may present themselves to officers by:
  - (1) attempting to rationalize their violent behavior by:
    - (a) portraying the victim as "hysterical," alcoholic, mentally ill or otherwise needing to be physically restrained;
    - (b) complaining that they are the real victims in the family; or
    - (c) stating that the victim is destroying the family and the assailant is only trying to keep the family together;
  - (2) denying or minimizing the violence when confronted with evidence of their violent behavior by:
    - (a) making statements such as the victim "bruises easily," or there was "just a little pushing" and no real violence, or the assailant "just got a little out of control"; or
    - (b) stating that there was an argument but "it was nothing and everything is fine now";
  - (3) blaming the victim for the violence by stating that the victim became physical, but not giving a complete description of events that may include:
    - (a) the assailant was attempting to intimidate the victim by breaking objects, pounding walls or threatening injury to children, family, friends or pets;
    - (b) the assailant was physically blocking the victim's means of escape; or
    - (c) the assailant was attempting to force sex on the victim;
  - (4) making complaints to the police against the victim in an attempt to counter any complaint the victim may have made in response to the assailant's violence;
  - (5) appearing to be calm, non-combative and cooperative; or
  - (6) attempting to draw officers in by making statements such as "what would you do", or "you know how it is."

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## MODULE I.H.1. OVERVIEW

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### Objective I.H.1.4. (continued):

- b. Describes strategies used by the assailant to intimidate the victim to not participate, and to interfere with investigation and prosecution, such as:
  - (1) calling the police requesting information on the victim's location;
  - (2) attempting to file false police reports if the victim has left (e.g., missing person, stolen car, kidnapping, etc.);
  - (3) attempting to prosecute the victim;
  - (4) attempting to prevent the victim from following through with a case (e.g., threatens or begs the victim to drop charges promising to change, etc.);
  - (5) using a variety of strategies to delay court hearings and increase the victim's financial hardship (e.g., changes lawyers, asks for continuances, etc.);
  - (6) giving the victim erroneous information about the criminal justice system to create confusion or prevent the victim from acting (e.g., withholds court notices or gives victim wrong appearance information, etc.); and
  - (7) making reports to Children's Protective Services alleging that the victim is neglecting or abusing the children.

# NATURE AND PREVALENCE

## MODULE I.H.1. OVERVIEW

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### Objective I.H.1.5.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Victim Behaviors Officers Might Encounter at the Scene of Domestic Violence.**

#### Performance/Testing Criteria:

- a. Describes behaviors common to victims of violence or trauma:
  - (1) acts panicked or excited;
  - (2) shuts down or fails to respond; or
  - (3) believes that things will just somehow work out.
  
- b. Describes behaviors domestic violence victims may display at the scene:
  - (1) minimizes or denies the violence;
  - (2) rationalizes the assailant's behavior to attempt to justify it;
  - (3) is reluctant to discuss specifically what happened, especially if the assailant is at the scene;
  - (4) asks police to leave;
  - (5) asks police not to make an arrest;
  - (6) tries to protect assailant from the police;
  - (7) does not want the assailant prosecuted; or
  - (8) expresses anger with the assailant.
  
- c. Describes some of the circumstances in victims' lives that may explain at-scene behavior:
  - (1) victims are frequently isolated as a result of the assailant's control over:
    - (a) activities;
    - (b) friends; or
    - (c) contact with family;
  - (2) victims often must focus on the assailant's whereabouts for self-protection, using survival techniques on a daily basis;
  - (3) victims may believe that the violence can be controlled by:
    - (a) observing and attempting to predict the assailant's behavior;
    - (b) changing their own behavior; or
    - (c) putting the assailant's needs and desires first;

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## MODULE I.H.1. OVERVIEW

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### Objective I.H.1.5. (continued):

- (4) victims may blame themselves since:
  - (a) assailants tell victims it is their fault;
  - (b) victims believe they should be able to control the assailant's behavior by changing their own behavior; or
  - (c) victims may be unable to believe that someone who says they love them would inflict abuse; and
- (5) victims become frustrated because no matter what they do they cannot end the violence.

# NATURE AND PREVALENCE

## MODULE I.H.1. OVERVIEW

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### Objective I.H.1.6.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Consequences Victims May Face as They Consider Leaving the Assailants.**

#### Performance/Testing Criteria:

- a. Describes how victims are at greatest risk when leaving or when the assailant believes the victim is leaving:
  - (1) the risk of homicide increases after separation;
  - (2) victims legitimately fear retaliation against themselves, children and other family members and friends; and
  - (3) victims may feel safer staying since they can then keep track of the assailant.
  
- b. Describes how leaving, like other major life changes, is a process, with barriers for victims that may include:
  - (1) feeling they cannot make it on their own since the assailant told them they cannot;
  - (2) an economical inability to leave and care for themselves and children;
  - (3) pressure by family, friends, clergy, etc., not to leave; and
  - (4) assurances by the assailant that the violence will stop.

# NATURE AND PREVALENCE

## MODULE I.H.1. OVERVIEW

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### Objective I.H.1.7.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Consequences Victims May Face When Following Through with a Case in the Criminal Justice System.**

#### Performance/Testing Criteria:

- a. Describes the life threatening consequences the victim may face for proceeding:
  - (1) the assailant may threaten the victim, the children, the victim's family or friends to prevent the victim from cooperating;
  - (2) the system cannot assure the victim's safety from the assailant if the victim cooperates; and
  - (3) the assailant knows where to find the victim and can continue to intimidate the victim throughout the investigation and court process.
  
- b. Describes the numerous obstacles to cooperating which the victim may face:
  - (1) the victim may have suffered consequences for following through in the past;
  - (2) the assailant knows the victim and can interfere with the victim's ability to appear in court by:
    - (a) preventing mail from reaching the victim; or
    - (b) misinforming the victim about court dates and times, etc.;
  - (3) the time demands that prosecution makes may drain the victim's resources:
    - (a) continuances and other system or defense initiated delays may cost the victim time from work; or
    - (b) numerous court appearances may be a financial drain due to the costs of child care and transportation, etc.;
  - (4) family and friends may pressure the victim not to cooperate; and
  - (5) the victim may lack information about the criminal justice system.

# NATURE AND PREVALENCE

## MODULE I.H.1. OVERVIEW

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### Objective I.H.1.8.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Indicators that Can Assist Officers in Assessing When an Assailant Might Kill.**

#### Performance/Testing Criteria:

- a. Describes the importance of understanding common indicators of a life threatening situation:
  - (1) some assailants are more likely to kill in certain circumstances; and
  - (2) because victims know their assailants better than anyone, they know when their lives are in danger and *must* be believed when they state they are in danger.
  
- b. Describes the importance of assessing the lethality at each intervention:
  - (1) the assailant may have left the scene upon officer arrival;
  - (2) the assailant knows the victim and therefore can predict the whereabouts of a victim and the victim's family; and
  - (3) the assailant may be stalking the victim.
  
- c. Describes indicators of a potential life-threatening attack by the assailant:
  - (1) the victim has left or the assailant has discovered the victim is about to leave or file for a divorce;
  - (2) weapons are present;
  - (3) the assailant has threatened to kill the victim;
  - (4) the assailant has ease of access to the victim and/or the victim's family;
  - (5) the assailant has a history of prior calls to the police;
  - (6) the assailant has engaged in stalking behavior;
  - (7) the assailant has threatened the children;
  - (8) the assailant has threatened to take the victim hostage;
  - (9) the assailant has killed or mutilated a pet;
  - (10) the assailant has a history of assaultive behavior;
  - (11) the assailant has a history of weapons use;
  - (12) the assailant has threatened suicide; or
  - (13) the assailant has an alcohol and/or drug addiction.

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.1. OVERVIEW

### THE HISTORICAL CONTEXT AND CHANGES IN SOCIETY'S APPROACH TO DOMESTIC VIOLENCE

#### Teaching Goal:

The goal of this objective is to provide the student with a very brief historical overview, including an understanding of how society's approach to dealing with domestic violence has changed, as well as the social costs of domestic violence. This chapter will show the need for a coordinated community response to domestic violence and should lead to a discussion of its importance in reducing domestic violence homicide. This chapter should also lead to a discussion of the role a domestic violence service program can play in a domestic violence case.

#### Learning Focus:

- ❶ What is the role of a domestic violence service program in a coordinated community response to domestic violence?
- ❷ How has society's view and response to domestic violence changed?
- ❸ How does domestic violence affect the entire community?

#### Resources Cited:

*Attorney General's Task Force on Domestic Violence*, U.S. Department of Justice (Washington, DC: 1984).

Bureau of Justice Statistics, U.S. Department of Justice, "Violence Against Women: Estimates from the Redesigned Survey August 1995" by Ronet Bachman and Linda E. Saltzman, *National Crime Victimization Survey*, NCJ-154348 (Washington, DC: August 1995).

Bureau of Justice Statistics, U.S. Department of Justice, *Violence Between Intimates: Domestic Violence*, NCJ 149259 (Washington, DC: 1994).

Bureau of Justice Statistics, U.S. Department of Justice, *Violence-Related Injuries Treated in Hospital Emergency Departments*, NCJ-156921 (Washington, DC: August 1997).

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## OBJECTIVE I.H.1.1. OVERVIEW

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Peter G. Jaffe, David Wolfe, and Susan Kaye Wilson, *Children of Battered Women* (Newbury Park, California: Sage Publications, 1990).

National Institute of Justice, U.S. Department of Justice, "Victim Costs and Consequences: A New Look," *NIJ Research Report* (Washington, DC: NIJ, 1996).

Lewis Okun, *Woman Abuse: Facts Replacing Myths* (Albany: State University of New York Press, 1986).

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.1. OVERVIEW

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### Objective I.H.1.1.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Historical Context and Changes in Society's Understanding of Domestic Violence.**

#### Performance/Testing Criteria:

- a. Describes the changes surrounding society's understanding of and response to domestic violence.
- b. Describes how domestic violence affects the entire community:
  - (1) family, friends, children and even neighbors of the victim are often hurt or killed by the assailant;
  - (2) children suffer physical, psychological, emotional and behavioral trauma from living in a battering environment;
  - (3) medical costs, work loss and public safety costs are significant; and
  - (4) without intervention, children learn that violence is an acceptable way to solve problems and violence remains a continuing community safety problem.
- c. Describes the role of a domestic violence service program in a coordinated community response:
  - (1) provides shelter to victims;
  - (2) provides support and legal advocacy for victims;
  - (3) provides services to children; and
  - (4) some programs provide counseling services to assailants.

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### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** If this section is being taught by a domestic violence service provider, it is important for you to establish your authority to speak on this issue by giving specific information regarding your experience and credentials: academic background if relevant, years of experience working with domestic violence victims and assailants, background in police training, experience with going out on calls, etc. Also, spend a few minutes describing your program: shelter name, geographic service area, how long open, how many beds, number of families housed per year, etc.

**Recommendation:** Service providers are encouraged to meet with the Law Enforcement and Legal Instructors and to sit through their presentations.

**Notes on documentation:** Please note that documentation and statistics have been provided in case students ask for them or you feel they are important to relay, but don't let them overwhelm your presentation.

Because of ongoing investigations into domestic violence, results of studies will vary somewhat and statistics may change over time.

**Discussion:** Instructors should acknowledge that battering can be done by both men and women. You may then use a few statistics to show that the majority of victims of reported domestic violence are women. While domestic violence can be perpetrated by women against men, and also occurs between gay males and lesbians, the predominant social reality is that men are the assailants and women are the victims.

The U.S. Department of Justice reported that the victim was female in over 90 percent of the violence by intimates recorded in the 1987-91 National Crime Victim Survey (Bureau of Justice Statistics, 1994).

(The U.S. Department of Justice defines intimates as spouses, ex-spouses, boyfriends, ex-boyfriends,

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girlfriends and ex-girlfriends [Bureau of Justice Statistics, 1995].)

The U.S. Department of Justice reported that between 1992-93, women were six times more likely than men to be victimized by a spouse, ex-spouse, or individual with whom there was a current or previous sexual or romantic involvement (Bureau of Justice Statistics, 1995).

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**CONTENT TO BE LEARNED BY STUDENT**

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**Note:**

It is very important to acknowledge that the response now being taught differs from the mediation approach to domestic violence that was employed by society, law enforcement *and* social work in the past. The historical information in section (a) is important because it gives students a general background as to why criminal investigation and arrest has supplanted mediation.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



a. **DESCRIBE** the changes surrounding society's understanding of and response to domestic violence.

1. Historically, domestic violence was frequently ignored and sometimes accepted by the legal system and the community. More recently, social workers, family therapists, law enforcement officials, the courts and society viewed domestic violence as **a family matter**; although mediation and counseling might be proposed, the problem was seen as primarily private and the goal was to maintain the family unit. These remedies were ineffective at stopping the violence. Because of new information—research, victim's stories, reports from advocates, social workers, and law enforcement officers—this approach is being replaced throughout the country with criminal investigation and arrest as part of a coordinated community response.

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### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Details of what to look for in determining the likelihood of a situation escalating to the point of homicide will be discussed in Objective I.H.1.8.

**Instructor Example:** Instructors may have examples from recent news reports that demonstrate domestic violence resulting in death or serious injury. For example, you may refer to a local case in which a long history of domestic violence ended in murder/suicide. Examples such as this can be very effective in emphasizing the serious nature of the crime.

**Caution:** Instructors should be careful to use examples as positive teaching tools. This should not turn into a discussion of police procedure unless a law enforcement response instructor is present to lead the discussion.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← b. **DESCRIBE** how domestic violence affects the entire community.

← The cost of domestic violence to society is too high to be ignored.

← 1. Family, friends, children and even neighbors of the victim have been hurt or killed by the assailant.

2. Children may suffer physical, psychological, emotional and behavioral trauma from living in a battering environment. (Jaffe et al.)

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Discussion:** According to a 1996 National Institute of Justice study, domestic crime against adults accounts for almost 15 percent of total crime costs—\$67 billion per year.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

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3. Medical costs, work loss and public safety costs are significant.

Thirty-seven percent of women who sought emergency department treatment for violence-related injuries in 1994 were there for domestic violence related injuries (Bureau of Justice Statistics, 1997).

4. Without intervention, children learn that violence is an acceptable way to solve problems and are at risk of using learned violent behavior to control their partners in dating and adult relationships.

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Emphasize to the students that a coordinated community response is necessary in order to effectively counter domestic violence in a community. Officers should be aware of what domestic violence service programs are doing as a part of this coordinated response.

**Instructor Examples:** Give the students some examples of what a coordinated community response is. Use this as an opportunity to provide additional information about any cooperative relationships you may have with law enforcement agencies, prosecutors, etc. Examples might include:

- a written agreement between the police department and a local domestic violence service program that the shelter will be notified when an arrest is made and that shelter staff will contact the victim and provide information concerning the incarceration status of the assailant when an arrest is made;
- a community task force on domestic violence;
- no drop policies on the part of the prosecutor;
- advocates from the local service program who are available to accompany victims to court.

(All of the above examples are consistent with coordinated community responses recommended by the Attorney General's Task Force on Family Violence.)

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### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

c. **DESCRIBE** the role played by a domestic violence service program in a coordinated community response.



Coordinated community response is a strategy for intervening in domestic violence by holding assailants accountable for their violence and providing information, support and assistance to victims.



This type of response is intended to prevent community collusion with the assailant. Rather than accepting the assailant's rationalization—or "excuses" for battering—all community agencies which respond to domestic violence agree to focus on stopping the criminal behavior and protecting the victim. Assailants are arrested and prosecuted. If found guilty they receive jail terms and/or court-mandated treatment. Probation and parole departments follow up by monitoring the behavior of adjudicated assailants.

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

This is an appropriate time for service providers to describe in greater detail the services your domestic violence program provides, how your services are accessed, and how your agency can help law enforcement officers. Important features are: 24-hour-a-day availability of emergency shelter and crisis phone line; support services provided (especially support groups, individual counseling, court accompaniment, assistance with finding housing, FIA, legal services, etc.). Distribute agency brochures or develop an overhead outlining your services. Encourage students to contact your agency in the future for more information.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

Victims, especially vulnerable to threats and emotional appeals from their assailants, are given information, protection, support and encouragement to participate in the prosecution. Such a response requires the cooperation of various agencies—domestic violence service programs, police, prosecutors, courts, legal services, medical personnel, etc.—to develop protocols, procedures and cooperative working relationships and provide education and training.

In a coordinated community response, domestic violence services:

1. provide shelter to victims;
2. provide support and legal advocacy for victims;
3. provide services to children; and
4. some programs provide counseling services to assailants.

### INSTRUCTOR NOTES



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**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.2. OVERVIEW

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### THE NATURE OF DOMESTIC VIOLENCE

#### Teaching Goal:

The goal of this objective is to provide the students with information that will help them to understand the nature of domestic violence—that it is a pattern of behavior, not an isolated incident. By achieving a basic understanding of what domestic violence is, students will be more likely to act effectively and appropriately when investigating domestic violence.

#### Learning Focus:

- ❶ What are the life circumstances of domestic violence assailants and victims?
- ❷ What patterns of behavior are involved in domestic violence?
- ❸ What is not domestic violence?

#### Resources Cited:

Bureau of Justice Statistics, U.S. Department of Justice, *Violence Between Intimates: Domestic Violence*, NCJ 149259 (Washington, DC: November 1994).

Bureau of Justice Statistics, U.S. Department of Justice, "Violence Against Women: Estimates from the Redesigned Survey August 1995" by Ronet Bachman and Linda E. Saltzman, *National Crime Victimization Survey*, NCJ-154348 (Washington, DC: August 1995).

Bill Ibelle, "Why Batterers Do What They Do. Donald Says the Day of His Arrest was the Luckiest Day of His Life," *Standard-Times of New Bedford* (May 26, 1995).

Lewis Okun, *Woman Abuse: Facts Replacing Myths* (Albany: State University of New York Press, 1986).

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## OBJECTIVE I.H.1.2. OVERVIEW

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Personal Interviews with victims, assailants, counselors and police officers. Hermina Kramp. Michigan Law Enforcement Officers Training Council, 1993. Unpublished.

### **Additional Resources:**

Bureau of Justice Statistics, U.S. Department of Justice, "Female Victims of Violent Crime" (Washington, DC: 1991).

Anne L. Ganley, "The Impact of Domestic Violence on the Defendant and Victim in the Courtroom," in *Domestic Violence: The Crucial Role of the Judge in Criminal Court Cases, A National Model for Judicial Education* (San Francisco: The Family Violence Prevention Fund, 1991) Ch. 2.

Susan Schechter, *Woman and Male Violence* (Boston: South End Press, 1982).

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.2. OVERVIEW

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### Objective I.H.1.2.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Nature of Domestic Violence.**

**Performance/Testing Criteria:**

- a. Recognizes that domestic violence is not limited to any race, age, socioeconomic class, educational level or occupation.
- b. Describes domestic violence as a pattern of learned behavior that the assailant chooses to engage in over time that:
  - (1) is used by assailants to get victims to do what the assailants want;
  - (2) includes a variety of abusive and criminal behavior;
  - (3) includes the use of violence and/or the threat of violence;
  - (4) often increases in severity and frequency over time; and
  - (5) can ultimately end in homicide.
- c. Recognizes that domestic violence is *not*:
  - (1) just an argument or disagreement between partners;
  - (2) a problem that can be worked out by talking;
  - (3) a minor or isolated incident; or
  - (4) caused by drugs or alcohol.

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

The U.S. Department of Justice found that:

Violence against women perpetrated by intimates [is] consistent across racial and ethnic boundaries. No statistically significant differences [exist] between these groups. Black and white women and Hispanic women [sustain] about the same amount of violence by intimates. (Bureau of Justice Statistics, 1995)

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- a. **DISCUSS** how domestic violence pervades all social levels and divisions.



*Neither the victims nor perpetrators of domestic violence are limited to any race, age, socioeconomic class, educational level, or occupation. Some victims are less visible than others. They may have more available resources which allow them to make private arrangements rather than seek police protection in the early stages of violence. For example, a victim who has the ability to flee to a motel and seek a divorce through a private attorney may not show up in the statistics as readily as one who must rely on public shelters and publicly provided legal assistance. It is important to note that even a victim from a higher economic level may have little or no access to money since economic abuse is a common assailant tactic, and any victim might become financially destitute when leaving a spouse or partner.*

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Instructor  
Examples:**

Domestic violence service providers may have examples from personal experience that demonstrate these points. Such examples can be extremely effective and should be used.

**Note:**

The instructor should approach this material as describing what the instructor's experience with domestic violence has been (as a result, for example, of working with victims and/or assailants for a certain number of years). Many students are likely to have their own experience with domestic violence that might be different from the instructor's; this does not make the experience of the students "wrong." The instructor can minimize resistance to this material by avoiding any suggestion that the experience of the students is wrong while that of the instructor is right. The instructor should provide information that the instructor has learned from the instructor's experience.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← b. **DISCUSS** how domestic violence is a pattern of learned behavior and can be controlled by the assailant.

1. **Domestic violence is used by assailants to get victims to do what the assailants want.**  
Domestic violence is learned behavior—assailants use violence because they have learned that it gets them what they want. Frequently it is difficult for others to understand the motivation for violence, especially when it seems illogical or out of proportion to the excuse given. Without effective intervention assailants learn that the use of physical assault and/or threats of harm are no big deal, and since it is effective in getting them what they want they continue their violence.

**Actual case examples:**

*It was like having a new toy. . . . I had the buttons and I could make her do whatever I wanted. I was trying to intimidate her. I wanted control for the simple reason that I knew I could do it. It made me feel powerful. ("Donald," perpetrator of domestic violence, interviewed by Ibelle)*

*When I found it necessary to use physical violence to correct a situation or to get my partner back in line and regain my control, the amount of physical abuse I used was directly related to how my partner was going to respond. If I could shove her and that was going to get her attention, and I could get what I want[ed], then that's all I had to do. Then if that wasn't working, then I'd grab her and throw her down or I would actually hit her. Whatever it took to get her to submit to the situation. . . . (Abuser 1, Personal Interviews, Kramp)*

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** This objective is intended to be introductory. Specifics about assailant behavior in domestic violence is covered in I.H.1.3.

**Discussion:** The following statistic gives evidence that domestic violence is a pattern of behavior rather than an isolated incident; you may wish to use it in support of this section.

According to the Bureau of Justice Statistics, 1 in 5 women victimized by their spouse or ex-spouse reported being victimized by their partner an average of three times in a six-month period (1994).

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



2. **Domestic violence is a pattern of behavior that includes a variety of abusive and criminal behaviors.** These behaviors may include everything from threats and psychological abuse to sexual assault and/or homicide.
  
3. **Domestic violence can include the threat of violence as well as actual violence.**
  
4. **Domestic violence *often* increases in severity and frequency over time.** This is a very important point for law enforcement officials to keep in mind. Knowing that domestic violence is almost always part of an ongoing pattern of abuse can influence an officer to conduct a thorough criminal investigation.
  
5. Understanding the escalating severity of domestic violence, coupled with the knowledge that **it can ultimately end in homicide** is important for avoiding this outcome.

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Instructor Examples:** Use examples from your professional experiences working with victims and assailants to illustrate.

**Note:** Explain to the students that people can be angry with one another without responding with violence. Make sure to point out that a verbal attack by a person who has not been physically assaultive in the past is very different than a verbal attack by a person who has previously used violence.

**Note:** Explain to the class that although alcohol and drug abuse by the assailant is often a factor in domestic violence, it does not *cause* the violence—domestic violence assailants abuse their partners whether intoxicated or sober. However, evidence exists that assailants with a history of severe alcohol and drug abuse are violent more frequently and inflict more serious injuries on their victims than do assailants without this history. (Okun 212)

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← c. **DETAIL** that domestic violence is *not*:
- ← 1. just an argument or disagreement between partners;
2. a problem that can be worked out by talking;
3. a minor or isolated incident; or
- ← 4. caused by alcohol or drug use on the part of either the victim or assailant.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.3. OVERVIEW

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### CRIMINAL AND ABUSIVE BEHAVIORS USED BY DOMESTIC VIOLENCE ASSAILANTS

#### Teaching Goal:

The goal of this objective is to provide students with a description of criminal and other generally abusive behaviors engaged in by the domestic violence assailant. Officers need this background in order to understand the importance of completely investigating and documenting each response.

#### Learning Focus:

- ① What are some of the criminal behaviors used by the domestic violence assailant?
- ② What are some of the additional abusive behaviors used by domestic violence assailants as part of their pattern of abusive behavior?

#### Materials Needed for Suggested Exercises:



Parts from the Michigan State Police video, "Law Enforcement's Response to Domestic Violence" (Time: 70:00)



VCR and monitor

#### Resources Cited:

Phylis Chessler, *Mothers on Trial* (Seattle, WA: Seal Press, 1986).

Mary Ann Dutton, *Empowering and Healing the Battered Woman* (New York: Springer Publishing, 1992).

Jan Hoffman, "When Men Hit Women," *The New York Times Magazine* 16 (Feb. 1992) 22+.

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.3. OVERVIEW

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Susan G. S. McGee, "Why Some Battered Women Stay," from *General Information About Domestic Violence*, compiled by The Domestic Violence Project, Inc./SAFEHouse, Ann Arbor, 1992.

Michigan Women's Commission, *Domestic Assault: A Report on Family Violence in Michigan* (Lansing: State of Michigan, 1977).

National Institute of Justice, "Introduction" in *Domestic Violence, Stalking, and Antistalking Legislation*. Annual Report to Congress (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, March 1996)

Lewis Okun, *Woman Abuse: Facts Replacing Myths* (Albany: State University of New York Press, 1986).

Personal Interviews with victims, assailants, counselors and police officers. Hermina Kramp. Michigan Law Enforcement Officers Training Council, 1993. Unpublished.

### **Additional Resources:**

Anne L. Ganley, "The Impact of Domestic Violence on the Defendant and Victim in the Courtroom," in *Domestic Violence: The Crucial Role of the Judge in Criminal Court Cases, A National Model for Judicial Education* (San Francisco: The Family Violence Prevention Fund, 1991) Ch. 2.

Ellen Pence and Michael Paymar, *Educational Groups for Men Who Batter: The Duluth Model* (New York: Springer, 1993).

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.3. OVERVIEW

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### Objective I.H.1.3.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of the Behaviors Used by Domestic Violence Assailants.

#### Performance/Testing Criteria:

- a. Describes some of the types of criminal behavior used by assailants:
  - (1) physical abuse (e.g., hitting, pushing, shoving, kicking, choking, use of a weapon, etc.);
  - (2) sexual abuse (e.g., forces sex on the victim, physically attacks body parts, rapes the victim in front of the children);
  - (3) threats of violence (e.g., against victim, children, family, friends, etc.);
  - (4) stalking (e.g., following, calling, appearing at victim's home or place of work, etc. (may also include threats));
  - (5) kidnapping;
  - (6) destruction of property; and
  - (7) injuring or killing pets.
  
- b. Describes other types of abusive behavior the assailant may use:
  - (1) emotional abuse (e.g., humiliation, manipulation through lies and mind-games, criticism, name calling, etc.);
  - (2) economic abuse (e.g., keeps the victim from working, controls the finances, makes the victim ask for grocery money, etc.);
  - (3) children used as pawns (e.g., threatens violence against the children, uses parenting time to harass or keep track of the victim, etc.);
  - (4) intimidation to instill fear through looks, gestures and actions (e.g., smashing objects, destroying property, placing self between victim and an escape route, etc.);
  - (5) isolation of the victim by controlling who the victim sees and talks to, belittles the victim's family and friends;
  - (6) threats to commit suicide and leave the victim responsible for the suicide; and
  - (7) repeated threats to engage in the above behaviors.

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Instructor Examples:** Detailing some of the injuries you have seen in your work with victims will give the material in this section a feeling of immediacy.

**Note:** You should use this objective to give clear examples of the types of behaviors an assailant displays to the victim. In the following objective (I.H.1.4.), assailant behaviors in the presence of law enforcement will be discussed.

**Note:** The actual laws relating to these crimes will be covered in Module I.H.2., "Laws Regarding Domestic Violence."

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



a. **DESCRIBE** some of the types of criminal behavior used by assailants:



1. **Physical abuse** is the most obvious type of abuse. It is manifested by hitting, pushing, shoving, kicking, choking, use of a weapon, etc. Physical abuse is not a one-time only incident. Often the level and frequency increases over time, especially without intervention.
2. **Sexual abuse** ranges from the assailant treating the victim as a sexual object to actual rape (regardless of marital status). Sexual abuse becomes criminal behavior when the violent partner forces sex on the victim, physically attacks sexual body parts, or forces the victim to participate in unwanted sexual activities, such as having sex in front of the children.

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Discussion:** A common tactic is to destroy an item belonging to the victim, such as a family heirloom or gift from someone the victim cares about. Discuss the fear and intimidation a victim feels when faced with the choice of leaving all of the family's possessions at home where the assailant has access to them. The assailant may have broken down doors, torn out phones, put holes in the wall, and destroyed toys and other family belongings in the past.

**Discussion:** The assailant may even have killed family pets or have specifically threatened to do so. Pets are sources of comfort to the victim and children. Fear of what the assailant may do is often cited by victims as a reason that they are hesitant to leave, since in most cases pets must be left behind and will become another tool for the assailant to use to intimidate and coerce the victim.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

3. **Threats of violence** (e.g., against victim, children, family, friends, etc.).
  
4. **Stalking** can include following, calling, harassing the victim at home and at work, etc. It can also include threats and "friendly" stalking, where the perpetrator sends unwanted poems, flowers, etc., thereby letting the victim know that the stalker controls the situation and has access to the victim.

**Actual case**     *... he wrote bizarre notes, came to her house, offered her money, and often told her he loved her. ... he said he would wait for her to die and then dig up her body so he could have her.*  
**examples:**     (National Institute of Justice)

*Another woman reported that after staying in a motel for several days "Her husband started calling her place of work to harass her, sent his friends over, and even came to one of her classes at the school where she taught. ..."*  
*Eventually she returned to her husband. (Testimony before the Michigan Women's Commission 38)*

5. **Kidnapping**, or threatening to kidnap, the victim or a child.

← 6. **Destruction** of property.

← 7. **Injuring or killing pets.**

**Actual case**     *One woman witnessed a succession of 12 kittens tortured and eventually killed by her husband. (Dutton 24)*  
**example:**

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Instructor  
Focus:**

In describing various types of assailant behavior, you should stress that the physical violence against a partner is not an isolated incident. It usually occurs in a context of ongoing abuse which is being employed by the assailant in order to gain control over the victim. While some abusive behaviors are criminal in and of themselves, others may point to the presence of violence in the relationship. Stress that the physical assault is usually only one behavior in a pattern of ongoing abuse and violence.

In relating the examples provided for this section, point out that the abusive attitudes and actions are tied to the assailant's attempt to exercise control over the victim, and how, in some of the examples, this results in criminal behavior.

Also, point out that sometimes the assailant's non-criminal abuse has greater impact because in the past it has been backed up with actual physical assaults.

To help emphasize the serious nature of non-criminal abuse, you also may wish to inform the students that some actions that are defined as non-criminal meet Amnesty International's eight categories of psychological torture:

1. isolation of the victim;
2. induced debility, producing exhaustion, weakness, or fatigue (for example sleep or food deprivation);
3. monopolization of perception, including obsessiveness and possessiveness;
4. threats of harm to the victim or the victim's family and friends, and other forms of threat;
5. degradation, including humiliation, name calling and insults, and denial of privacy or personal hygiene;
6. forced drug or alcohol use;
7. altered states of consciousness produced through hypnotic states; and
8. occasional random and variable reinforcers or indulgences, partial reinforcers that keep alive the hope that the torture will cease. (Dutton 26)

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**Actual case  
example:**

*... he would bring the pet. I would never go out and buy the puppy ... because I had already experienced what would happen, but he'd bring the dog home or bring a puppy and the kids would love it. There was always that threat that if you don't do this, that dog's going to be dead. And of course, we'd seen it happen so many times, and he always made the kids watch that, the puppy being hung over the door. (Victim 3, Personal Interviews, Kramp)*



## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** It is important to acknowledge that these behaviors alone do not constitute arrestable offenses. However, knowing that they are used helps provide understanding and highlights that the criminal act does not appear in a vacuum.

**Discussion:** Point out that name calling is not trivial; it erodes the victim's self-esteem and often leads to greater isolation.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← b. **DESCRIBE** other types of abusive behavior the assailant may use:

← 1. **Emotional abuse** may be exhibited by criticism, name calling, humiliation, manipulation through lies and mind-games, sleep deprivation, etc.

**Actual case example:** *For a long time, I wouldn't call Elizabeth by her name. She was "the wife"—my possession, like an object. I realized through counseling that I wouldn't call her Elizabeth—wouldn't even think of her by name—because to do that would be to recognize her as an independent human being. (Okun 126)*

2. **Economic abuse** occurs when an individual controls all the money, making the victim ask for money and account for everything spent; this type of abuse would include denying access to any money the victim might have earned outside the home, or forbidding the victim to obtain a job. For example, the assailant might make the victim ask for grocery or gas money. This is a very effective method of control because the victim is denied the basic resources needed to leave.

**Actual case example:** *The victim is a nurse working in an emergency room. Her assailant continually goes to her place of work and checks each emergency room to see if she is having a sexual relationship with a patient. This harassment resulted in the victim losing a job. (From the case of a Michigan domestic violence victim)*

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Emphasize to the class that threats to gain custody of the children are *not* idle. Courts often award custody and parenting time (what was formerly called visitation is now called parenting time in court orders) to assailants. One study found that 62 percent of fathers who won custody had physically abused their wives during marriage or during the custody struggle. Many victims return to stay with their assailants rather than risk losing their children (Chessler, especially page 72).

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

The implementation of such a tactic may be subtle—it may even seem chivalrous. The individual who claims to believe that a partner should not work and/or handle finances because of their natural “roles” or because the other partner is not capable of handling a particular job or task may end up forbidding the partner to have a job or even to leave the house with money.

- ← 3. **Using children as pawns in order to control or manipulate the victim** (e.g., accuses victim of being a bad parent, threatens violence against the children, uses parenting time (formerly called visitation) to harass or keep track of the victim, assaults the victim in front of the children, removes the children after each violent episode to ensure that the victim will not flee).

**Actual case examples:**

*[He said,] “If you leave, I’ll get custody because you’ll have abandoned me and the kids.” (McGee 7)*

*He beat my little boy real bad. My son was bruised and bloody all over, and he looked just terrible for days. And my husband would point to him and say to me, “Don’t you feel awful you didn’t stop me?” or “You’re some rotten mother not to try and protect your son.” And it seemed to me after awhile that that was why he had beaten the child. Because the boy hadn’t done anything wrong, nothing even to deserve a spanking, much less a beating. (Okun 128)*

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Exercise:**



Show parts of the Michigan State Police video, "**Law Enforcement's Response to Domestic Violence.**" This video has several examples of how assailants use intimidation to gain control over victims. Discuss some of the details from these accounts with the students.

**Discussion:**

Talk about the effects of the assailant's attempts to use isolation to control the victim. Isolation—a tactic used by the assailant to cut the victim off from the outside, from family, friends and other relationships—makes the assailant's emotional abuse more effective. A victim who is isolated is more likely to believe what the assailant says about the victim and the world.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



4. **Using intimidation** by instilling fear through looks, gestures and actions (e.g., smashing objects, destroying property, placing self between victim and an escape route, etc.).

**Actual case examples:**

*When asked . . . why . . . he cut telephone cords in his house, the man shouted, "Why should she talk on something I paid for?" (Hoffman 64)*

*Mike often assured Brenda that if he went to jail, it wouldn't be for wife-beating—it would be for her murder. When he was angry, he would shatter knickknacks or punch a hole in the wall right next to her head. . . . "So I learned how to say 'yes' to him, to diffuse the situation." (Hoffman 28)*



5. **Isolating** the victim by controlling who the victim sees and talks to, criticizing the victim's family and friends.

**Actual case example:**

*One woman came to the shelter shortly after being beaten for talking to a woman neighbor for a few minutes. Her boyfriend's objection was that he had left her a schedule to keep, and socializing wasn't part of it. (Okun 126)*

6. **Threatening to commit suicide** and leave the victim responsible for the suicide. Statistically, suicide and threats to commit suicide on the part of the assailant increase when the victim is leaving the relationship.

7. **Making repeated threats to engage in the above behaviors.**

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.4. OVERVIEW

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### ON-SCENE ASSAILANT BEHAVIOR

#### Teaching Goal:

The goal of this objective is to prepare the student for the manipulative and minimizing assailant behaviors that officers may encounter when responding to domestic violence. It is important for officers to understand the assailant's motivations so that they will not be drawn in.

#### Learning Focus:

- ① What tactics might domestic violence assailants use in presenting themselves to officers?
- ② What are some of the strategies the domestic violence assailant might use in order to intimidate the victim and interfere with the investigation and prosecution of the case?

#### Materials Needed for Suggested Exercises:



The videotape, "Understanding Domestic Violence Behavior: Assailant Interviews" (Time: 20:00)



Parts from the Michigan State Police video, "Law Enforcement's Response to Domestic Violence" (Time: 70:00)



VCR and monitor

#### Resources Cited:

R. Emerson Dobash and Russell Dobash, *Violence Against Wives* (New York: The Free Press, 1979).

Michigan Women's Commission, *Domestic Assault: A Report on Family Violence in Michigan* (Lansing: State of Michigan, 1977).

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.4. OVERVIEW

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Lewis Okun, *Woman Abuse: Facts Replacing Myths* (Albany: State University of New York Press, 1986).

Personal Interviews with victims, assailants, counselors and police officers. Hermina Kramp. Michigan Law Enforcement Officers Training Council, 1993. Unpublished.

### **Additional Resources:**

Anne L. Ganley, "The Impact of Domestic Violence on the Defendant and Victim in the Courtroom," in *Domestic Violence: The Crucial Role of the Judge in Criminal Court Cases, A National Model for Judicial Education* (San Francisco: The Family Violence Prevention Fund, 1991) Ch. 2.

Ellen Pence and Michael Paymar, *Educational Groups for Men Who Batter: The Duluth Model* (New York: Springer, 1993).

### **Objective I.H.1.4.:**

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Assailant Behavior Officers Might Encounter at the Domestic Violence Scene.**

### **Performance/Testing Criteria:**

- a. Describes how assailants may present themselves to officers by:
  - (1) attempting to rationalize their violent behavior by:
    - (a) portraying the victim as "hysterical," alcoholic, mentally ill or otherwise needing to be physically restrained;
    - (b) complaining that they are the real victims in the family; or
    - (c) stating that the victim is destroying the family and the assailant is only trying to keep the family together;

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.4. OVERVIEW

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- (2) denying or minimizing the violence when confronted with evidence of their violent behavior by:
    - (a) making statements such as the victim "bruises easily," or there was "just a little pushing" and no real violence, or the assailant "just got a little out of control"; or
    - (b) stating that there was an argument but "it was nothing and everything is fine now";
  - (3) blaming the victim for the violence by stating that the victim became physical, but not giving a complete description of events that may include:
    - (a) the assailant was attempting to intimidate the victim by breaking objects, pounding walls or threatening injury to children, family, friends or pets;
    - (b) the assailant was physically blocking the victim's means of escape; or
    - (c) the assailant was attempting to force sex on the victim;
  - (4) making complaints to the police against the victim in an attempt to counter any complaint the victim may have made in response to the assailant's violence;
  - (5) appearing to be calm, non-combative and cooperative; or
  - (6) attempting to draw officers in by making statements such as "what would you do", or "you know how it is."
- b. Describes strategies used by the assailant to intimidate the victim to not participate, and to interfere with investigation and prosecution, such as:
- (1) calling the police requesting information on the victim's location;
  - (2) attempting to file false police reports if the victim has left (e.g., missing person, stolen car, kidnapping, etc.);
  - (3) attempting to prosecute the victim;
  - (4) attempting to prevent the victim from following through with a case (e.g., threatens or begs the victim to drop charges, promising to change, etc.);
  - (5) using a variety of strategies to delay court hearings and increase the victim's financial hardship (e.g., changes lawyers, asks for continuances, etc.);
  - (6) giving the victim erroneous information about the criminal justice system to create confusion or prevent the victim from acting (e.g., withholds court notices or gives victim wrong appearance information, etc.); and
  - (7) making reports to Children's Protective Services alleging that the victim is neglecting or abusing the children.

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

In giving personal examples throughout this section, avoid letting the assailants' justifications stand unchallenged—some students might accept the justifications as legitimate. The best examples would show that the assailant's stated motives for violence grossly exaggerated the "cause" or contradicted the effect of that violence. For example, you might know of an incident in which an assailant claimed to have resorted to physical violence because a spouse or partner was trying to break up the family, although it was obvious that the violence was a major cause of the family problems. Be sure to stress that the assailant's justifications can never excuse the violence.

As another example, you might discuss assailants who blame their current partners for the violence even though they are known to have battered previous partners. Make the point that assailants frequently do not limit their violence to one specific relationship.

**Exercise:**



Show the video, "**Understanding Domestic Violence: Assailant Interviews,**" in which two assailants describe their dealings with law enforcement, or select and show applicable portions of "**Law Enforcement's Response to Domestic Violence.**" Direct the students' attention to how the assailants in either video address the following points covered in I.H.1.4.a.: rationalization, blaming the victim and claiming victimization, denial, minimization, calm demeanor, drawing the officer in, etc. Ask questions and/or lead the discussion in such a way that students will draw connections between what the assailants say in the video and what students learned about abusive behavior in the previous module.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← a. **DESCRIBE** how assailants may present themselves in the presence of officers:

1. Assailants often **rationalize** their own violent behavior as having been caused by the victim. They may describe their violent behavior as a simple reaction caused by some action, attitude or condition of the victim.

- (a) For example, an assailant may portray the victim as "hysterical," alcoholic, mentally ill or otherwise needing to be physically restrained. Frequently, the assailant will point to the victim's current condition as evidence of this. While the assailant may appear calm by the time police or others arrive, the recently assaulted victim may still be responding emotionally to the attack.

**Actual case examples:**

*In February of this year, my husband beat me again. He hadn't spoken to me for three months prior to that, and I had said that we had to go to a counselor. In lieu of that, he beat me and kicked me to the floor. Then he kicked my breasts with his shoes on, he kicked my genitals, and I bled and hemorrhaged. That night, he called two people from our church, whom he knew, and asked them to witness how overwrought I was. At the time they arrived, my arms were handcuffed behind my back. He later handcuffed me to the banister. (Victim's testimony before the Michigan Women's Commission 32)*

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

*I would be hysterical and screaming, and the children would be crying, and the police would come in, and to my amazement, his total behavior would just change. He'd be very calm, shake their hand. . . . And he would say, "I've had a bad day. . . . Well, you know. . . ."*  
(Victim 1, Personal Interviews, Kramp)

- (b) Assailants may also complain that they are the real victims in the family.

**Example:** *Before I started dealing with this issue I felt that I had picked all these women that were bad partners and they didn't treat me respectfully, and somehow they were all to blame for the way I chose to act and behave towards them. . . . The night I was actually arrested. . . . I had beaten my partner quite badly: punched her, kicked her, slapped her, thrown her down on the ground, and through all of this, of course, I said, "I was restraining her. She kept coming at me. What am I supposed to do?"*  
(Abuser 1, Personal Interviews, Kramp)

- (c) Another justification assailants give for violence is that they are trying to keep the family together, that the victim is destroying the family.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

2. Assailants will also **deny or minimize** the violence when confronted with evidence of their violent behavior. Assailants commonly attempt to explain that the victim "bruises easily," that there was "just a little pushing" and no real violence, or that the assailant "just got a little out of control." An assailant may admit that there was an argument but say "it was nothing and everything is fine now."

**Actual case examples:**

*He'd always just deny it or say it hadn't happened or say it had been an accident. Even to this day he'll argue, "I never hit you when you were pregnant. That's a lie. That's the last thing in the world I'd do." He still insists he's not a violent man. He'll say, "That's one thing I hate is a man that hits a woman." (Dobash and Dobash 118)*

*Robbie was very resentful about coming to counseling. He said, "I'm not any wife-beater. This happens once, at most twice, a year." In the course of further questioning, he recounted five incidents from the past four months. (Okun 40)*

*John's wife, Lisa, returned to him after a week in the shelter. John called the DVP [domestic violence shelter] demanding to know where Lisa had received the bruises she still bore from his assault on her. The counselor told John that John had done it himself, and that Lisa had looked much worse upon arrival at the shelter. John denied all violence on his part, accused the counselor and other shelter staff of beating Lisa and holding her hostage. Ironically, this accurately describes John's behavior: not only did he beat Lisa with near-fatal results, he kept her under lock and key, with the windows nailed down as well. (Okun 41)*

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

3. The assailant will also **blame the victim** for the violence, stating that the victim was the one who became physical. This type of explanation frequently omits details of the event. For example, the assailant may have been physically hurting the victim, attempting to force sex or physically blocking any means of escape. When showing the officers scratches made by the victim, the assailant may omit that they were made while the assailant was choking the victim.
4. The assailant may **make complaints to the police department against the victim** in an attempt to counter any complaint the victim has made in response to the assailant's violence.
5. The assailant may **appear calm, non-combative and cooperative.**

**Actual case example:**

*The officer came in. My husband was calmly sitting in the living room and he said, "I never touched her officer. It's all in her mind." I said to the officer . . . "Would you like to see the bruises?" . . . I proceeded to roll up my pants leg, held out my arms, and showed him the big, fresh bruises. I ran my fingers through my hair, and it came out by the handful where he had beaten me. (Testimony before the Michigan Women's Commission 46)*

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Assailants also blame their behavior on outside factors such as employment problems, alcohol, drugs, stress. Emphasize to the students that they must not be drawn in by such stories; it is not necessary to judge who is "at fault" or if the assailant had a good reason for being angry. While you or I might think the assailant had a right to be angry, anger does not give an individual the right to assault anyone or to forcefully assert will and control. Stress that the assailant's rationalizations are just that—rationalizations.

You may wish to point out that assailants typically don't beat their bosses, neighbors, etc. when mad or stressed. The fact that they can control their behavior in these settings shows that abuse is not due to a lack of control, anger, stress, or other outside factors commonly cited. It is a choice.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

6. The assailant may attempt to draw officers in by making statements such as "What would you do?" "You know how it is?" or "You seem like a reasonable person. What do you think I should do?"



**Actual case example:**

*It's easy to find an "in" or a "bond" with these guys when you start talking about "the old lady" or the "bitch" because she didn't . . . doesn't raise the kids right, the food was cold, she's been out all night. "What am I supposed to do? I work hard all day. . . ." (Abuser 1, describing his usual demeanor with officers, Personal Interviews, Kramp)*

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**b. DETAIL the strategies that the assailant may use to intimidate the victim to not cooperate, and to interfere with the investigation and prosecution. The assailant may**

1. **call police requesting information on the victim's location;**
2. **attempt to file false police reports** if the victim has left (e.g., missing person, stolen car, kidnapping, etc.);
3. **attempt to prosecute** the victim;
4. **attempt to prevent the victim from following through with a case** (e.g., threaten to physically harm the victim, beg the victim to drop charges, promise to change, etc.);
5. **use a variety of strategies to delay court hearings** and increase the victim's financial hardship (e.g., change lawyers, ask for continuances, etc.);
6. **give the victim erroneous information** about the criminal justice system to create confusion or prevent the victim from acting; or

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**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

7. **make reports to Children's Protective Services** alleging that the victim is neglecting or abusing the children.

**Actual case example:**

*I initiated a Department of Social Services investigation. I went to the Friend of the Court. I went to five different attorneys that I thought she would probably use under the guise of wanting to use them in this case so that she couldn't use them. I used an attorney who was a mutual friend of ours that she had worked for because he knew the judge I was going in front of. . . . (Abuser 1, Personal Interviews, Kramp)*

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.5. OVERVIEW

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### ON-SCENE VICTIM BEHAVIORS

#### Teaching Goal:

The goal of this objective is to provide the student with an understanding of the victim's life and circumstances to allow the student to be able to understand the victim behaviors they will encounter at a domestic violence scene.

#### Learning Focus:

- ❶ What are some of the behaviors common to victims of domestic violence and more general types of trauma?
- ❷ What are some of the behaviors of the domestic violence victim that officers might encounter at the domestic violence scene?
- ❸ What are some of the circumstances in which victims must live?

#### Resources Cited:

Lee H. Bowker, *Ending the Violence: A Guidebook Based on the Experiences of 1,000 Battered Wives* (Holmes Beach, FL: Learning Publications, 1986).

Michigan Women's Commission, *Domestic Assault: A Report on Family Violence in Michigan* (Lansing, MI: Michigan Women's Commission, 1977).

Personal Interviews with victims, assailants, counselors and police officers. Hermina Kramp. Michigan Law Enforcement Officers Training Council, 1993. Unpublished.

Natalie White, "Batterer's Seldom Stop After the First Time. Victims are Caught in a Cycle of Violence," *Standard-Times of New Bedford* (May 21, 1995).

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.5. OVERVIEW

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### **Additional Resources:**

Mary Ann Dutton, *Empowering and Healing the Battered Woman* (New York: Springer Publishing, 1992).

Frank M. Ochberg, *Post Traumatic Therapy and Victims of Violence* (New York: Brunner/Mazel, 1988).

### **Objective I.H.1.5.:**

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Victim Behaviors Officers Might Encounter at the Scene of Domestic Violence.**

### **Performance/Testing Criteria:**

- a. Describes behaviors common to victims of violence or trauma:
  - (1) acts panicked or excited;
  - (2) shuts down or fails to respond; or
  - (3) fails to take action in the belief that things will just somehow work out.

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.5. OVERVIEW

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- b. Describes behaviors domestic violence victims may display at the scene:
  - (1) minimizes or denies the violence;
  - (2) rationalizes the assailant's behavior to attempt to justify it;
  - (3) is reluctant to discuss specifically what happened, especially if the assailant is at the scene;
  - (4) asks police to leave;
  - (5) asks police not to make an arrest;
  - (6) tries to protect assailant from the police;
  - (7) does not want the assailant prosecuted; or
  - (8) expresses anger with the assailant.
  
- c. Describes some of the circumstances in victims' lives that may explain at-scene behavior:
  - (1) victims are frequently isolated as a result of the assailant's control over:
    - (a) activities;
    - (b) friends; or
    - (c) contact with family;
  - (2) victims often must focus on the assailant's whereabouts for self-protection, using survival techniques on a daily basis;
  - (3) victims may believe that the violence can be controlled by:
    - (a) observing and attempting to predict the assailant's behavior;
    - (b) changing their own behavior; or
    - (c) putting the assailant's needs and desires first;
  - (4) victims may blame themselves since:
    - (a) assailants tell victims it is their fault;
    - (b) victims believe they should be able to control the assailant's behavior by changing their own behavior; or
    - (c) victims may be unable to believe that someone who says they love them would inflict abuse; and
  - (5) victims become frustrated because no matter what they do they cannot end the violence.

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Exercise:** Using a flip-chart or overhead projector for displaying responses, an appropriate exercise could start with a class brainstorming exercise that addresses what students may have heard or experienced about victim behaviors at the scene of domestic violence (for example, that the victim won't talk, sides with the assailant, or physically interferes with the officers). Then the students could be instructed to think about those behaviors or to keep them in mind as the following material is being presented. This will help the students gain an understanding of the underlying reasons for the victim's behaviors. Also encourage the students to think about other traumatic incidents or criminal investigations in which similar victim behavior is encountered.

**Note:** Victims' reactions to domestic violence are similar to the reactions of victims of other traumatic experiences. However, the ongoing nature of domestic violence, the relationship between the assailant and victim, and the pattern of the assailant's behavior result in additional reactions in domestic violence victims. Sections (a) and (b) point out both the similarities and the differences between victims of domestic assault and victims of other types of trauma.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



- a. **DESCRIBE** the possible behaviors that are common to victims of any trauma or violence.

The officer will find that many victims of domestic violence display the same behaviors as survivors of *any* life-threatening situation. Whether the victim is male or female, whether reacting to an accident, natural disaster, crime or other catastrophe, survivors tend to display certain characteristic responses. The officer needs an understanding of trauma-induced reactions in order to effectively secure the scene and interview the victim.

While facing the actual violence, victims usually focus primarily on self-protection and survival. As danger levels become overwhelming, individuals may withdraw and fail to recognize or utilize available escape opportunities. Subsequent reactions can include shock, denial, disbelief, fear, withdrawal and confusion.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

1. **Victims may seem panicked or excited.** For example, victims may be unable to relate events in a systematic and logical sequence. They may speak very loudly or quickly, skipping words and thoughts.

A victim's inability to relate events in accurate chronological order does not indicate lying. Head injury or the influence of alcohol or drugs may account for such behavior. In addition, victims focused on immediate survival are not necessarily focused on preserving an accurate account in chronological order for the police report and later prosecution, even when it would help in their long-term safety.

2. **Victims may "shut down"** or become unresponsive. Believing that no one can understand the situation or that blame may be directed toward themselves, victims may withdraw from others, including family and friends. Or the withdrawal may take the form suffered by many survivors of traumatic events, in which the victims become unable to recognize or take advantage of escape opportunities or assistance. The withdrawal may be so complete that victims appear to react automatically to what others suggest.

### INSTRUCTOR NOTES

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

3. After reacting to the immediate violence, **victims sometimes feel that things will somehow work out okay.** They may believe that the violence won't reoccur, that the assailant is genuinely sorry, that they can do something to prevent the violence from happening again, etc. Or they may simply be experiencing the sense of euphoria reported by many victims of traumatic events. As a result, victims may fail to take the action necessary to protect themselves.

### INSTRUCTOR NOTES

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

Emphasize to the students that, unlike most other trauma, domestic violence is not a onetime catastrophe visited upon an individual by chance. Domestic violence is almost always part of an ongoing pattern of abuse perpetrated by an individual with whom the victim has had an intimate relationship. **In fact, those who work with victims of domestic violence point out that victims report that by the time the police are called, the violence has usually been going on for some time and the victims have tried many other means of stopping the violence on their own before calling the police.**

The officer responding to a domestic violence call will encounter many of the survival strategies developed by the victim. Although some of these survival mechanisms may not make sense to an outsider, they have kept the victim alive up to this point. Officers may be less frustrated by these behaviors if they understand the reasons for the behaviors.

**Instructor  
Example:**

Sharing a personal experience based on your work with domestic violence victims would be appropriate here. For example, you may have interviewed a victim who denied or minimized the violence initially. However, after establishing rapport with the victim and asking more specific questions you learned that the situation was actually one of significant ongoing abuse. Any information you can provide the student about establishing rapport would be helpful.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← b. **DESCRIBE** the possible behaviors of victims of domestic violence that officers may encounter at the scene.

1. A victim may **minimize or deny the violence**, saying that nothing happened or that it was not so bad. In doing so, the victim is often acting out of feelings of fear, love or resignation that nothing will help. When relating a battering experience, even to a trusted friend or relative, the victim may still use language that minimizes the violence and injuries in some way.

**Actual case example:**

*"He has never beaten me to the point where I need medical care, rather he limits it to black and blue arms, bloody ears from pulling them so hard while he screams at me, welts on my back from hard slaps and never-ending verbal abuse. . . ." (Bowker 10)*

← Victims may fully acknowledge the violence to themselves but deny or minimize it to the police out of fear that the assailant will retaliate because the victim participated in the investigation.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

On the other hand, victims may minimize or deny the nature of the violence even to themselves, not perceiving it to be as bad as it is.

- Perhaps the victim perceives that society tolerates violence in families or between partners, and therefore feels helpless to stop it.
- Victims may also minimize the nature of the violence to themselves because they love their assailants.
- A victim may believe that the assailant is sorry or that the violence was an aberration. Domestic violence assailants often fluctuate between violence and times of loving contrition. During these times, assailants show remorse, promise to never do it again and may promise to seek help or counseling. An assailant may try to make amends, allow the victim some freedoms and put the victim on a pedestal. An assailant may appear to be vulnerable, discussing past hurts.

Therefore, a victim can rationalize the violent behavior and believe that the assailant is not always violent, that some outside event or circumstance caused the violent behavior, and that there is hope that the victim's love and loyalty will cause the assailant to change.

### INSTRUCTOR NOTES

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Instructor  
Example:**

Domestic violence service providers should share personal experiences based on working with domestic violence victims who rationalized the behavior of their assailants. Such anecdotes will help show how often this type of rationalization occurs, some of the forms it takes, and how difficult it may be for outsiders to understand. It is important to stress that this is the victim's reality and to explain why a victim would rationalize an assailant's behavior.

**Note:**

A victim of domestic violence does not necessarily have any more information about *why* the battering occurs than anyone else in the community and therefore may seek help from professionals—ministers, counselors, etc.—in an attempt to discover the cause of the violence. If the professionals do not have accurate information on domestic violence, and attribute it to drug and alcohol abuse, unemployment, etc., the victim may very well cling to this information and hope that greater understanding or support can stop the violence.

Individuals in relationships that have problems want to believe that they have some ability to make positive changes to fix whatever is wrong. A victim of domestic violence is particularly vulnerable to professionals who attribute the "cause" of violence to a common community problem such as drug or alcohol addiction. Because addiction is a common problem with prescribed methods of treatment leading to recovery, a victim may find it to be a particularly appealing explanation. However, overcoming drug and alcohol addiction will not cause the assailant to stop the violence.

Batterer intervention counselors and batterers point out that drug or alcohol abuse is a common tactic that batterers use because they have learned that society will minimize the violence if it was "caused" by drug or alcohol addiction or use.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



2. A victim may **rationalize the violent behavior** to the point of being willing to take responsibility for causing it. The outbreaks of violence may be attributed to the victim's inability to fulfill a properly supportive role in the face of the stresses and difficulties of the assailant's job or life.

**Actual case example:**

*"I was really, really afraid. I realized that he could really hurt me. What did I do? I tried to make things better. I tried not to provoke him. The only control I felt I had was if I could get him to stop using drugs. So that became my focal point."* ("Laura," a victim interviewed by White)



The victim's sense of reality may come to depend to a great extent on the assailant. Needing to focus on the assailant's whereabouts for self-protection, a victim may use survival techniques—such as prioritizing the assailant's desires and views—on a daily basis. This constant coping can alter perceptions until victims simply accept their assailant's views about the victim and about the world. Victims start to take responsibility for the violence, to believe they can control and eliminate the violence through their behavior—because this is what their assailants tell them. And victims actually may wish to believe they are respon-

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**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

sible, because this would mean they also have the power to stop the violence. An assailant can say a number of things to present the violence as the responsibility of the victim:

**Actual case example:** *"I had just gotten out of the hospital about two weeks ago. [My husband] was leaving for a two month Army stint and he got mad because his uniforms weren't packed and ironed right. That time I got stomped and kicked into unconsciousness. . . ." (Bowker 9)*

Isolation also contributes to a victim's willingness to accept the assailant's charge that the victim is responsible for the abuse. Because of jealousy and possessiveness, the assailant often attempts to increase the victim's reliance on the assailant and the assailant's views by cutting the victim off from contact with family and friends and limiting the victim's behavior.

This can take a number of forms.

**Actual case example:** *"The sad part of it all was he enjoyed the power his meanness gave to him. When I didn't work, I was lazy. When I did, I was only working to meet other men. I could not talk to people who were old friends, or he would embarrass them by being abusive verbally. He would ask friends of my father 'how often they slept with me.' I gradually cut all people out of my life, and it did not matter; he accused me of sleeping with my psychiatrist and any other service persons I encountered." (Bowker 16)*

### INSTRUCTOR NOTES

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Instructor  
Example:**

This would be an appropriate place to run down a list of examples of how assailants have isolated victims. For example, you might talk about an assailant who clocked the mileage on the car or took the keys—or the phone—when leaving the house. Perhaps you have talked with someone who discussed how an assailant forbade work or school, or who drove the victim to and from all destinations. Point out both the psychological and actual physical isolation in which victims may be forced to live.

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### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

The isolation is furthered by friends and family who blame the victim and cut themselves off, especially if the assailant has threatened or retaliated against them in the past or if the victim is unable to end the relationship. Victims may still be in a relationship only because their assailants tracked them down and forced them back, but observers will often believe that staying under even these circumstances involves consent.

← The isolation, in all of its forms, furthers the victim's dependence on the assailant because there is no longer access to others who could provide a reality check on the victim's perceptions.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

3. Victims often **show a reluctance to discuss the specifics** of what happened, especially if the assailant is present.

The victim may be reluctant to talk about the incident because **fear of retaliation from the assailant is greater than fear of the consequences of not cooperating with the police.**

Perhaps the assailant has threatened to harm the victim and/or the children if the victim says anything to the police.

**Actual case examples:**

*"He came back to town once after I had filed for divorce, forced his way into the house, beat me up, and held a gun to my head. One of the children sneaked out of the house and called the police from a neighbor's. I don't know how long it took for the police to arrive, but it seemed that I sat for hours with the gun pointed at me, he screaming obscenities at me and vowing to kill me if I moved." (Testimony before the Michigan Woman's Commission 49)*

*"The only reason that I stayed was fear. It had nothing to do with wanting to be there. It was just total fear of what would happen if I left and had no place to go. Even if you move into an apartment, a man can knock a door down in two minutes. I have seen it done. Before the police can arrive, a woman can be dead. That's fear. That's the fear of leaving somebody." (Testimony before the Michigan Women's Commission 49)*

### INSTRUCTOR NOTES

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Instructor  
Example:**

Again, stories which you personally have heard from victims which show their reluctance to discuss the abuse because of fear or embarrassment would be very effective.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← A victim who has previously been let down by the system when seeking help in the past may believe that nothing can keep the assailant away.

Sometimes when a victim seeks assistance from medical personnel or religious leaders, the assailant is believed, the violence is overlooked or dismissed, or the victim is told to make the best of things.

**Actual case examples:**

*"After we separated I told him if we were to get back together he had to get counseling. He went three times to our family doctor (who is Baptist) who told him to read the Bible and pray to God and I would come back to him. Our doctor told me I should have stayed in the marriage and I was rebelling at God by leaving the marriage." (Bowker 50)*

*"When I went to a mental clinic for help, the Doctor which was a man, made me feel as though I was the one with the mental problem and suggested I use tranquilizers." (Bowker 69)*

In addition, the victim may be embarrassed about the violence. Violence at the hands of a loved one is an intensely personal violation. The victim may also feel ashamed about the personal violation. For example, a victim may be very reluctant to discuss sexual assault. When discussing such assault, the victim may not understand it as rape and may not refer to it as rape.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

4. The victim may ask the police to leave.

**Again, even a victim who called the police might fear the assailant more than the consequences of not cooperating with the police.** The victim may not want to do anything that would make the assailant angrier since the victim may believe that the victim will be at the assailant's mercy once the police have gone.

Victims may also fear the police or other government agencies. Perhaps their assailants have intimidated or scared them by telling them that they will be the ones who get in legal trouble for cooperating with or drawing the attention of the police.

### INSTRUCTOR NOTES

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

**Note:** This would be a good place for instructors to describe any on-call first response teams in their communities.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

5. The victim may **ask the police not to arrest** the assailant.

A victim's request to let the assailant go without arrest can stem from a number of factors:

- fear that an arrest will increase the assailant's violence;
- rationalization of the assailant's behavior;
- belief that the assailant will now change since the assailant may have agreed to counseling;
- anxiety about possible economic consequences, for example, a victim may fear that the family will suffer economically if the assailant misses work because of an arrest; or
- family and/or community pressure to avoid police involvement.



In calling the police, the victim's goal was immediate safety—to stop the violence. After that has been achieved, the victim may:

- believe that the assailant has learned a lesson and will now change;
- fear what the assailant will now do in retaliation; or
- fear the unknown.

In order to proceed, the victim needs accurate information on the legal system and may also need time to absorb the information.

### INSTRUCTOR NOTES

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

It is important for you here to address the victim's fears and possible motivations in resisting police intervention so that officers can understand the victim's reality. The later response section will use this understanding to discuss steps officers can take to avoid placing themselves in jeopardy.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



6. The victim may go so far as to **try to physically protect the assailant from the police.**

Victims' occasional willingness to physically defend their assailants against the police highlights their need to show loyalty to their assailants, thereby revealing their **greater fear** of the consequences of turning against their assailants than of not cooperating with the police. Defense of their assailants may take the form of yelling, calling names, hitting, etc. Taking such drastic action is a strategy victims sometimes might employ out of fear of retaliation upon the assailant's release from jail, fear of the consequences an arrest might have for the family, rationalization, etc.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

7. Victims may insist that they do not want their assailants prosecuted.

Fear of the assailant or the system, rationalization, love, embarrassment, lack of resources can all factor into the victim's desire to avoid getting involved in the prosecution.

**Example:** *The police come to the home. The batterer is so aggressive that the police call for backup. The batterer ends up out on the porch scuffling with police, throws half of them off the porch along with himself. He is giving his partner a message. "You press charges against me, you're dead. If I'll do this to the police, just think of what I'll do to you. This is a lesson you're never going to forget." (Abuser Counselor 3, Personal Interviews, Kramp)*

A victim may have inaccurate information about how to proceed or about the consequences of proceeding. For example, victims sometimes think that their testimony will send their assailants to prison for lengthy periods of time or that they could lose their children if they get involved in the legal system. Or family, friends, a minister, etc. may have persuaded them that prosecution is not the answer to the problem. Assailants may have promised to seek counseling if their victims don't testify against them. A victim may not have the transportation, the child care or the time to commit to a possibly lengthy legal process.

### INSTRUCTOR NOTES

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

8. Victims may **express anger with their assailants**. They may express anger by yelling, calling names, hitting, etc. ***Because of the police presence, victims may feel safe from immediate retribution from their assailants.***

### INSTRUCTOR NOTES

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

Although these items were discussed earlier in this objective, you may wish to use "c." to recap and emphasize the circumstances of victims' lives that lead to their behavior at the domestic violence scene.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



c. **DESCRIBE** some of the circumstances in victims' lives that may explain at-scene behavior.

1. Victims are **frequently isolated as a result of their assailants' control** over their activities, friends or contact with their families.
  
2. Victims are often **forced to use survival techniques on a daily basis**. For example, a victim may need to focus on the assailant's whereabouts for self-protection.
  
3. Victims **may believe that they have some ability to control the violence**. A victim may observe the assailant and try to predict any violent behavior. In order to circumvent the violence, victims may attempt to change their own behavior or to put the needs and desires of their assailants first.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

4. **Victims may blame themselves.** Frequently, assailants convince their victims that their violence is the fault of the victim. The victim may feel responsible for not changing enough to stop the assailant's violence. In addition, a victim may accept blame simply because it is impossible for the victim to believe that someone who professes love would also be violent.
  
5. **Victims may become very frustrated and angry** because the violence continues no matter what they do. Victims often must hide their emotions for fear of their assailants, but they may act upon these feelings, or "explode," when finally feeling safe (i.e., when police are present).

### INSTRUCTOR NOTES

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.6. OVERVIEW

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### CONSEQUENCES VICTIMS FACE WHEN LEAVING

#### Teaching Goal:

The goal of this objective is to provide the student with an understanding of the victim's life and circumstances to allow the student to be able to answer the commonly asked question about domestic violence victims—Why doesn't the victim leave?—and enable them to then focus on the response and investigation of criminal behavior on the part of the assailant.

#### Learning Focus:

- ① What dangers do victims face when attempting to leave?
- ② Why is leaving a process which is difficult for victims?

#### Materials Needed for Suggested Exercises:



The videotape, "Battered Hearts: A Story of Family Violence." S.A.F.E. Place, Battle Creek, Michigan, World Photo Images: 1996.



The videotape, "It's Not OK!" (Time 19:08)



VCR and monitor

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.6. OVERVIEW

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### Resources Cited:

Michael Appel, *From Emergency Shelter to Permanent Housing: The Obstacles to Safe, Decent, Affordable Housing Encountered by Battered Women*, Housing Law Reform Project (Ann Arbor: The Michigan Renters for Housing Rights, 1990).

Lee H. Bowker, *Ending the Violence: A Guidebook Based on the Experiences of 1,000 Battered Wives* (Holmes Beach, FL: Learning Publications, 1986).

Michigan Women's Commission, *Domestic Assault: A Report on Family Violence in Michigan* (Lansing, MI: Michigan Women's Commission, 1977).

Lewis Okun, *Woman Abuse: Facts Replacing Myths* (Albany: State University of New York Press, 1986).

Margo Wilson and Martin Daly, "Spousal Homicide Risk and Estrangement," *Violence and Victims* 8.1 (1993): 3-16.

### Additional Resources:

Mary Ann Dutton, *Empowering and Healing the Battered Woman* (New York: Springer Publishing, 1992).

Anne L. Ganley, "The Impact of Domestic Violence on the Defendant and Victim in the Courtroom," in *Domestic Violence: The Crucial Role of the Judge in Criminal Court Cases, A National Model for Judicial Education* (San Francisco: The Family Violence Prevention Fund, 1991) Ch. 2.

Susan Schechter, *Woman and Male Violence* (Boston: South End, 1982).

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.6. OVERVIEW

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### Objective I.H.1.6.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Consequences Victims May Face as They Consider Leaving the Assailants.**

#### Performance/Testing Criteria:

- a. Describes how victims are at greatest risk when leaving or when the assailant believes the victim is leaving:
  - (1) the risk of homicide increases after separation;
  - (2) victims legitimately fear retaliation against themselves, children and other family members and friends; and
  - (3) victims may feel safer staying since they can then keep track of the assailant.
  
- b. Describes how leaving, like other major life changes, is a process, with barriers for victims that may include:
  - (1) feeling they cannot make it on their own since the assailant told them they cannot;
  - (2) an economical inability to leave and care for themselves and children; or
  - (3) pressure by family, friends, clergy, etc., not to leave; and
  - (4) assurances by the assailant that the violence will stop.

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Introduction:** The following exercise should be commenced without any preliminary discussion so that the students can react to the video spontaneously.

**Exercise:**



Show the first two segments of the video, "**Battered Hearts: A Story of Family Violence.**" A discussion might then take place as to how these victims' experiences tie into the behaviors that were discussed in the previous section. This preliminary discussion could be used to introduce the current section by telling the students that the following information will help them understand the victim's reality.

**Note:**

Domestic violence advocates, police officers, anyone who invests time in working with victims of domestic violence sometimes report feeling frustrated in their attempts to assist the victims because it seems as if many victims just go back to the same violent relationships.

**Instructor Example:**

You may wish to introduce the following module with anecdotal information based on your work with victims of domestic violence. For example, you could talk about a case where you worked with a victim over a number of weeks, only to have the victim return to the assailant. Discuss the fear you felt for the victim, the possible frustration, anger, etc. Stress how individuals need to make their own decisions, and the victim was making decisions based on how the victim perceived reality. This could then lead into the following discussion on victims' fear of leaving and the process they must often go through before being able to permanently break with the assailant.

**Purpose:**

Above all, stress the fact that leaving can be **dangerous** and that often it is a **process** rather than an immediate reaction to a single occurrence of abuse. An anecdote about how a victim worked through the process and was able to leave the assailant would be particularly appropriate.

# NATURE AND PREVALENCE

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**

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**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

a. **DESCRIBE** to the student how victims are at greatest risk when leaving or when the assailant believes that the victim is leaving.

1. A 1993 study found that victims are more likely to be killed by their assailants when they are estranged from their assailants rather than living with them (Wilson and Daly). The risk of homicide is higher in the first two months after separation.
2. In many cases the assailant has frequently threatened to kill the victim and/or the children should the victim ever leave. Having seen the assailant's capability for abuse and violence, **victims who consider leaving their assailants quite legitimately fear retaliation** against themselves, their children, other family members and friends. A victim's attempt to escape further abuse by leaving the situation often results in escalated violence, terror, harassment, stalking, etc. A victim who has attempted to leave and was stalked or retaliated against in the past might be especially afraid to try again.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

3. In addition to fearing retaliation, **a victim may feel safer staying where the assailant can be closely monitored** and where the victim can try to satisfy all of the assailant's demands in an attempt to avoid more violence. Since often victims' lives have been reduced to focusing on their assailants' whereabouts and moods in order to protect themselves, they may feel safer staying with their assailants since staying allows them to stay tuned to their assailant. The idea of leaving may feel like turning their backs to their assailant, which could be very dangerous.

Although this might seem illogical to outsiders, especially those who know that assailants often escalate the level of violence over time, it has its own internal logic for the individual living in the situation. A victim may believe that greater violence can be avoided by staying, even if, in fact, it cannot. **Since nothing the victim did caused the violence, nothing the victim does will stop it.**

### INSTRUCTOR NOTES

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Discussion:**

In order to back up the argument that leaving is a process for the victim, you may wish to use the following statistic.

In a study of victims staying in a domestic violence shelter, Okun found that domestic violence victims separated from their assailants an average five times before finally leaving for good. (Okun 198)

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

- b. **EXPLAIN** that the victim's decision to leave is the result of a *process*, during which victims must overcome a number of barriers.

A victim may not be able to make the life-changing decision to leave an assailant during a particular moment of crisis; anyone would have trouble making an informed, rational decision at such a time.

The experience of those working with victims is that many victims eventually leave their abusers.

However, leaving is usually a process, and one intervention may not prevent return calls. A victim may need to "test the waters," to go through the process a few times before feeling capable of making a final decision to leave; each successive leaving might be used to test the various systems as the victim prepares for the final break. The following discussion examines a few of the considerations a victim must work through in making the decision to leave.

### INSTRUCTOR NOTES



**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

1. **Victims may not believe they can make it on their own.**

**Victims may believe they cannot make it on their own because their assailants tell them they cannot.** Victims' lives often revolve around their assailants, and the enforced isolation can narrow their world to the point that they may lack basic knowledge about how to seek assistance in setting up independent lives. In addition, victims frequently lose self-confidence as a result of the abuse. Therefore, when their assailants tell them they cannot make it, they believe the assailants.

**Actual case example:**

*"My husband not only convinced me that I was 'ugly, useless, underdeveloped, and not fit to be called a human being' but he managed to convince two of our three children the same."*  
(Bowker 16)

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Victims of domestic violence who wish to leave their assailants may also face the very real possibility of homelessness. A 1989-1990 Michigan survey showed that sixty percent of women who return to abusive partners do so because of lack of housing (Appel).

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



2. **Victims may also be economically unable to leave and care for themselves and their children.**

(a) Finding affordable housing or even obtaining the money to start up a household may seem like insurmountable obstacles. For example, many victims do not work outside the home, or are not allowed to, and depend on their assailants for the family income. On the other hand, victims who work outside of the home may fear that threats and harassment from their abusers will threaten their jobs.

**Actual case examples:**

*Acknowledging that she had a little more mobility than some women because she had her own credit cards, a car and a little money, one victim reported that such items didn't usually do her much good: "Usually, before he put me out, he would go through my purse and take my keys, credit cards, and money. The last time, apparently, he forgot, and I managed to get out with my car keys and \$30.00. It was two a.m., and I drove around and inquired at several motels and made a number of calls before I finally found a vacancy." (Testimony before the Michigan Women's Commission 38)*

*"During those 10 years, I lost a lot of jobs because of the beatings. Once he came right to my place of work and beat me up. I eventually lost my job. A couple of jobs I lost because I was just too beaten up to go to work." (Testimony before the Michigan Women's Commission 50)*

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

- (b) Victims may feel unable to leave because of a chronic illness or health problem.

A victim who has a chronic illness or disability that is covered under a partner's health insurance may face losing coverage by leaving. Victims with physical or mental disabilities may lack the necessary support in the community, or even the ability to identify options or positive courses of action to escape the violence. In addition, alcohol or drug addictions may inhibit a victim's ability to assess the situation and take action to change it.

### INSTRUCTOR NOTES

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

3. In addition, a victim may be pressured by family, friends, clergy, etc., not to leave.

Many individuals and institutions still prioritize keeping the family together no matter what the circumstances are. A parent may feel additional pressure to stay with the children's other parent. The victim may believe that the children should live with both parents regardless of what the assailant has done to the victim. The victim may feel an obligation to keep the family together if the assailant is not abusive to the children.

**Actual case examples:**

*"I appealed to my parents for help, but they believe that a woman belongs with her husband, regardless of what he does. They told me I deserved my beatings because the wife's place is in the home and my desire to go to school was just an attempt to be superior to him." (Testimony before the Michigan Women's Commission 90)*

*"The feeling I got from our church was that I was to suffer in silence. (Since we have separated they will not associate with me.)" (Bowker 73)*

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Exercise:**

Show the last segment of the video "It's Not OK!" Lead the class in a discussion exercise relating the video to the last two teaching segments.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

4. A victim may believe that the relationship is fine apart from the violence because the violence is sporadic, the assailant acts remorseful, the victim believes the assailant and cares about the assailant; the victim just wants the violence to stop. The victim may believe that police intervention will scare the assailant enough to stop future assaults.

**Actual case examples:**

*"Each time he beat me, my husband would say, 'Oh, I am so sorry. I didn't mean to hurt you. I'm going to change.' Well, when you love somebody, you believe him. I kept thinking that he was going to change. He would really light into me bad, and then he would be so sorry. He'd say that he would never do it again and he really loved me and he loved the kids and he would try harder.*

*So then he might go for two or three months before it would happen again. Nothing really ever triggered it off. One time I burned an egg and he went into a rage, which is ridiculous. One time I went out and totally destroyed our car. I hit a deer and completely demolished the car and he never said a word." (Testimony before the Michigan Women's Commission 46)*

*My husband "says he loves me, and every time I would take the boys and leave or file for divorce he'd cry and promise me the moon. Within a week, things would start over as before." (Bowker 104)*



**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.7. OVERVIEW

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### CONSEQUENCES VICTIMS FACE WHEN PARTICIPATING IN PROSECUTION

#### Teaching Goal:

The goal of this objective is to provide the student with an understanding of the difficulties a victim faces when considering whether or not to pursue a case through the criminal justice system. Understanding the motivations may help officers avoid the frustration they often feel when a victim does not wish to participate in the prosecution.

#### Learning Focus:

- ① What are the physical dangers a victim might face when trying to participate in the prosecution of a domestic violence assailant?
- ② What are some of the obstacles placed in the path of a domestic violence victim who is attempting to cooperate in the prosecution of the assailant?

#### Resources Cited:

Final Report of the Michigan Supreme Court Task Force on Gender Issues in the Courts (Lansing, 1989) 27.

Natalie White, "Batterer's Seldom Stop After the First Time. Victims are Caught in a Cycle of Violence," *Standard-Times of New Bedford* (May 21, 1995).

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.7. OVERVIEW

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### Objective I.H.1.7.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Consequences Victims May Face When Following Through with a Case in the Criminal Justice System.**

### Performance/Testing Criteria:

- a. Describes the life threatening consequences the victim may face for proceeding:
  - (1) the assailant may threaten the victim, the children, the victim's family or friends to prevent the victim from cooperating;
  - (2) the system cannot assure the victim's safety from the assailant if the victim cooperates; and
  - (3) the assailant knows where to find the victim and can continue to intimidate the victim throughout the investigation and court process.
  
- b. Describes the numerous obstacles to cooperating which the victim may face:
  - (1) the victim may have suffered consequences for following through in the past;
  - (2) the assailant knows the victim and can interfere with the victim's ability to appear in court by:
    - (a) preventing mail from reaching the victim; or
    - (b) misinforming the victim about court dates and times, etc.;
  - (3) the time demands that prosecution makes may drain the victim's resources:
    - (a) continuances and other system or defense initiated delays may cost the victim time from work; or
    - (b) numerous court appearances may be a financial drain due to the costs of child care and transportation, etc.;
  - (4) family and friends may pressure the victim not to cooperate; and
  - (5) the victim may lack information about the criminal justice system.

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.7. OVERVIEW

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## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Victims often seem unwilling to follow through in the prosecution of their assailants. In order to reduce frustration when encountering this behavior, officers need to have an understanding of the possible consequences that victims face in deciding to assist in the prosecution of their assailants.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

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a. **DESCRIBE** how a victim may face serious or life-threatening consequences from the assailant for proceeding.

1. The assailant may have threatened to kill or injure the victim and/or the children in order to prevent the victim from cooperating. The victim has experienced the assailant's violence and legitimately fears that the threats will be carried out. In addition, the assailant may threaten the victim with possible legal consequences of cooperating. For example, the assailant may say that the victim will not be believed, that the assailant will be found innocent and be able to use this finding against the victim to gain custody of the children.

**Actual case example:**

*An example of a victim being pressured to drop assault charges is reported by the Michigan Supreme Court Task Force on Gender Issues in the Courts. One witness to the Task Force testified that she was "advised by her attorney to drop felonious assault charges against her husband lest the judge put her children in foster care." (From the Final Report of the Michigan Supreme Court Task Force on Gender Issues in the Courts 23)*

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

2. **The system cannot always provide safety from the assailant to the victim who participates.** There have been cases of prosecuted assailants who return to assault the victims. A victim may have experienced this first-hand or heard stories of it. The victim is very likely to have been threatened with such retaliation by the assailant.
  
3. **Assailants know where to find their victims**—they may still be living together—and can continue to intimidate their victims throughout the investigation and court process.

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Make the point to the students that victims' fears of cooperating with the criminal justice system will, hopefully, lessen as communities develop coordinated responses. However, past system failures may legitimately cause the victim to be concerned about whether or not trying to work through the criminal justice system will be of great enough benefit to be worth the risks.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**b. DESCRIBE how victims may face numerous obstacles to cooperating.**

- 1. The victim may have had a bad experience within the criminal justice system in the past and suffered consequences for following through.** For example, case loads may dictate that the prosecutor responsible for the current proceeding meets with the victim for the first time only minutes before the start of the proceeding, making it difficult for the prosecutor to effectively proceed with the case. Perhaps the victim has experienced this and feels that cooperating is futile. In addition, the victim may not have been believed in past attempts to gain assistance from the criminal justice system. The judge may have refused to grant a Personal Protection Order (PPO), or granted a "mutual restraining order," implying that the victim was partly at fault for the violence.

**Actual case examples:**

*The Task Force reported that prosecutors sometimes encourage victims to drop charges through the use of devices such as a "cooling off period" because the prosecutors anticipate that the victim will not follow through anyway. (From the Final Report of the Michigan Supreme Court Task Force on Gender Issues in the Courts 28)*

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

*An advocate, who gave testimony before the Task Force, told about a judge who "admonished both my client and the assailant for their 'childish' behavior and encouraged them to 'act like adults for the kid's sake,' after the assailant had forcibly entered the woman's apartment and attempted to strangle her." (From the Final Report of the Michigan Supreme Court Task Force on Gender Issues in the Courts 23)*

**2. Assailants know their victims and can interfere with their ability to appear in court, etc.**

In the past, some jurisdictions failed to take into account some of the unique aspects of a domestic violence case. For example, the assailant knows where to find the victim and may even live in the same residence. This provides an opportunity to interfere with the victim through tactics such as preventing mail or subpoenas from reaching the victim or misinforming the victim about court dates and times.

### INSTRUCTOR NOTES

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

- 3. Prosecution may make demands that drain the victim's resources.** This can happen when continuances and other system- or defense-initiated delays cost the victim time from work or when numerous court appearances cause a financial drain due to child care costs, transportation, etc. A victim can become exhausted physically, emotionally and financially by the process.

### INSTRUCTOR NOTES

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

4. **The assailant, family and friends may pressure the victim not to cooperate.** For example, if the violence has ceased since the arrest, assailants may tell their victims that they have learned their lessons and may beg and plead with the victims to not follow through. Also, the victim may be told by family and/or friends that the assailant has overcome the violent behavior and that to assist in prosecution would gain nothing and only hurt the family further.

**Actual case example:**

*"His mother wanted me to go to the hearing and testify for him so he could get out. Her thing was you shouldn't hold hate. You have to forgive and go on. She told me [he] didn't mean to do that. Now, he wants to start a new life, he isn't doing drugs, he needs another chance."*  
("Laura," a victim interviewed by White)

5. **Victims may not know their way around the criminal justice system.** Victims may feel intimidated and not know how to get the information they need or how to protect their interests. They should be referred to domestic violence service programs for assistance.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.8. OVERVIEW

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### INDICATORS OF WHEN AN ASSAILANT MIGHT KILL

#### Teaching Goal:

The goal of this objective is to provide students with an understanding that domestic violence is potentially lethal and to give students an understanding of some common indicators of when an assailant might kill.

#### Learning Focus:

- ① What are some of the common indicators that domestic violence may become lethal?
- ② Why is it important that officers determine the potential for homicide even when the assailant is no longer present at the domestic violence scene?
- ③ Why is it important to believe domestic violence victims when they say they are afraid that their assailants will try to kill them?

#### Resources Cited:

Bureau of Justice Statistics, U.S. Department of Justice, *Violence Between Intimates: Domestic Violence*, NCJ 149259 (Washington, DC: 1994).

Barbara Hart, *Confronting Domestic Violence: Effective Police Response*, Pennsylvania Coalition Against Domestic Violence (Pennsylvania: 1990).

Peter M. Marzuk, Kenneth Tardiff, and Charles S. Hirsch, "The Epidemiology of Murder-Suicide," *Journal of the American Medical Association* 267 (June 1992): 3179-83.

E. P. Stuart and J. C. Campbell, "Assessing Patterns of Dangerousness with Battered Women," *Issues in Mental Health Nursing* 10 (1989): 245-60.

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.8. OVERVIEW

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### Objective I.H.1.8.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Indicators that Can Assist Officers in Assessing When an Assailant Might Kill.**

#### Performance/Testing Criteria:

- a. Describes the importance of understanding common indicators of a life threatening situation:
  - (1) some assailants are more likely to kill in certain circumstances; and
  - (2) because victims know their assailants better than anyone, they know when their lives are in danger and *must* be believed when they state they are in danger.
  
- b. Describes the importance of assessing the lethality at each intervention:
  - (1) the assailant may have left the scene upon officer arrival;
  - (2) the assailant knows the victim and therefore can predict the whereabouts of a victim and the victim's family; and
  - (3) the assailant may be stalking the victim.
  
- c. Describes indicators of a potential life-threatening attack by the assailant:
  - (1) the victim has left or the assailant has discovered the victim is about to leave or file for a divorce;
  - (2) weapons are present;
  - (3) the assailant has threatened to kill the victim;
  - (4) the assailant has ease of access to the victim and/or the victim's family;
  - (5) the assailant has a history of prior calls to the police;
  - (6) the assailant has engaged in stalking behavior;
  - (7) the assailant has threatened the children;
  - (8) the assailant has threatened to take the victim hostage;
  - (9) the assailant has killed or mutilated a pet;
  - (10) the assailant has a history of assaultive behavior;
  - (11) the assailant has a history of weapons use;
  - (12) the assailant has threatened suicide; or
  - (13) the assailant has an alcohol and/or drug addiction.

# NATURE AND PREVALENCE

## OBJECTIVE I.H.1.8. OVERVIEW

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## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

According to the Bureau of Justice Statistics (1994), about a third of all female murder victims over age 14 are killed by an intimate compared to 4% of male murder victims. These figures represent cases in which the relationship between the victim and offender was known (61% of the cases).

In addition, while the number of women killed by intimate partners *rose* from 1,396 in 1977 to 1,510 in 1992, the number of men killed by intimates *fell* from 1,185 in 1977 to 657 in 1992. In other words, of all adults killed by intimates, the percentage of women rose from 54% to 70% over a fifteen-year period.

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- a. **STRESS** the criticality of understanding common indicators of when the assailant might kill.

According to the Bureau of Justice Statistics, about 1,500 women are killed by their husbands, ex-husbands or boyfriends each year. (The total number of female homicide victims each year is about 5,000).

← **The very magnitude of the problem shows how crucial it is that officers assess each domestic violence situation for the possibility of its becoming lethal.**

1. No foolproof method exists for assessing the possibility that domestic violence will lead to homicide. However, **some assailants are more likely to kill their partners than others, and some assailants are more likely to kill under certain circumstances.**
2. **One of the most important indications that a situation may become lethal is the word of the victim.** Victims know their assailants better than anyone—they know when their lives are in danger and they *must* be believed when they state they are in danger. However, if victims say they are not in danger, they may be coping with the violence by underestimating it. Therefore, officers should conduct a thorough lethality assessment.

## NATURE AND PREVALENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Instructor:** This section is about homicide prevention. A powerful way to illustrate indicators of lethality would be to use news clips about domestic homicides in your local community.

**Example:**

**Note:** Materials utilized in developing sections b and c were: *Confronting Domestic Violence: Effective Police Response* and "Assessing Patterns of Dangerousness with Battered Women."

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← b. **EMPHASIZE** the importance of assessing the lethality at *each* intervention.

An assessment of potential lethality must be conducted for each domestic violence call. The process for conducting a lethality assessment will be taught in section I.H.3.11. An assailant who stopped short of trying to kill a partner in the past may escalate the violence to the point of lethality over time or in certain situations.

An assessment of potential lethality must be conducted **even when the assailant has already left the scene**. The assailant knows the victim and can predict the victim's whereabouts and the whereabouts of the victim's family. Therefore, the assailant can easily stalk the victim and wait for an opportunity to strike.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**c. DETAIL the indicators of a potential life-threatening attack by the assailant.**

Although there is no unfailing method for determining if a particular assailant will try to kill a particular victim in a given situation, there are a number of indicators to help in the assessment. Officers should be aware that multiple indicators may be present in a particular situation and/or the level of intensity of the indicators may vary.

1. The **victim has left** or the assailant has discovered the victim wants to leave or file for separation or divorce.
2. **Weapons are present.** If assailants possess weapons, especially guns, and have used or have threatened to use them against victims, other family members or themselves, this is a strong indication that they will attempt to do so.
3. The assailant has **threatened to kill.** Assailants' threats to kill their victims, other family members or themselves must be taken very seriously.
4. The assailant has easy **access to the victim** and/or the victim's family.

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## NATURE AND PREVALENCE

### CONTENT TO BE LEARNED BY STUDENT

5. A **history of prior calls** to police can help determine lethality. A prior history can give officers information as to the previous severity of violence shown by a particular assailant. A history of prior calls may also be an indicator of the potential severity of violence in and of itself—assailants often escalate the level of violence with repeated occurrences over time.
6. If the assailant and victim are separated, **stalking behavior** may be an indication that the assailant is willing to engage in life-threatening behavior. This is especially true if the assailant has expressed the sentiment, "If I can't have you, no one will."
7. The assailant has **hurt or threatened the children**.
8. The assailant has **threatened to take the victim hostage**.
9. The assailant has **killed or mutilated a pet**. Pets are often killed by domestic violence assailants in order to make themselves appear capable of killing and to back up their death threats against people.
10. The assailant has a **history of assaultive behavior** against others.
11. The assailant has a **history of weapons use**.
12. The assailant has **threatened suicide**.
13. The assailant has an **alcohol and/or drug addiction**.

### INSTRUCTOR NOTES

**NATURE AND PREVALENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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<b>14</b>	<b>PROCEDURAL REQUIREMENTS IN RESPONDING</b>	<b>I.H.2.13.</b>
<b>15</b>	<b>LEGAL APPENDIX: DOMESTIC VIOLENCE STATUTES AND RELATED FORMS</b>	



# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Module Goal:

The goal of this module is to provide the student with an understanding of the laws regarding domestic violence. Domestic violence is criminal behavior and encompasses a broad spectrum of substantive crimes. Students should understand that law enforcement officers have a responsibility to conduct a thorough criminal investigation and make an arrest when there is probable cause to believe a crime has been committed. In addition, this module will provide the student with an understanding of Personal Protection Orders (PPOs) and the responsibility of law enforcement officers to make an arrest when there is probable cause to believe a PPO has been violated.

### Instructor Requirements:

This module must be taught by an attorney admitted to the Michigan Bar. It is strongly recommended that the instructor have experience working with domestic violence cases and have successfully completed the Training Council approved Domestic Violence Instructor Training Course or a similar training program. A list of experienced attorneys who have attended this or similar training is contained in Appendix C and is available from the MLEOTC. To provide the proper focus for these materials, and to be consistent with the other modules being taught, the instructor should use these instructor materials in preparing and teaching this module.

### Number of Hours of MLEOTC Mandated Instruction:

3 hours

### Summary of Module Objectives:

- ① Demonstrate an Understanding that Domestic Violence is a Law Enforcement Issue.
- ② Demonstrate an Understanding of Substantive Criminal Law as it Relates to Domestic Violence.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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- ③ Demonstrate an Understanding of the Options Available to the Court in Sentencing and Adjudication in Domestic Violence Cases.
- ④ Demonstrate an Understanding of the Crime of Stalking.
- ⑤ Demonstrate an Understanding of the Crime of Aggravated Stalking.
- ⑥ Demonstrate an Understanding of the Authority of a Police Officer in Enforcing Domestic Violence Laws.
- ⑦ Demonstrate an Understanding of a Domestic Relationship Personal Protection Order (PPO).
- ⑧ Demonstrate an Understanding of a Non-Domestic Stalking Personal Protection Order (PPO).
- ⑨ Demonstrate an Understanding of the Court Procedures Related to Personal Protection Orders (PPOs).
- ⑩ Demonstrate an Understanding of Enforcement of Domestic Relationship and Non-Domestic Stalking Personal Protection Orders (PPOs).
- ⑪ Demonstrate an Understanding of Personal Protection Orders (PPOs) and Their Effect on Firearm Purchase or Possession.
- ⑫ Demonstrate an Understanding of Probable Cause (Reasonable Cause) as It Relates to Domestic Violence.
- ⑬ Demonstrate an Understanding of the Procedural Requirements When Responding to Domestic Violence.

### Learning Focus:

- ① What are some of the substantive crimes which can be found in domestic violence investigations?
- ② What unconsented contact constitutes stalking?
- ③ Under what circumstances does stalking behavior constitute aggravated stalking?
- ④ What is the authority of a police officer to enter the scene of a domestic violence complaint and to make an arrest?
- ⑤ What is the authority of a police officer in enforcing Personal Protection Orders (PPOs)?

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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- ⑥ What are the facts and circumstances necessary to establish probable cause?
- ⑦ What are the procedural requirements relevant to domestic violence investigations?

### **Teaching Requirements:**

Each student must pass a comprehensive examination to be certified as a law enforcement officer in Michigan. The instructional materials contained in this module are designed to provide direction to your instruction to ensure the students receive the preparation they require to successfully perform the tasks outlined in the module objectives. Unless the objectives are properly taught, it will not be possible for the students to demonstrate competence in this area.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.1.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding that Domestic Violence is a Law Enforcement Issue.**

#### Performance/Testing Criteria:

- a. Describes why domestic violence is a law enforcement issue:
  - (1) domestic violence is criminal behavior;
  - (2) law enforcement intervention is critical to beginning the process of stopping the violence:
    - (a) arrest is the first step in the criminal justice process;
    - (b) arrest sends the message that domestic violence is criminal behavior and will not be tolerated; and
    - (c) arrest provides immediate safety to the victim, children, and the community; and
  - (3) domestic violence related homicides can often be prevented.
- b. Identifies that a coordinated community response is the most appropriate intervention in domestic violence because:
  - (1) the assailant is held accountable for the violence;
  - (2) information, support and assistance are provided to the victim; and
  - (3) community systems work together to help keep victims and children safe and to help end the violence.
- c. Identifies the importance to successful prosecution of:
  - (1) thorough criminal investigation;
  - (2) arrest;
  - (3) complete and accurate documentation in a written report; and
  - (4) assistance to the victim.
- d. Identifies that there is liability associated with an officer's failure to respond properly to a domestic violence incident.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.2.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Substantive Criminal Law as It Relates to Domestic Violence.**

### Performance/Testing Criteria:

- a. Identifies crimes likely to be committed in a domestic violence incident:
  - (1) murder;
  - (2) manslaughter;
  - (3) assault, including:
    - (a) assault;
    - (b) assault and battery;
    - (c) aggravated assault;
    - (d) felonious assault;
    - (e) assault with intent to do great bodily harm less than murder;
    - (f) assault with intent to commit criminal sexual conduct;
    - (g) assault with intent to maim; and
    - (h) assault with intent to commit murder;
  - (4) stalking and aggravated stalking;
  - (5) home invasion;
  - (6) breaking and entering;
  - (7) malicious destruction of property;
  - (8) weapons offenses;
  - (9) criminal sexual conduct;
  - (10) kidnapping;
  - (11) parental kidnapping;
  - (12) arson;
  - (13) child abuse;
  - (14) drug offenses;
  - (15) cruelty to animals; and
  - (16) violations of local ordinances.
  
- b. Identifies that Michigan law provides an enhanced penalty of imprisonment for not more than 93 days or a fine of not more than \$500, or both, where:
  - (1) the assailant is convicted of assault or assault and battery; and

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.2. (continued):

- (2) the relationship between the assailant and the victim is:
  - (a) spouse or former spouse;
  - (b) reside or resided together in the same household; or
  - (c) has had a child in common.
  
- c. Identifies that Michigan law provides an enhanced penalty of imprisonment for not more than 1 year or a fine of not more than \$1,000, or both, where:
  - (1) the assailant is convicted of assault or assault and battery;
  - (2) the relationship between the assailant and the victim is:
    - (a) spouse or former spouse;
    - (b) reside or resided together in the same household; or
    - (c) has had a child in common; and
  - (3) the assailant has previously been convicted of one of the following crimes committed against a spouse or former spouse, or a person with whom the assailant resides or resided together in the same household or has had a child in common:
    - (a) assault or assault and battery;
    - (b) violation of a substantially corresponding local ordinance;
    - (c) aggravated assault;
    - (d) felonious assault;
    - (e) assault with intent to commit murder;
    - (f) assault with intent to do great bodily harm; or
    - (g) assault with intent to maim.
  
- d. Identifies that Michigan law provides an enhanced penalty of imprisonment for not more than 2 years (a felony) or a fine of not more than \$2,500, or both, where:
  - (1) the assailant is convicted of assault or assault and battery;
  - (2) the relationship between the assailant and the victim is:
    - (a) spouse or former spouse;
    - (b) reside or resided together in the same household; or
    - (c) has had a child in common; and
  - (3) the assailant has previously been convicted *two or more* times of the following crimes committed against a spouse or former spouse, or a person with whom the assailant resides or resided together in the same household or has had a child in common:
    - (a) assault or assault and battery;

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

### Objective I.H.2.2. (continued):

- (b) violation of a substantially corresponding local ordinance;
  - (c) aggravated assault;
  - (d) felonious assault;
  - (e) assault with intent to commit murder;
  - (f) assault with intent to do great bodily harm; or
  - (g) assault with intent to maim.
- e. Identifies that Michigan law provides an enhanced penalty of imprisonment for not more than 2 years (a felony) or a fine of not more than \$2,500, or both, where:
- (1) the assailant is convicted of aggravated assault;
  - (2) the relationship between the assailant and the victim is:
    - (a) spouse or former spouse;
    - (b) reside or resided together in the same household; or
    - (c) has had a child in common; and
  - (3) the assailant has previously been convicted of one or more of the following crimes committed against a spouse or former spouse, or a person with whom the assailant resides or resided together in the same household or has had a child in common:
    - (a) assault or assault and battery;
    - (b) violation of a substantially corresponding local ordinance;
    - (c) aggravated assault;
    - (d) felonious assault;
    - (e) assault with intent to commit murder;
    - (f) assault with intent to do great bodily harm; or
    - (g) assault with intent to maim.
- f. Identifies that the law enforcement agency shall immediately fingerprint the assailant and shall forward the fingerprints to the state police within 72 hours of the arrest of the assailant in all of the following:
- (1) felony;
  - (2) misdemeanor assault or assault and battery where the relationship between the assailant and the victim is:
    - (a) spouse or former spouse;
    - (b) reside or resided together in the same household; or
    - (c) has had a child in common; and
  - (3) any other misdemeanor for which the maximum possible penalty exceeds 92 days imprisonment or a fine of \$1,000, or both.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.3.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Options Available to the Court in Sentencing and Adjudication in Domestic Violence Cases.**

#### Performance/Testing Criteria:

- a. Identifies that the court may delay proceedings and place the assailant on probation without entering a judgment of guilt where:
  - (1) the assailant pleads guilty to or is convicted of assault, assault and battery, or aggravated assault;
  - (2) the assailant has not been convicted previously of assault, assault and battery, violation of a substantially corresponding local ordinance, or aggravated assault;
  - (3) the relationship between the assailant and the victim is spouse, former spouse, reside or resided together in the same household, or has had a child in common;
  - (4) the victim and the prosecutor consent;
  - (5) the assailant has not previously used this procedure; and
  - (6) the court contacts the Department of State Police to determine whether the assailant has previously:
    - (a) been convicted of assault, assault and battery, violation of a substantially corresponding local ordinance, or aggravated assault; or
    - (b) used this procedure.
- b. Identifies that the court shall enter an adjudication of guilt if during probation the assailant:
  - (1) commits an assaultive crime;
  - (2) violates a court order to receive counseling; or
  - (3) violates a court order to have no contact with the victim.
- c. Identifies that the court may enter an adjudication of guilt if the assailant violates any other term or condition of probation.
- d. Identifies that if the assailant fulfills the terms and conditions of probation, the court shall discharge the assailant and dismiss the proceedings.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.4.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of the Crime of Stalking.

#### Performance/Testing Criteria:

- a. Identifies the elements of stalking as:
  - (1) a willful course of conduct;
  - (2) involving repeated or continuing harassment of another individual;
  - (3) that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested; and
  - (4) that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested (MCL 750.411h).
- b. Identifies "course of conduct" as a pattern of conduct composed of 2 or more separate noncontinuous acts, evidencing a continuity of purpose.
- c. Identifies "harassment" as conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that:
  - (1) would cause a reasonable individual to suffer emotional distress; and
  - (2) actually causes the victim to suffer emotional distress.
- d. Identifies "unconsented contact" as any contact with another individual that is initiated or continued without that individual's consent, or in disregard of that individual's expressed desire that the conduct be avoided or discontinued, and includes, but is not limited to:
  - (1) following or appearing within the sight of that individual;
  - (2) approaching or confronting that individual in a public place or on private property;
  - (3) appearing at the workplace or residence of that individual;
  - (4) entering onto or remaining on property owned, leased, or occupied by that individual;
  - (5) contacting that individual by telephone;
  - (6) sending mail or electronic communications to that individual; or
  - (7) placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.4. (continued):

- e. Identifies "victim" as an individual who is the target of a willful course of conduct involving repeated or continuing harassment.
- f. Identifies "emotional distress" as significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.
- g. Identifies that immediately upon arrest of the assailant for stalking, the law enforcement agency shall fingerprint the assailant and shall forward the fingerprints to the state police within 72 hours after the arrest.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.5.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of the Crime of Aggravated Stalking.

#### Performance/Testing Criteria:

- a. Identifies aggravated stalking as a felony.
- b. Identifies that an individual commits aggravated stalking by engaging in stalking (see I.H.2.4.) where:
  - (1) the assailant has previously been convicted of stalking or aggravated stalking; or
  - (2) at least one of the 2 or more separate noncontinuous acts:
    - (a) is in violation of a restraining order and the individual has received actual notice of that restraining order, or is in violation of an injunction or preliminary injunction; or
    - (b) is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal; or
    - (c) includes the making of 1 or more credible threats against the victim, a member of the victim's family, or another individual living in the victim's household.
- c. Identifies that immediately upon arrest of the assailant for aggravated stalking, the law enforcement agency shall fingerprint the assailant and shall forward the fingerprints to the state police within 72 hours after the arrest.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.6.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Authority of a Police Officer in Enforcing Domestic Violence Laws.**

#### Performance/Testing Criteria:

- a. Identifies the authority of a police officer to enter the dwelling without a warrant when responding to a domestic violence complaint based on:
  - (1) consent by a person with authority to consent, including:
    - (a) adult occupants; or
    - (b) child occupants, taking into account:
      - (i) age; and
      - (ii) area of dwelling to be entered; or
  - (2) exigent circumstances, including:
    - (a) risk of danger to police or others inside or outside the dwelling;
    - (b) imminent destruction of evidence;
    - (c) need to prevent the suspect's escape; or
    - (d) hot pursuit.
- b. Identifies the need to document the grounds that justify entry.
- c. Identifies that a police officer should arrest in the following circumstances:
  - (1) a warrant exists;
  - (2) a felony, misdemeanor, or ordinance violation is committed in the officer's presence (MCL 764.15 (1) (a)); or
  - (3) probable cause exists to believe:
    - (a) a felony has been committed;
    - (b) a misdemeanor assault, assault and battery, or aggravated assault has been or is being committed, or a violation of a substantially corresponding local ordinance occurred or is occurring, and there is a domestic relationship between the assailant and the victim defined as:
      - (i) spouse or former spouse;
      - (ii) reside or resided together in the same household; or
      - (iii) has had a child in common (MCL 764.15a);

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.6. (continued):

- (c) the person is in violation of a condition of release (conditional bond) (MCL 764.15e(1));
- (d) the person has violated a condition of probation or parole (MCL 764.15(1) (g)); or
- (e) the person is in violation of a Personal Protection Order (PPO) (MCL 764.15b) (see I.H.2.10.).

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.7.:

At the end of this objective the student will be able to:

#### **Demonstrate an Understanding of a Domestic Relationship Personal Protection Order (PPO).**

[Note: In Michigan there are two types of Personal Protection Orders (PPOs): Domestic Relationship PPOs and Non-Domestic Stalking PPOs. For Non-Domestic Stalking PPOs see I.H.2.8.]

#### **Performance/Testing Criteria:**

- a. Identifies that a domestic relationship Personal Protection Order (PPO) is a court order issued by the circuit court prohibiting certain conduct.
- b. Identifies that a violation of a PPO is criminal contempt of court.
- c. Identifies that an individual (the petitioner) may obtain a domestic relationship PPO only if there is a domestic relationship between the petitioner and the person restrained or enjoined (the respondent) defined as (MCL 600.2950):
  - (1) spouse or former spouse;
  - (2) reside or resided together in the same household;
  - (3) has had a child in common; or
  - (4) has or has had a dating relationship.
- d. Recognizes that the existence of a domestic relationship will be determined by the circuit court before the court issues the PPO.
- e. Identifies conduct that can be restrained or enjoined by a domestic relationship PPO as:
  - (1) entering onto premises;
  - (2) assaulting, attacking, beating, molesting, or wounding a named individual;
  - (3) threatening to kill or physically injure a named individual;
  - (4) removing minor children from the individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction;

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.7. (continued):

- (5) purchasing or possessing a firearm;
  - (6) interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined;
  - (7) interfering with petitioner at petitioner's place of employment or engaging in conduct that impairs petitioner's employment relationship or environment. [Note: This may include stalking.]; or
  - (8) any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence. [Note: This may include stalking.].
- f. Recognizes that to obtain a domestic relationship PPO the petitioner shall:
- (1) go to circuit court and file a petition, on a form provided without charge by the court, requesting a domestic relationship PPO; and
  - (2) provide evidence in support of the request demonstrating probable cause to believe the respondent may commit one or more of the acts that can be prohibited by the PPO (see I.H.2.7.e.).

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.8.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of a Non-Domestic Stalking Personal Protection Order (PPO).**

#### Performance/Testing Criteria:

- a. Identifies that a non-domestic stalking Personal Protection Order (PPO) is a court order issued by the circuit court prohibiting stalking behavior.
- b. Identifies that a violation of a PPO is criminal contempt of court.
- c. Identifies that a domestic relationship is *not* required for a non-domestic stalking PPO (MCL 600.2950a). [Note: In a domestic relationship, stalking is included in a domestic relationship PPO. See I.H.2.7.e.]
- d. Identifies that conduct that can be restrained or enjoined by a non-domestic stalking PPO includes, but is not limited to:
  - (1) following or appearing within the sight of an individual;
  - (2) approaching or confronting that individual in a public place or on private property;
  - (3) appearing at the workplace or residence of that individual;
  - (4) entering onto or remaining on property owned, leased, or occupied by that individual;
  - (5) contacting that individual by telephone;
  - (6) sending mail or electronic communications to that individual;
  - (7) placing an object on, or delivering an object to, property owned, leased, or occupied by that individual; or
  - (8) purchasing or possessing a firearm.
- e. Recognizes that to obtain a non-domestic stalking PPO the petitioner must:
  - (1) go to circuit court and file a petition, on a form provided without charge by the court, requesting a non-domestic stalking PPO; and
  - (2) provide evidence in support of the request demonstrating that the respondent has engaged in stalking.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.9.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of the Court Procedures Related to Personal Protection Orders (PPOs).

#### Performance/Testing Criteria:

- a. Recognizes that the circuit court must:
  - (1) issue a domestic relationship PPO if the court determines that there is probable cause to believe the respondent may commit one or more of the acts that can be prohibited by the PPO; or
  - (2) state immediately in writing the specific reasons for refusing to issue the PPO.
  
- b. Recognizes that the circuit court must:
  - (1) issue a non-domestic stalking PPO if the court determines that the respondent has engaged in stalking, or
  - (2) state immediately in writing the specific reasons for refusing to issue the PPO.
  
- c. Recognizes that a PPO (domestic relationship or non-domestic stalking) shall be issued by the circuit court ex parte (without notice to the respondent) if it clearly appears from specific facts shown that:
  - (1) immediate and irreparable injury, loss or damage will result from delay required to give notice; or
  - (2) notice itself will precipitate adverse reaction before a PPO can be issued.
  
- d. Recognizes that the respondent may file a motion, on a form provided without charge by the circuit court, to modify or rescind an ex parte PPO:
  - (1) within 14 days after being served with or receiving notice of the PPO; or
  - (2) for good cause shown, after 14 days.
  
- e. Identifies that the circuit court must schedule a hearing on a motion to modify or rescind a PPO within:
  - (1) 14 days after the filing of the motion; or

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.9. (continued):

- (2) 5 days (expedited hearing) after the filing of the motion if the PPO prohibits the purchase or possession of a firearm and the respondent is a:
  - (a) person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of employment;
  - (b) certified police officer;
  - (c) sheriff or deputy sheriff;
  - (d) member of the Michigan Department of State Police; or
  - (e) local corrections officer, Department of Corrections employee, or federal law enforcement officer who carries a firearm during the normal course of employment.
  
- f. Recognizes that the clerk of the circuit court that issues a PPO shall immediately:
  - (1) file a true copy of the PPO with the law enforcement agency designated by the court on the PPO to enter the PPO into the LEIN;
  - (2) immediately provide the petitioner with at least two true copies of the PPO;
  - (3) inform the petitioner that the petitioner may take a true copy of the PPO to the designated law enforcement agency for immediate entry into the LEIN;
  - (4) notify the designated law enforcement agency when the clerk receives proof that the respondent has been served with the PPO; and
  - (5) notify the designated law enforcement agency when the PPO has been rescinded, modified, or extended by court order.
  
- g. Recognizes that the petitioner must ensure:
  - (1) respondent is served with the PPO; and
  - (2) proof of service is provided to the clerk of the circuit court that issued the PPO.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.10.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Enforcement of Domestic Relationship and Non-Domestic Stalking Personal Protection Orders (PPOs).**

#### Performance/Testing Criteria:

- a. Identifies that a Personal Protection Order (PPO) is effective when signed by a judge.
- b. Identifies that a PPO is immediately enforceable anywhere in Michigan by any law enforcement agency that has:
  - (1) received a true copy of the PPO;
  - (2) been shown a true copy of the PPO; or
  - (3) verified the existence of the PPO in the LEIN.
- c. Identifies that if the individual restrained or enjoined has been served, a police officer should arrest if probable cause exists to believe:
  - (1) a domestic relationship PPO or non-domestic stalking PPO exists;
  - (2) the PPO states on its face that violation subjects the violator to immediate arrest and criminal contempt punishable by not more than 93 days and/or a fine of not more than \$500; and
  - (3) the individual is in violation of the PPO by engaging in or having engaged in the conduct restrained or enjoined by the PPO (MCL 764.15b(1)).
- d. Identifies that if the individual restrained or enjoined has not been served, the law enforcement agency or officer responding to a call alleging a violation of a PPO must:
  - (1) serve the individual restrained or enjoined with a true copy of the PPO; or
  - (2) provide the individual restrained or enjoined actual notice of the:
    - (a) existence of the PPO;
    - (b) specific conduct restrained or enjoined;
    - (c) penalties for violating the PPO; and
    - (d) location where the individual restrained or enjoined may obtain a copy of the order; and

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.10. (continued):

- (3) complete proof of service form and provide a copy to:
  - (a) the victim;
  - (b) the law enforcement agency that entered the PPO into the LEIN;  
and
  - (c) the circuit court that issued the PPO.
  
- e. Identifies that after being served or provided notice of the PPO at the scene, the individual restrained or enjoined shall be given an opportunity to comply with the PPO before the law enforcement officer makes a custodial arrest for violation of the PPO.
  
- f. Identifies that the failure to immediately comply with the PPO shall be grounds for an immediate custodial arrest.
  
- g. Identifies that a thorough criminal investigation should be conducted whenever there is an alleged violation of a PPO.
  
- h. Recognizes that an arrest should be made for violation of any criminal law even when the assailant is also arrested for violation of a PPO.
  
- i. Demonstrates a working knowledge of the procedures following an arrest for violation of a PPO, including:
  - (1) the individual arrested shall be brought before the circuit court in the county where the violation occurred within 24 hours to answer to a charge of contempt for violation of the PPO (MCL 764.15b(2));
  - (2) the circuit court for each county of this state has jurisdiction to conduct contempt proceedings based upon a violation of a PPO issued by the circuit court of any county of this state;
  - (3) if a circuit court judge is not available within 24 hours after arrest, the individual shall be brought within 24 hours before the district court which will set bond and order the individual to appear before the circuit court; and
  - (4) the court of arraignment shall notify the circuit court that issued the PPO that the issuing court may request that the individual be returned to that county at the expense of the requesting county to stand trial.
  
- j. Identifies the requirement to prepare a written report documenting all facts of the investigation even if no arrest is made. (See I.H.2.13.d.).

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.11.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Personal Protection Orders (PPOs) and Their Effect on Firearm Purchase or Possession.**

#### Performance/Testing Criteria:

- a. Identifies that a PPO (domestic relationship or non-domestic stalking) may prohibit an individual from purchasing or possessing a firearm.
- b. Identifies that if an individual prohibited by a PPO from purchasing or possessing a firearm has been served and is in possession of a firearm, the officer should:
  - (1) arrest the individual; and
  - (2) seize firearms as evidence, including all firearms:
    - (a) in the possession of the individual;
    - (b) in plain view; and
    - (c) found during a valid search.
- c. Identifies that if an individual prohibited by a PPO from purchasing or possessing a firearm has not been served and, after being served or provided notice of the PPO, chooses to comply, the officer may take possession of the firearm for safe keeping.
- d. Identifies that if an individual is prohibited by a PPO from purchasing or possessing a firearm, there are no exceptions, including:
  - (1) police officers, and
  - (2) persons with a concealed weapon permit.
- e. Identifies that an individual prohibited by an ex parte PPO from purchasing or possessing a firearm may file a motion to modify or rescind the PPO and request a hearing (see I.H.2.9.d.).
- f. Identifies that the circuit court shall schedule a hearing on a motion to modify or rescind a PPO within:
  - (1) 14 days after the filing of the motion; or

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.11. (continued):

- (2) 5 days (expedited hearing) after the filing of the motion if the PPO prohibits the purchase or possession of a firearm and the respondent is a:
  - (a) person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of employment;
  - (b) certified police officer;
  - (c) sheriff or deputy sheriff;
  - (d) member of the Michigan Department of State Police; or
  - (e) local corrections officer, Department of Corrections employee, or federal law enforcement officer who carries a firearm during the normal course of employment.
  
- g. Identifies that upon entry into the LEIN of *any* PPO (domestic relationship or non-domestic stalking; with or without a prohibition on the purchase or possession of a firearm), the Department of State Police must mail a letter to the individual restrained or enjoined stating that:
  - (1) a PPO was entered into the LEIN on a certain date;
  - (2) the individual *cannot* obtain a license to *purchase a pistol* or obtain a *concealed weapon license* until the PPO is removed from the LEIN; and
  - (3) the individual may request that the state police correct or expunge inaccurate information entered into the LEIN. (MCL 28.422b)
  
- h. Recognizes that federal law provides that a person who has been convicted of a domestic violence misdemeanor may not purchase or possess a firearm.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.12.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Probable Cause (Reasonable Cause) as It Relates to Domestic Violence.**

#### Performance/Testing Criteria:

- a. Identifies that the Michigan standard for probable cause (reasonable cause) requires only those facts and circumstances sufficient to cause a fair minded person of average intelligence to believe that the suspected person has committed or is committing a crime.
- b. Identifies that the probable cause determination does *not* require:
  - (1) that it is more probable than not that a crime has been committed;
  - (2) corroborating physical evidence; however, the presence of physical evidence bolsters the existence of probable cause; or
  - (3) that the officer conduct a mini-trial to determine the truth.
- c. Identifies that to establish probable cause the officer should consider factors such as:
  - (1) statements by the victim, assailant, children or other witnesses;
  - (2) the dispatcher's information;
  - (3) physical evidence that a crime occurred;
  - (4) aggressive or threatening behavior by the assailant;
  - (5) information gathered by investigating wounds to determine:
    - (a) offensive wounds, and
    - (b) defensive wounds;
  - (6) property in the house damaged or broken;
  - (7) brandishing of weapons; and
  - (8) the existence of a Personal Protection Order (PPO).
- d. Identifies that in determining probable cause the officer should *not* consider the following factors:
  - (1) the lack of a PPO;
  - (2) the fact that no arrests were made previously;
  - (3) the victim's unwillingness to prosecute;
  - (4) the officer's belief that there will be no prosecution;
  - (5) verbal assurances by either party that the violence will stop;
  - (6) the possibility of reprisals against the victim;
  - (7) the race, ethnicity, sexual preference, social class and/or occupa-

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

### Objective I.H.2.12. (continued):

- tion of the victim or the assailant;
- (8) threats by the assailant to sue the police; or
- (9) negative consequences to the assailant's status in the community.
- e. Identifies that a finding of probable cause is not precluded by:
  - (1) denial by either party that violence occurred; or
  - (2) a lack of visible bruises or injuries.
- f. Identifies that officers should not arrest an individual if the officer has probable cause to believe the individual was acting in lawful self-defense or in the lawful defense of another person.
- g. Identifies that a person may lawfully use:
  - (1) whatever force the person honestly and reasonably believes is necessary for self-protection or to protect another person from danger; and
  - (2) deadly force when the person honestly and reasonably believes oneself or another person is in imminent danger of being killed, seriously injured or forcibly sexually penetrated.
- h. Identifies that a person has no duty to retreat from:
  - (1) an assault in one's home, or
  - (2) a forcible entry of one's home.
- i. Identifies that where there are allegations of mutual battering the officer should determine who the assailant is by considering:
  - (1) the intent of the law to protect victims of domestic violence;
  - (2) the intent of the law that officers should not make dual arrests to avoid conducting a thorough criminal investigation;
  - (3) the degree of injury inflicted on the individuals involved;
  - (4) the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household;
  - (5) any history of domestic violence between the individuals;
  - (6) offensive and defensive wounds;
  - (7) the size, strength, and bulk of the parties;
  - (8) the possibility that one of the parties acted in self-defense;
  - (9) the apparent ability of each party to do what was alleged;
  - (10) witness statements (including children); and
  - (11) other evidence (e.g., physical and circumstantial).

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.13.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of the Procedural Requirements When Responding to Domestic Violence.

#### Performance/Testing Criteria:

- a. Identifies the requirement to provide victims the written notice required by MCL 764.15c which must include the following (see I.H.3.12.):
  - (1) name and telephone number of the responding police agency;
  - (2) name and badge number of the responding officer; and
  - (3) a prescribed statement informing the victim of the:
    - (a) right to obtain a copy of the police incident report;
    - (b) right to go to court and file a petition requesting a Personal Protection Order (PPO); and
    - (c) local domestic violence shelter program and other resources that provide victims information about services and legal rights.
- b. Identifies the requirement to provide or arrange for emergency medical assistance to victims (MCL 776.22 (3) (f)) (see I.H.3.12.).
- c. Identifies the requirement to provide the victim within 24 hours of the initial contact with the information required by the Crime Victim's Rights Act (MCL 780.753), including:
  - (1) availability of emergency and medical services, if applicable;
  - (2) availability of victim's compensation benefits and the address of the crime victim's compensation board;
  - (3) address and phone number of the prosecuting attorney; and
  - (4) required statement regarding information on the status of the case.
- d. Identifies the requirement to prepare a written report after responding to an incident involving domestic violence or a violation of a PPO, even if no arrest is made, documenting all facts of the investigation, including (MCL 764.15c) (see I.H.3.14.):
  - (1) address, date, and time of the incident;
  - (2) name, address, home and work telephone numbers, race, sex, and date of birth of:

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

### Objective I.H.2.13. (continued):

- (a) victim;
  - (b) assailant; and
  - (c) witnesses, including children;
  - (3) information describing the assailant and whether there is a PPO issued against assailant;
  - (4) relationship of any witness to victim or assailant;
  - (5) name of person who called the law enforcement agency;
  - (6) relationship of victim and assailant;
  - (7) whether drug or alcohol use was involved and by whom;
  - (8) narrative about the incident and the scene, describing:
    - (a) the incident and what led up to it;
    - (b) whether and how many times assailant physically assaulted victim;
    - (c) any weapon or object used;
    - (d) injuries sustained by the victim and how injuries were sustained;
    - (e) property damage; and
    - (f) if victim sought medical attention, information about transportation of victim, admittance to hospital or clinic for treatment, and name and telephone number of attending physician;
  - (9) description of previous domestic violence incidents between assailant and victim; and
  - (10) date and time of the report, and name, badge number, and signature of the officer completing the report.
- e. Identifies that the law enforcement agency shall retain the completed report in its files (MCL 764.15c(3)).
- f. Identifies that the law enforcement agency shall also file a copy of the written report with the prosecuting attorney within 48 hours after the domestic violence incident is reported to the law enforcement agency (MCL 764.15c(3)).
- g. Identifies that when an arrest is made without a warrant for assault, assault and battery, violation of a substantially corresponding local ordinance, or aggravated assault, the assailant shall not be released on interim bond, but shall be brought before a magistrate for arraignment as soon as possible where the relationship between the assailant and the victim is:

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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### Objective I.H.2.13. (continued):

- (1) spouse or former spouse;
  - (2) reside or resided together in the same household; or
  - (3) has had a child in common.
- h. Identifies that when an arrest is made with a warrant for assault, assault and battery, aggravated assault, or violation of a substantially corresponding local ordinance, the assailant shall not be released on interim bond, but shall be brought before a magistrate for arraignment as soon as possible where the relationship between the assailant and the victim is:
- (1) spouse or former spouse; or
  - (2) reside or resided together in the same household.
- i. Identifies that if a magistrate is not available or arraignment cannot be held within 24 hours, the following must happen:
- (1) release of the assailant after 20 hours; or
  - (2) continued hold of the assailant beyond 20 hours based upon the opinion of the arresting officer or department that it is unsafe to release the assailant (MCL 780.581 (3)).
- j. Identifies the requirement, when an arrest is made for violation of conditional release (conditional bond), to prepare a "complaint of violation of conditional release" pursuant to MCL 764.15e, containing (see I.H.3.10):
- (1) officer's name and badge number;
  - (2) statement of verification;
  - (3) statement of conditions; and
  - (4) statement of probable cause that assailant violated the conditions.

# LAWS REGARDING DOMESTIC VIOLENCE

## MODULE I.H.2. OVERVIEW

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# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.1. OVERVIEW

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### DOMESTIC VIOLENCE IS A LAW ENFORCEMENT ISSUE

#### Teaching Goal:

The goal of this objective is to provide the student with an overview of domestic violence as an important law enforcement issue. This chapter will show the need for a coordinated community response to domestic violence and lead to a discussion of the role and importance of the police investigation and arrest in this approach.

#### Learning Focus:

- ❶ In what ways is domestic violence a law enforcement issue?
- ❷ What is a coordinated community response to domestic violence?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2. — 263).

#### Resources Cited:

*Attorney General's Task Force on Domestic Violence*, U.S. Department of Justice (Washington, DC: 1984).

Bureau of Justice Statistics, U.S. Department of Justice, *Violence and Theft in the Workplace, Crime Data Brief* (Washington, DC: 1994). Reported in Michael Williams, *Facts on Working Women. Domestic Violence: a Workplace Issue*, U.S. Department of Labor Women's Bureau (Washington, DC: 1996). Online. Internet. January 7, 1997.

Bureau of Labor Statistics, U.S. Department of Labor, "Fewer Women than Men Die of Work-Related Injuries, Data Show," in *Fatal Workplace Injuries in 1994: A Collection of Data and Analysis*, Report 908 (Washington, DC:

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.1. OVERVIEW

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1996). Reported in Michael Williams, *Facts on Working Women. Domestic Violence: a Workplace Issue*, U.S. Department of Labor Women's Bureau (Washington, DC: 1996). Online. Internet. January 7, 1997.

Lewis Okun, *Woman Abuse: Facts Replacing Myths*(Albany: State University of New York Press, 1986).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.1. OVERVIEW

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### Objective I.H.2.1.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding that Domestic Violence is a Law Enforcement Issue.**

#### Performance/Testing Criteria:

- a. Describes why domestic violence is a law enforcement issue:
  - (1) domestic violence is criminal behavior;
  - (2) law enforcement intervention is critical to beginning the process of stopping the violence:
    - (a) arrest is the first step in the criminal justice process;
    - (b) arrest sends the message that domestic violence is criminal behavior and will not be tolerated; and
    - (c) arrest provides immediate safety to the victim, children, and the community; and
  - (3) domestic violence related homicides can often be prevented.
- b. Identifies that a coordinated community response is the most appropriate intervention in domestic violence because:
  - (1) the assailant is held accountable for the violence;
  - (2) information, support and assistance are provided to the victim; and
  - (3) community systems work together to help keep victims and children safe and to help end the violence.
- c. Identifies the importance to successful prosecution of:
  - (1) thorough criminal investigation;
  - (2) arrest;
  - (3) complete and accurate documentation in a written report; and
  - (4) assistance to the victim.
- d. Identifies that there is liability associated with an officer's failure to respond properly to a domestic violence incident.

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

a. **DISCUSS** the ways in which domestic violence is a law enforcement issue.

1. **Domestic violence is criminal behavior.** The location of the violence (in the home, behind closed doors) and/or the relationship between the victim and assailant (married, dating) does not alter its criminal nature. Violence against another person is a crime.
2. **Law enforcement intervention is critical to beginning the process of stopping the violence.** Law enforcement agencies have a crucial role to play in curtailing domestic violence because they are usually the first component of the criminal justice system to which a victim turns for help. Although other community systems—mental health system, health care system, educational system, human service agencies and religious groups or organizations—have an important role to play in actively opposing domestic violence, the actions of the police significantly influence how domestic violence will be viewed by the assailant, the victim, the children, and the community at large.

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- a. Arrest is **the first step in the criminal justice process**. Arrest brings the violence into the open and treats it as a crime. By providing the victim with referrals to community and legal resources, police intervention provides support and helps the victim proceed with civil and criminal legal steps.
  
- b. Arrest **sends the message that domestic violence is criminal behavior**. Arrest demonstrates that the assailant will be held accountable for the violence; the victim's behavior is not an excuse for the violence; and violence in the home is considered a serious crime. Intervention that involves **arrest can decrease the likelihood of future violence** because it gives the assailant the message that there will be consequences for violent behavior. By demonstrating that domestic violence is taken seriously and will not be tolerated, officers also show everyone else involved, including the children, that violence is not the way to solve problems.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** You can anticipate questions about the role of arrest in breaking up a family. Stress that it is the violence that is threatening the family, and the purpose of arrest is to provide immediate safety and put the assailant into a system that will, through a coordinated community response, help stop the violence.

**Note:** Five percent of the women victimized at work were attacked by a husband, ex-husband, boyfriend, or ex-boyfriend, compared to one percent of men who were victimized by an intimate at work. (Bureau of Justice Statistics)

Homicide is the most frequent manner in which women workers are fatally injured on the job. While most of these fatalities occur as the result of robberies or other crimes, 17 percent of the attackers were current or former husbands or boyfriends. (Bureau of Labor Statistics)

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← c. Arrest **provides immediate safety** to the victim, children and the community. Arrest is not what breaks up the family. The violence is.

• Children are vulnerable to domestic violence in the home. Sometimes they are caught in the crossfire, sometimes they are the targets of the abuse, and sometimes they are the witnesses. Children are not only at risk physically, but are also emotionally at risk.

← • Domestic violence is also a workplace issue. Employers are beginning to realize the effect of domestic violence on morale, productivity and increased health care costs, and some companies have implemented programs to help their employees who are victims of domestic violence. In addition to costs to the employer, other employees may be at risk when a co-worker is the victim of domestic violence, because victims are sometimes attacked by their assailants while at work.

• Even if a domestic violence case does not go all the way through the system to conviction, it is still a successful law enforcement intervention to have stopped the violence that was occurring at the time of the specific intervention.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

Explain to the students that domestic violence often escalates over time in incidence and severity. Help them see the connection between today's assault and battery and tomorrow's domestic homicide. Use examples from your own experience.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← 3. **Domestic violence related homicides can be preventable homicides.** Arrest removes the assailant from the scene and thus prevents the immediate situation from escalating to homicide. In addition, domestic violence is not an isolated incident; it usually occurs over time and gets worse. Early intervention can interrupt the escalation before the violence reaches the point of lethality.

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**b. IDENTIFY that a coordinated community response is the most appropriate intervention in domestic violence because:**

1. The **assailant is held accountable** for the violence.
2. **Information and support are provided** to victims. Victims, especially vulnerable to threats and emotional appeals from their assailants, are given information, protection, support and encouragement to participate in the prosecution. Such a response requires the cooperation of various agencies: domestic violence service programs, police, prosecutors, courts, legal services, medical personnel, etc., to develop protocols and procedures, create cooperative working relationships, and provide education and training.
3. **Community systems work together** to help keep victims and children safe and to help end the violence. This type of response is intended to prevent community collusion with the assailant. Rather than accepting the assailant's rationalization—"excuses" for battering—all community agencies which respond to domestic violence agree to focus on stopping the criminal behavior and protecting the victim and children. Assailants are arrested and prosecuted. If found guilty they receive jail terms and/or court-mandated treatment. Probation and parole departments follow up by monitoring the behavior of adjudicated assailants.

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## LAWS REGARDING DOMESTIC VIOLENCE

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p data-bbox="300 388 1055 472"><b>c. IDENTIFY the importance to successful prosecution of:</b></p> <ol data-bbox="349 525 1055 903" style="list-style-type: none"><li data-bbox="349 525 844 567">1. thorough criminal investigation;</li><li data-bbox="349 619 487 661">2. arrest;</li><li data-bbox="349 714 1055 808">3. complete and accurate documentation in a written report; and</li><li data-bbox="349 861 730 903">4. assistance to the victim.</li></ol>	

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

The purpose of this section is not to threaten students about liability associated with domestic violence response, but to convey that the risk of exposure is substantially greater for *failure* to respond than it is for enforcement of the law in this area.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← d. **IDENTIFY** that there is liability associated with an officer's failure to respond properly to a domestic violence incident.

Courts throughout the country have held the police responsible for failing to take appropriate action in response to domestic violence. As a result, law enforcement agencies have developed written domestic violence policies and provided training to address officer response.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

The statutory and case law material is provided to give the instructor background and context for this discussion. Students do not have to learn the specific content of the material.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



1. **Liability for failure to respond** to domestic violence can be based on a 42 USC 1983 cause of action for deprivation of constitutional rights.

Section 1983 provides in part: "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. . . ."

A 1978 US Supreme Court decision (*Monell v New York Department of Social Services*, 436 US 658 98; S. Ct. 2108 (1978)) held that a government agency can be considered a "person" and therefore liable for damages when policies or customs create constitutional deprivation.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

Generally, for equal protection liability courts require a showing that the law enforcement agency had a policy or custom of providing less protection to victims of domestic violence than to victims of other crimes and that this victim was injured by the practice.

It is not settled whether, in addition to demonstrating that the agency's policy or custom had a discriminatory impact, the plaintiff must also show that the law enforcement policy makers and actors were motivated, at least in part, by a discriminatory purpose. Compare, for example, *Soto v Flores*, 103 F.3d 1056 (1997) with *Balistreri v Pacifica Police Department*, 855 F.2d 1421 (1988).

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



2. 42 USC 1983 cases rest on a finding of a violation of due process and/or equal protection of the law.

(a) The equal protection cases include:

- *Thurman v City of Torrington*, 595 F. Supp. 1521, USDC Conn. (1984), where the jury found that police had deprived the victim of the constitutional right of equal protection of the law and that they had acted negligently in failing to protect her from the violent acts of her estranged husband. The jury awarded the victim \$2.1 million in damages.
- *Balistreri v Pacifica Police Department*, 855 F.2d 1421 (1988). The U.S. Court of Appeals for the Tenth Circuit upheld a jury decision that police had violated the equal protection rights of a domestic violence victim by failing to protect her from her husband. The court accepted the wife's statistical evidence of a much lower rate of arrest for domestic assaults as compared to other assaults. The court acknowledged that statistics alone did not prove that the police had failed to arrest when probable cause existed. However, additional evidence that officers had been trained to "diffuse" the situation and to use arrest as a last resort led the court to support the jury finding that the city and police department followed a policy or custom of affording less protection to victims of domestic violence than to victims of non-domestic attacks.

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

3. The due process cases are more difficult for plaintiffs following the decision of the United States Supreme Court in *DeShaney v Winnebago County Department of Social Services*, 489 U.S. 189 (1989). In *DeShaney*, the Court held that the police do not have a general duty to protect one private citizen against harm caused by another. Liability must be based on a finding that (1) there was a "special relationship" between the victim and the state at the time of the injury or (2) the state (the police) engaged in conduct that created or enhanced the danger to the victim.

### INSTRUCTOR NOTES

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

4. Liability for failure to respond properly to domestic violence can also be based on a tort cause of action. See for example,

*Nearing v Weaver*, 295 Or. 702; 670 P. 2d 137 (1983). The court held that police officers and departments are liable for the emotional and physical harm done to the intended beneficiaries of civil protection orders when the officers and departments knowingly fail to enforce these orders.

### INSTRUCTOR NOTES

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.2. OVERVIEW

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### SUBSTANTIVE CRIMINAL LAW AS IT RELATES TO DOMESTIC VIOLENCE

#### Teaching Goal:

The goal of this objective is to provide students with an overview of domestic violence as a crime to enable them to make decisions that are sound and to enhance safety. It will provide the students with an understanding of the broad range of substantive crimes that can be involved in domestic violence so that they will properly respond to and fully investigate the domestic violence scene.

#### Learning Focus:

- ① What are the substantive criminal laws related to domestic violence?
- ② When are enhanced penalties provided for repeat domestic violence offenses?
- ③ When must a domestic violence assailant be fingerprinted?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2. — 263).

#### Resources Cited:

Bureau of Justice Statistics, U.S. Department of Justice, *Violence Between Intimates: Domestic Violence*, NCJ 149259 (Washington, DC: 1994).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.2. OVERVIEW

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### Objective I.H.2.2.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Substantive Criminal Law as It Relates to Domestic Violence.**

#### Performance/Testing Criteria:

- a. Identifies crimes likely to be committed in a domestic violence incident:
  - (1) murder;
  - (2) manslaughter;
  - (3) assault, including:
    - (a) assault;
    - (b) assault and battery;
    - (c) aggravated assault;
    - (d) felonious assault;
    - (e) assault with intent to do great bodily harm less than murder;
    - (f) assault with intent to commit criminal sexual conduct;
    - (g) assault with intent to maim; and
    - (h) assault with intent to commit murder;
  - (4) stalking and aggravated stalking;
  - (5) home invasion;
  - (6) breaking and entering;
  - (7) malicious destruction of property;
  - (8) weapons offenses;
  - (9) criminal sexual conduct;
  - (10) kidnapping;
  - (11) parental kidnapping;
  - (12) arson;
  - (13) child abuse;
  - (14) drug offenses;
  - (15) cruelty to animals; and
  - (16) violations of local ordinances.
  
- b. Identifies that Michigan law provides an enhanced penalty of imprisonment for not more than 93 days or a fine of not more than \$500, or both, where:
  - (1) the assailant is convicted of assault or assault and battery; and

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.2. OVERVIEW

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- (2) the relationship between the assailant and the victim is:
  - (a) spouse or former spouse;
  - (b) reside or resided together in the same household; or
  - (c) has had a child in common.
  
- c. Identifies that Michigan law provides an enhanced penalty of imprisonment for not more than 1 year or a fine of not more than \$1,000, or both, where:
  - (1) the assailant is convicted of assault or assault and battery;
  - (2) the relationship between the assailant and the victim is:
    - (a) spouse or former spouse;
    - (b) reside or resided together in the same household; or
    - (c) has had a child in common; and
  - (3) the assailant has previously been convicted of one of the following crimes committed against a spouse or former spouse, or a person with whom the assailant resides or resided together in the same household or has had a child in common:
    - (a) assault or assault and battery;
    - (b) violation of a substantially corresponding local ordinance;
    - (c) aggravated assault;
    - (d) felonious assault;
    - (e) assault with intent to commit murder;
    - (f) assault with intent to do great bodily harm; or
    - (g) assault with intent to maim.
  
- d. Identifies that Michigan law provides an enhanced penalty of imprisonment for not more than 2 years (a felony) or a fine of not more than \$2,500, or both, where:
  - (1) the assailant is convicted of assault or assault and battery;
  - (2) the relationship between the assailant and the victim is:
    - (a) spouse or former spouse;
    - (b) reside or resided together in the same household; or
    - (c) has had a child in common; and
  - (3) the assailant has previously been convicted *two or more* times of the following crimes committed against a spouse or former spouse, or a person with whom the assailant resides or resided together in the same household or has had a child in common:
    - (a) assault or assault and battery;
    - (b) violation of a substantially corresponding local ordinance;

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.2. OVERVIEW

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- (c) aggravated assault;
  - (d) felonious assault;
  - (e) assault with intent to commit murder;
  - (f) assault with intent to do great bodily harm; or
  - (g) assault with intent to maim.
- e. Identifies that Michigan law provides an enhanced penalty of imprisonment for not more than 2 years (a felony) or a fine of not more than \$2,500, or both, where:
- (1) the assailant is convicted of aggravated assault;
  - (2) the relationship between the assailant and the victim is:
    - (a) spouse or former spouse;
    - (b) reside or resided together in the same household; or
    - (c) has had a child in common; and
  - (3) the assailant has previously been convicted of one or more of the following crimes committed against a spouse or former spouse, or a person with whom the assailant resides or resided together in the same household or has had a child in common:
    - (a) assault or assault and battery;
    - (b) violation of a substantially corresponding local ordinance;
    - (c) aggravated assault;
    - (d) felonious assault;
    - (e) assault with intent to commit murder;
    - (f) assault with intent to do great bodily harm; or
    - (g) assault with intent to maim.
- f. Identifies that the law enforcement agency shall immediately fingerprint the assailant and shall forward the fingerprints to the state police within 72 hours of the arrest of the assailant in all of the following:
- (1) felony;
  - (2) misdemeanor assault or assault and battery where the relationship between the assailant and the victim is:
    - (a) spouse or former spouse;
    - (b) reside or resided together in the same household; or
    - (c) has had a child in common; and
  - (3) any other misdemeanor for which the maximum possible penalty exceeds 92 days imprisonment or a fine of \$1,000, or both.

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.2. OVERVIEW

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## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Instructor Focus:** When introducing this chapter, strongly emphasize that *domestic violence is criminal behavior*. Stress that it is not limited to misdemeanor assault. Domestic violence involves a range of criminal behaviors including—but not limited to—the crimes listed here.

**Note:** Students have already received specific instruction on the elements of crimes against persons and property. The purpose of this section is to establish that a wide variety of substantive crimes, including many felonies, will be encountered if a proper criminal investigation is conducted. Therefore, students need to understand that officers should not enter a domestic violence scene with preconceived notions of what crimes they will find; they *must* enter with an open mind, conduct the investigation and *then* decide what crimes have been committed.

**Exercise:** Ask students to identify crimes they might find at the domestic violence scene.

**Discussion:** Give examples from your own experience specific to domestic violence cases.

# LAWS REGARDING DOMESTIC VIOLENCE

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**

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## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

According to the Bureau of Justice Statistics, women made up 70% of victims who were murdered in 1992 by intimates. This percentage has risen from 54% in 1977. (The number of men killed by intimates fell from 1,185 to 657 while the number of female victims rose from 1,396 to 1,510.) About a third of all female murder victims over the age of 14 are killed by an intimate compared to 4% of male murder victims.

The above statistics were also presented in I.H.1.8.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

a. **IDENTIFY** crimes likely to be found when responding to a domestic violence call.

← 1. **Murder:**

- First degree (MCL 750.316; MSA 28.548).
- Second-degree (MCL 750.317; MSA 28.549).

2. **Manslaughter** (MCL 750.321, MSA 28.553).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Explain to the students the importance of evidence of the assailant's intent in proving specific intent crimes such as assault, assault and battery, assault with intent to do great bodily harm, assault with intent to commit murder, and first-degree murder.

To illustrate how important intent can be, use the example of aggravated assault (a 1-year misdemeanor) and assault with intent to do great bodily harm (a 10-year felony).

Explain how police can document the scene and get statements to assist the prosecutor in proving intent at trial.

**Michigan Criminal Jury Instruction  
(Second Edition) on Specific Intent:  
CJI2d 3.9  
Specific Intent**

(1) The crime of \_\_\_\_\_ requires proof of a specific intent. This means that the prosecution must prove not only that the defendant did certain acts, but that he did the acts with the intent to cause a particular result.

(2) For the crime of \_\_\_\_\_ this means that the prosecution must prove that the defendant intended to [*state the required specific intent*].

(3) The defendant's intent may be proved by what he said, what he did, how he did it, or by any other facts and circumstances in evidence.

**LAWS REGARDING DOMESTIC VIOLENCE**

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**



## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** For elements of the offenses, consult *Michigan Criminal Jury Instructions* (Second Edition).

**Note:** Examples of assault and battery would be a push, shove or slap.

**Note:** Aggravated assault is assault without a weapon and infliction of serious injury without intent to commit murder or to inflict great bodily harm.

**Note:** Felonious assault is assault with a dangerous weapon without intent to commit murder or to inflict great bodily harm. The officer should take the weapon into evidence. The weapon need not be a knife or a gun. A baseball bat, chair, vase, lamp, fireplace poker, telephone, etc. can be a weapon.

**Instructor Example:** In establishing the relationship between threats and domestic violence it would be especially helpful to present the students with a concrete example of a threat that was actual assault—especially if it occurred in a domestic violence context.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← 3. **Assault:**

(a) Misdemeanor:

- ←
- **Assault, and assault and battery** (MCL 750.81; MSA 28.276).
  - ← • **Aggravated assault** (MCL 750.81a; MSA 28.276 (1)).

(b) Felony:

- ←
- **Felonious assault** (MCL 750.82; MSA 28.277).
  - **Assault with intent to do great bodily harm less than murder** (MCL 750.84; MSA 28.279).
  - **Assault with intent to commit criminal sexual conduct** (MCL 750.520g; MSA 28.788(7)).
  - **Assault with intent to maim** (MCL 750.86; MSA 28.281).
  - **Assault with intent to commit murder** (MCL 750.83; MSA 28.278).
- ←

- ←
4. **Stalking** (MCL 750.411h; MSA 28.643(8)) and **aggravated stalking** (MCL 750.411i; MSA 28.643(9)).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

In *People v. Pohl*, 202 Mich. App. 203 (1993), the court affirmed the assailant's conviction for breaking and entering an occupied dwelling with intent to commit larceny where he broke into his own home and removed personal property (some of which was his) in violation of a restraining order. Breaking into the marital home in violation of a Personal Protection Order (PPO) is a breaking and entering. In addition, the Court of Appeals concluded that the jury could have found beyond a reasonable doubt that the assailant had no good faith belief that he had a right to remove even his own property where the restraining order prohibited him from entering the home and "from removing any personal property" from the home.

**Note:**

To be convicted of malicious destruction of personal property, the defendant must destroy or damage property belonging to someone else. The officer should document destruction of property jointly owned and let the prosecutor decide how to proceed.

Point out the need for officers to look for assaults associated with malicious destruction of property. Examples:

- Assault has occurred when the assailant smashes a television with a baseball bat and tells the victim, who is standing nearby, "you'll be next."
- It is assault when an assailant breaks down a bathroom door while the victim is behind it.

Stress to students the importance of documenting where the victim was in relation to the assailant (how close), what the assailant did and said, and what the victim was feeling (afraid of being hurt or killed?).

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

5. **Home invasion** (MCL 750.110a) (MSA 28.305(a)).

← 6. **Breaking and entering** (MCL 750.110; MSA 28.305); **entering without breaking** (MCL 750.111; MSA 28.306); and **entering without owner's permission** (MCL 750.115; MSA 28.310).

← 7. **Malicious destruction of personal property** (MCL 750.377a; MSA 28.609(1)).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** **MCL 8.3t, MSA 2.212(20) Definition of firearm; exemption.**

The word "firearm," except as otherwise specifically defined in the statutes, shall be construed to include any weapon from which a dangerous projectile may be propelled by using explosives, gas or air as a means of propulsion, except any smooth bore rifle or handgun designed and manufactured exclusively for propelling BB's not exceeding .177 calibre by means of spring, gas or air.

**Note:** A person convicted of a "felony" (defined as violation of a state or federal statute punishable by imprisonment of 4 years or more)

cannot possess (etc.) a firearm for 3 years after:

- (a) the person has paid all fines imposed for the violation;
- (b) the person has served all terms of imprisonment imposed for the violation; and
- (c) the person has successfully completed all conditions of probation or parole imposed for the violation.

A person convicted of a "specified felony" (defined as a felony in which 1 or more of the following circumstances exist:

- (a) an element of that felony is the use, attempted use, or threatened use of physical force against the person or property of another, or that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense;
- (b) an element of that felony is the unlawful manufacture, possession, importation, exportation, distribution, or dispensing of a controlled substance;

*(continued on page 72)*

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← 8. **Weapons offenses:**

- Being armed with a firearm or dangerous weapon with unlawful intent (MCL 750.226; MSA 28.423).
- Carrying a concealed weapon (MCL 750.227; MSA 28.424).
- Possession of a firearm at the time of commission or attempted commission of a felony (MCL 750.227b; MSA 28.424(2)).
- Careless, reckless, or negligent use of a firearm with injury or death resulting (MCL 752.861; MSA 28.436(21)).
- Reckless or wanton use of a firearm (MCL 752.a863; MSA 28.436(24)).
- ← Felon in possession of a firearm (MCL 750.224f; MSA 28.421 (6)).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

- (c) an element of that felony is the unlawful possession or distribution of a firearm;
- (d) an element of that felony is the unlawful use of an explosive;
- (e) the felony is burglary of an occupied dwelling, or breaking and entering an occupied dwelling, or arson.)

cannot possess (etc.) a firearm for 5 years after:

- (a) the person has paid all fines imposed for the violation;
- (b) the person has served all terms of imprisonment imposed for the violation; and
- (c) the person has successfully completed all conditions of probation or parole imposed for that violation.

Felon in possession of a firearm is punishable by imprisonment for not more than 5 years, or a fine of not more than \$5,000.00, or both.

**Note:**

Officers should also consider the federal laws that an assailant in possession of a firearm might be violating, such as felon in possession of a firearm or person convicted of a domestic violence misdemeanor in possession of a firearm. See 18 U.S.C.S. 922 (1996).

**Note:**

Where appropriate, the United States Attorney should be contacted.

**LAWS REGARDING DOMESTIC VIOLENCE**

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**

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## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Under Michigan law, there is no exception to a charge of criminal sexual conduct based on the relationship between the assailant and the victim; an assailant may be convicted of criminal sexual conduct against a spouse (MCL 750.520; MSA 28.788(12)), former spouse, or a person the assailant is living with or dating.

If the investigation reveals that there may have been forced sexual penetration or sexual contact, the officer needs to follow up. Victims may be reluctant to report forced sexual activity for a number of reasons, including embarrassment, fear of retaliation, and lack of awareness that it's a crime when the assailant is a spouse or person with whom the victim has a dating relationship

Emphasize to the students that there is no exception to a charge of criminal sexual conduct based on a marital or dating relationship.

Medical attention, including a rape examination kit, may be appropriate.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



9. **Criminal sexual conduct** (MCL 750.520a-e; MSA 28.788(1)-(5); MCL 750.520i; MSA 28.788(12)).

10. **Kidnapping** (MCL 750.349; MSA 28.581).

11. **Parental taking or retention of a child** (MCL 750.350a; MSA 28.582(1)).

12. **Arson.**

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Emphasize to students that they must not ignore injury or assaults upon children.

The crime of child abuse has 4 degrees. First and third degree child abuse require intentionally causing injury; second and fourth degree require recklessly causing injury. First and second degree require serious physical harm; third and fourth degree require physical harm.

**Note:** It is not a crime for parents to "reasonably discipline a child, including the use of reasonable force" (MCL 750.136b(6)).

**Example:** As an example of fourth-degree child abuse, relate the incident of an assailant who broke out the glass in the window of a car to assault the victim while the child was in the back seat, shattering the glass which caused physical injury to the child.

**Note:** The crime of child abuse requires injury to the child. Emphasize to the student that even if a child is not injured, an assault or assault and battery may have been committed against the child.

**LAWS REGARDING DOMESTIC VIOLENCE**

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**



13. **Child abuse.** (MCL 750.136b; MSA 28.331 (2)).



14. **Drug offenses.**

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

It is a misdemeanor for a law enforcement officer to fail to arrest persons who commit cruelty to animals where the officer "may have knowledge or reasonable notice" of the violation (MCL 750.52; MSA 28.247).

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



15. **Cruelty to animals** (MCL 750.50b; MSA 28.245b) (MCL 750.50; MSA 28.245).

16. **Local ordinances.**

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

The existence of a domestic relationship between the assailant and the victim allows for an enhanced penalty (up to 93 days) for conviction of assault or assault and battery (otherwise up to 90 days). The significance of the increase in penalty to "not more than 93 days" is the requirement that the assailant be fingerprinted and the fingerprints be sent to the State Police (see I.H.2.2.f. and MCL 28.23, MSA 4.463). This creates a record of convictions that is important for enhanced penalties for repeat domestic violence offenses. (See I.H.2.2.c., d. and e.)

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**b. IDENTIFY that Michigan law provides an enhanced penalty of imprisonment for not more than 93 days or a fine of not more than \$500, or both, where:**

1. the assailant is convicted of assault or assault and battery; and
2. the relationship between the assailant and the victim is:
  - (a) spouse or former spouse;
  - (b) reside or resided together in the same household; or
  - (c) has had a child in common.



## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Emphasize the importance of asking the victim about the assailant's prior convictions. Violations of local ordinances will not appear in a criminal history. In addition, it can be difficult to determine whether a prior assault or violation of a local ordinance involved a domestic relationship. It is often necessary to read the police report of the incident to make this determination. Therefore, officers need to ask the victim and note in their report, *where* and *when* regarding the assailant's prior convictions.

**Note:** Remind students that previous violation of a local ordinance can be used to enhance the penalty for conviction of assault, assault and battery, and aggravated assault under state law.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**c. IDENTIFY that Michigan law provides an enhanced penalty of imprisonment for not more than 1 year or a fine of not more than \$1,000, or both, where:**

1. the assailant is convicted of assault or assault and battery;
2. the relationship between the assailant and the victim is:
  - (a) spouse or former spouse;
  - (b) reside or resided together in the same household; or
  - (c) has had a child in common; and
- ← 3. the assailant has previously been convicted of one of the following crimes committed against a spouse or former spouse, or a person with whom the assailant resides or resided together in the same household or has had a child in common:
  - ← (a) assault or assault and battery;
  - (b) violation of a substantially corresponding local ordinance;
  - (c) aggravated assault;
  - (d) felonious assault;
  - (e) assault with intent to commit murder;
  - (f) assault with intent to do great bodily harm; or
  - (g) assault with intent to maim.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** The existence of a domestic relationship between the assailant and victim allows for enhanced penalties for conviction of assault or assault and battery (see I.H.2.2.c. and d.) or aggravated assault (see I.H.2.2.e.) under state laws where the assailant has one or more previous domestic violence convictions.

**Note:** Domestic relationship includes spouse or former spouse, reside or resided together in the same household, has had a child in common. This is the same definition of domestic relationship that is used when determining whether it is appropriate to make a warrantless arrest (see I.H.2.6.). (Compare this definition to that used in the requirements for obtaining a domestic relationship Personal Protection Order (PPO), which also includes "dating" relationships (see I.H.2.7.)).

There is no "statute of limitations" regarding a prior domestic relationship such as "former spouse" or "resided together."

For enhanced penalties, the prior conviction need *not* be for assaulting the same victim. All that is required is a domestic relationship between the assailant and that victim.

There is no time limit with regard to prior convictions (unlike the scheme for enhanced penalties for repeat drunk driving offenses). (See MCL 257.625; MSA 9.2325.)

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← d. IDENTIFY that Michigan law provides an enhanced penalty of imprisonment for not more than 2 years (a felony) or a fine of not more than \$2,500, or both, where:
1. the assailant is convicted of assault or assault and battery;
  - ← 2. the relationship between the assailant and the victim is:
    - (a) spouse or former spouse;
    - (b) reside or resided together in the same household; or
    - (c) has had a child in common; and
  3. the assailant has previously been convicted *two or more* times of the following crimes committed against a spouse or former spouse, or a person with whom the assailant resides or resided together in the same household or has had a child in common:
    - (a) assault or assault and battery;
    - (b) violation of a substantially corresponding local ordinance;
    - (c) aggravated assault;
    - (d) felonious assault;
    - (e) assault with intent to commit murder;
    - (f) assault with intent to do great bodily harm; or
    - (g) assault with intent to maim.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** MCL 750.81(3) provides for a penalty of "not more than one year" for assault or assault and battery within a domestic relationship where the assailant has one prior domestic violence conviction.

MCL 750.81(4) provides for a penalty of "not more than 2 years" for assault or assault and battery within a domestic relationship where the assailant has two or more prior domestic violence convictions.

MCL 750.81a(3) provides for a penalty of "not more than 2 years" for aggravated assault within a domestic relationship where the assailant has one or more prior domestic violence convictions. (See MCL 750.81 and 750.81a in appendix.)

**Discussion:** Students may ask about the definition of "reside together." Explain that while the term is not defined in the statute and there are no court decisions on it, the intent of the legislature was to give police officers broad latitude in being able to respond to volatile situations.

Officers should ask the victim whether the assailant lives there, has a key, or leaves belongings there.

This discussion is also important in connection with an officer's warrantless arrest authority in domestic violence cases. (See I.H.2.6.)

The purpose of including "reside together" was to provide protection to people who have no other place to go. It should be read broadly, and includes brothers and sisters, parents and children, and roommates.

Officers should use common sense in determining whether the assailant and victim reside or resided together.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← e. **IDENTIFY** that Michigan law provides an enhanced penalty of imprisonment for not more than 2 years (a felony) or a fine of not more than \$2,500, or both, where:
1. the assailant is convicted of aggravated assault;
  2. the relationship between the assailant and the victim is:
    - (a) spouse or former spouse;
    - (b) reside or resided together in the same household; or
    - (c) has had a child in common; and
  3. the assailant has previously been convicted of one or more of the following crimes committed against a spouse or former spouse, or a person with whom the assailant resides or resided together in the same household or has had a child in common:
    - (a) assault or assault and battery;
    - (b) violation of a substantially corresponding local ordinance;
    - (c) aggravated assault;
    - (d) felonious assault;
    - (e) assault with intent to commit murder;
    - (f) assault with intent to do great bodily harm; or
    - (g) assault with intent to maim.
- ←

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Discussion:** Discuss with the students that there may be local ordinances in their communities which address crimes found in domestic violence. They should become familiar with these as well.

**Note:** Emphasize the importance of taking the assailant's fingerprints and sending them to the state police for purposes of enhanced penalties for repeat domestic violence offenses. (See I.H.2.2.c., d., e. and f.)

Emphasize, however, that enhanced penalties are provided only for conviction of assault, assault and battery, and aggravated assault under state statutes (see I.H.2.2.).

Fingerprints should also be taken for arrests under local ordinances, because violations of local ordinances can be used to enhance penalties for conviction of assault, assault and battery, and aggravated assault under state law. (See I.H.2.2.c., d. and e.)

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**f. IDENTIFY that the law enforcement agency shall immediately fingerprint the assailant and shall forward the fingerprints to the state police within 72 hours of the arrest of the assailant in all of the following:**

1. felony;
2. misdemeanor assault or assault and battery where the relationship between the assailant and the victim is:
  - (a) spouse or former spouse;
  - (b) reside or resided together in the same household; or
  - (c) has had a child in common; and
3. any other misdemeanor for which the maximum possible penalty exceeds 92 days imprisonment or a fine of \$1,000, or both.

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.3. OVERVIEW

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### OPTIONS AVAILABLE TO THE COURT IN SENTENCING AND ADJUDICATION IN DOMESTIC VIOLENCE CASES

#### Teaching Goal:

The goal of this objective is to provide students with an understanding of the options available to the court in sentencing and adjudication in domestic violence cases.

#### Learning Focus:

- ① When may a court delay sentencing and place the assailant on probation without entry of a judgment of guilt?
- ② Under what circumstances might the court enter an adjudication of guilt against an assailant on probation?
- ③ Under what circumstances will the court discharge an assailant who is on probation and dismiss the proceedings against the assailant?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2. — 263).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.3. OVERVIEW

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### Objective I.H.2.3.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Options Available to the Court in Sentencing and Adjudication in Domestic Violence Cases.**

#### Performance/Testing Criteria:

- a. Identifies that the court may delay proceedings and place the assailant on probation without entering a judgment of guilt where:
  - (1) the assailant pleads guilty to or is convicted of assault, assault and battery, or aggravated assault;
  - (2) the assailant has not been convicted previously of assault, assault and battery, violation of a substantially corresponding local ordinance, or aggravated assault;
  - (3) the relationship between the assailant and the victim is spouse, former spouse, reside or resided together in the same household, or has had a child in common;
  - (4) the victim and the prosecutor consent;
  - (5) the assailant has not previously used this procedure; and
  - (6) the court contacts the Department of State Police to determine whether the assailant has previously:
    - (a) been convicted of assault, assault and battery, violation of a substantially corresponding local ordinance, or aggravated assault; or
    - (b) used this procedure.
- b. Identifies that the court shall enter an adjudication of guilt if during probation the assailant:
  - (1) commits an assaultive crime;
  - (2) violates a court order to receive counseling; or
  - (3) violates a court order to have no contact with the victim.
- c. Identifies that the court may enter an adjudication of guilt if the assailant violates any other term or condition of probation.
- d. Identifies that if the assailant fulfills the terms and conditions of probation, the court shall discharge the assailant and dismiss the proceedings.

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.3. OVERVIEW

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## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Explain to students that for first offense assault, assault and battery, or aggravated assault, the assailant may be eligible for delayed sentencing under MCL 769.4a. If the assailant is eligible (see below), the court should place the assailant on probation and impose appropriate conditions (such as batterer's intervention services; no contact with the victim; drug or alcohol counseling; etc.). Upon completion of the terms and conditions of probation, the assailant will be discharged and the charges will be dismissed. This enables the assailant who complies with the terms of probation to avoid having any criminal record for the assault. The court should report to the Department of State Police that the assailant has been discharged and the charges dismissed for retention in a nonpublic record. An assailant is eligible for only 1 such "discharge and dismissal."

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← a. **IDENTIFY** that the court may delay proceedings and place the assailant on probation without entering a judgment of guilt where:

1. the assailant pleads guilty to or is convicted of assault, assault and battery, or aggravated assault;
2. the assailant has not been convicted previously of assault, assault and battery, violation of a substantially corresponding local ordinance, or aggravated assault;
3. the relationship between the assailant and the victim is spouse, former spouse, reside or resided together in the same household, or has had a child in common;
4. the victim and the prosecutor consent;
5. the assailant has not previously used this procedure; and

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

6. the court contacts the Department of State Police to determine whether the assailant has previously:

- been convicted of assault, assault and battery, violation of a substantially corresponding local ordinance, or aggravated assault; or
- used this procedure.

### INSTRUCTOR NOTES

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

An assailant who has been placed on probation under MCL 769.4a *may* have probation revoked for violations of any term or condition and *must* have probation revoked for violating certain terms or conditions. The court then enters an adjudication of guilt and proceeds to sentencing.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**b. IDENTIFY that the court shall enter an adjudication of guilt if during probation the assailant:**

1. commits an assaultive crime;
2. violates a court order to receive counseling; or
3. violates a court order to have no contact with the victim.

**c. IDENTIFY that the court may enter an adjudication of guilt if the assailant violates any other term or condition of probation.**

**d. IDENTIFY that if the assailant fulfills the terms and conditions of probation, the court shall discharge the assailant and dismiss the proceedings.**

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.4. OVERVIEW

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### STALKING IN DOMESTIC VIOLENCE CASES

#### Teaching Goal:

The goal of this objective is to provide students with an understanding of the crime of stalking. It will provide the students with an understanding of the variety of behaviors that can be involved in stalking and the elements of the offense.

#### Learning Focus:

- ① What does "course of conduct" require?
- ② What unconsented conduct constitutes stalking?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2. — 263).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.4. OVERVIEW

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### Objective I.H.2.4.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of the Crime of Stalking.

#### Performance/Testing Criteria:

- a. Identifies the elements of stalking as:
  - (1) a willful course of conduct;
  - (2) involving repeated or continuing harassment of another individual;
  - (3) that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested; and
  - (4) that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested (MCL 750.411h).
- b. Identifies "course of conduct" as a pattern of conduct composed of 2 or more separate noncontinuous acts, evidencing a continuity of purpose.
- c. Identifies "harassment" as conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that:
  - (1) would cause a reasonable individual to suffer emotional distress; and
  - (2) actually causes the victim to suffer emotional distress.
- d. Identifies "unconsented contact" as any contact with another individual that is initiated or continued without that individual's consent, or in disregard of that individual's expressed desire that the conduct be avoided or discontinued, and includes, but is not limited to:
  - (1) following or appearing within the sight of that individual;
  - (2) approaching or confronting that individual in a public place or on private property;
  - (3) appearing at the workplace or residence of that individual;
  - (4) entering onto or remaining on property owned, leased, or occupied by that individual;
  - (5) contacting that individual by telephone;
  - (6) sending mail or electronic communications to that individual; or

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.4. OVERVIEW

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- (7) placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.
- e. Identifies "victim" as an individual who is the target of a willful course of conduct involving repeated or continuing harassment.
- f. Identifies "emotional distress" as significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.
- g. Identifies that immediately upon arrest of the assailant for stalking, the law enforcement agency shall fingerprint the assailant and shall forward the fingerprints to the state police within 72 hours after the arrest.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Discussion:** Four bills aimed at protecting victims of stalking were passed by the Michigan legislature in 1992 and went into effect on January 1, 1993. The text of the legislation is available in Appendix I.H.2. "Laws Regarding Domestic Violence."

- Misdemeanor stalking (MCL 750.411h) is discussed in this section.
- Felony aggravated stalking (MCL 750.411i) is discussed in I.H.2.5.
- MCL 600.2950a allows an individual to obtain a non-domestic stalking Personal Protection Order (PPO) and is discussed in I.H.2.8.
- MCL 764.15b was amended to authorize police to make a warrantless arrest of a person who violates a non-domestic stalking PPO and is discussed in I.H.2.10.

**Note:** This section deals with misdemeanor stalking, which is punishable by imprisonment for not more than one year or a fine of not more than \$1,000, or both.

**Discussion:** First go through the elements that constitute the stalking offense. Then illustrate the crime by using a hypothetical example.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**a. IDENTIFY the elements of stalking as:**

1. a willful course of conduct;
2. involving repeated or continuing harassment of another individual;
3. that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested; and
4. that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested (MCL 750.411h).



## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Emphasize that stalking requires a “course of conduct” which means *2 or more* separate, noncontinuous acts.

**Note:** Tell students to ask the victim about the assailant’s prior conduct to determine whether there are 2 or more acts to constitute stalking.

**Discussion:** Ask students what people do to harass and intimidate others. Examples:

- bother at work
- phone calls—work, home
- follow
- letters
- threats
- kill pets
- destroy property
- tamper with car

These are the behaviors that can, when not consented to, constitute stalking.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← b. IDENTIFY "course of conduct" as a pattern of conduct composed of 2 or more separate noncontinuous acts, evidencing a continuity of purpose.

←

← c. IDENTIFY "harassment" as conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that:

1. would cause a reasonable individual to suffer emotional distress; and
2. actually causes the victim to suffer emotional distress.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

The law does not require the victim to tell the assailant not to contact the victim in order for the contact to be "unconsented." In court, however, the prosecutor must prove lack of consent, which can be demonstrated in a number of ways, including:

1. the victim requesting that the assailant not have contact;
2. the police telling the assailant not to have contact with the victim; or
3. the victim obtaining a Personal Protection Order (PPO).

The victim does not have to confront the assailant for the assailant's contact to be "unconsented."

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**D. IDENTIFY "unconsented contact" as any contact with another individual that is initiated or continued without that individual's consent, or in disregard of that individual's expressed desire that the conduct be avoided or discontinued, and includes, but is not limited to:**

1. following or appearing within the sight of that individual;
2. approaching or confronting that individual in a public place or on private property;
3. appearing at the workplace or residence of that individual;
4. entering onto or remaining on property owned, leased, or occupied by that individual;
5. contacting that individual by telephone;
6. sending mail or electronic communications to that individual; or
7. placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

Tell students to advise victims to document in detail unconsented contact by the assailant, including what, where, when, who else (if anyone) was present, and what was the victim's reaction. Victims should keep a list of all unconsented contacts. Also, victims should keep any letters sent by the assailant and messages left on answering machines. Officers should document such evidence in their written report.

**Note:**

Assailants arrested for misdemeanor stalking must be fingerprinted (maximum penalty exceeds 92 days imprisonment or a fine of \$1,000, or both) (MCL 28.243; MSA 4.463). (See I.H.2.2.f.)

Stalking is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000, or both.

P.A. 65 of 1997, effective approximately April 1, 1998, makes stalking a felony punishable by not more than 5 years or a fine of not more than \$10,000, or both, where the victim is *under 18* and the assailant is 5 or more years older than the victim.

## LAWS REGARDING DOMESTIC VIOLENCE

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p>← e. IDENTIFY “victim” as an individual who is the target of a willful course of conduct involving repeated or continuing harassment.</p> <p>f. IDENTIFY “emotional distress” as significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling.</p> <p>← g. IDENTIFY that immediately upon arrest of the assailant for stalking, the law enforcement agency shall fingerprint the assailant and shall forward the fingerprints to the state police within 72 hours after the arrest.</p>	

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.5. OVERVIEW

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### AGGRAVATED STALKING IN DOMESTIC VIOLENCE CASES

#### Teaching Goal:

The goal of this objective is to provide students with an understanding of the crime of aggravated stalking.

#### Learning Focus:

- ① Under what circumstances does stalking behavior constitute aggravated stalking?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2 — 263).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.5. OVERVIEW

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### Objective I.H.2.5.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Crime of Aggravated Stalking.**

#### Performance/Testing Criteria:

- a. Identifies aggravated stalking as a felony.
- b. Identifies that an individual commits aggravated stalking by engaging in stalking (see I.H.2.4.) where:
  - (1) the assailant has previously been convicted of stalking or aggravated stalking; or
  - (2) at least one of the 2 or more separate noncontinuous acts:
    - (a) is in violation of a restraining order and the individual has received actual notice of that restraining order, or is in violation of an injunction or preliminary injunction; or
    - (b) is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal; or
    - (c) includes the making of 1 or more credible threats against the victim, a member of the victim's family, or another individual living in the victim's household.
- c. Identifies that immediately upon arrest of the assailant for aggravated stalking, the law enforcement agency shall fingerprint the assailant and shall forward the fingerprints to the state police within 72 hours after the arrest.

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.5. OVERVIEW

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## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** This section deals with the felony of aggravated stalking which is punishable by imprisonment for not more than five years or a fine of not more than \$10,000, or both.

P.A. 65 of 1997, effective approximately April 1, 1998, makes aggravated stalking a *felony* punishable by not more than *10 years* or a fine of not more than \$15,000, or both, where the *victim* is *under 18* and the assailant is 5 or more years older than the victim.

**Note:** To commit aggravated stalking, the assailant must commit stalking (I.H.2.4.), which requires a "course of conduct" (2 or more acts of unconsented contact), under certain circumstances specified in the statute.

Basically, aggravated stalking is *stalking*:

- (1) in *violation of a court order*, or
- (2) which *includes a credible threat*, or
- (3) which is committed by an assailant with a *prior conviction* for stalking or aggravated stalking.

**LAWS REGARDING DOMESTIC VIOLENCE**

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**



**a. IDENTIFY aggravated stalking as a felony.**



## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** The prior conviction does *not* have to involve the same victim.

**Discussion:** Tell the students to ask the victim about the assailant's prior conduct.

The assailant must commit stalking, which requires a "course of conduct" (two or more acts of unconsented contact). If one of the acts is in violation of a PPO (domestic relationship or non-domestic stalking), the assailant has committed aggravated stalking. That is, you do not need two violations of a PPO for aggravated stalking.

For example, if the assailant engages in stalking, the victim obtains a PPO, and the assailant then commits an act of unconsented contact in violation of the PPO, the assailant has committed aggravated stalking.

P.A. 65 of 1997 clarifies this by providing that aggravated stalking is committed when "at least 1 of the actions constituting the offense is in violation of a restraining order. . . ."

This is important, in part, because officers do not have the authority to make a warrantless arrest for misdemeanor stalking. However, officers can arrest for felony or aggravated stalking without a warrant on probable cause.

Also, if the assailant has made a number of harassing telephone calls and during one of these calls the assailant makes a credible threat against the victim or a member of the victim's family or household, the assailant has committed aggravated stalking and can be arrested without a warrant on probable cause.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**b. IDENTIFY that an individual commits aggravated stalking by engaging in stalking (see I.H.2.4.) where:**

← 1. the assailant has previously been convicted of stalking or aggravated stalking; or

← 2. at least one of the 2 or more separate noncontinuous acts:

(a) is in violation of a restraining order and the individual has received actual notice of that restraining order, or is in violation of an injunction or preliminary injunction; or

(b) is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal; or

(c) includes the making of 1 or more credible threats against the victim, a member of the victim's family, or another individual living in the victim's household.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** P.A. 65 of 1997 adds that aggravated stalking is committed where at least 1 of the acts is in violation of a *condition of parole*.

**Note:** The "restraining order" can be a domestic relationship Personal Protection Order (PPO) (see I.H.2.7.) or a non-domestic stalking PPO (see I.H.2.8.).

A person does not have to obtain a PPO to be the victim of the misdemeanor crime of stalking. Stalking in violation of any PPO will, however, raise misdemeanor stalking to the felony of aggravated stalking.

**LAWS REGARDING DOMESTIC VIOLENCE**

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**



**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

- c. **IDENTIFY** that immediately upon arrest of the assailant for aggravated stalking, the law enforcement agency shall fingerprint the assailant and shall forward the fingerprints to the state police within 72 hours after the arrest.

### INSTRUCTOR NOTES

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.6. OVERVIEW

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### THE AUTHORITY OF A POLICE OFFICER IN ENFORCING DOMESTIC VIOLENCE LAWS

#### Teaching Goal:

The goal of this objective is to provide students with an understanding of a police officer's authority to enter the scene of a domestic violence complaint and to make an arrest.

#### Learning Focus:

- ① What circumstances at a domestic violence scene give the officer authority to enter?
- ② When should an arrest be made?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2. — 263).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.6. OVERVIEW

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### Objective I.H.2.6.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of the Authority of a Police Officer in Enforcing Domestic Violence Laws.

#### Performance/Testing Criteria:

- a. Identifies the authority of a police officer to enter the dwelling without a warrant when responding to a domestic violence complaint based on:
  - (1) consent by a person with authority to consent, including:
    - (a) adult occupants; or
    - (b) child occupants, taking into account:
      - (i) age; and
      - (ii) area of dwelling to be entered; or
  - (2) exigent circumstances, including:
    - (a) risk of danger to police or others inside or outside the dwelling;
    - (b) imminent destruction of evidence;
    - (c) need to prevent the suspect's escape; or
    - (d) hot pursuit.
- b. Identifies the need to document the grounds that justify entry.
- c. Identifies that a police officer should arrest in the following circumstances:
  - (1) a warrant exists;
  - (2) a felony, misdemeanor, or ordinance violation is committed in the officer's presence (MCL 764.15 (1) (a)); or
  - (3) probable cause exists to believe:
    - (a) a felony has been committed;
    - (b) a misdemeanor assault, assault and battery, or aggravated assault has been or is being committed, or a violation of a substantially corresponding local ordinance occurred or is occurring, and there is a domestic relationship between the assailant and the victim defined as:
      - (i) spouse or former spouse;
      - (ii) reside or resided together in the same household; or
      - (iii) has had a child in common (MCL 764.15a);

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.6. OVERVIEW

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- (c) the person has violated of a condition of release (conditional bond) (MCL 764.15e(1));
- (d) the person is in violation of a condition of probation or parole (MCL 764.15(1) (g)); or
- (e) the person is in violation of a Personal Protection Order (PPO) (MCL 764.15b) (see I.H.2.10.).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Most often entry at the scene of a domestic violence complaint is made with consent. Tell students to always ask whether they may enter the premises.

Laws regarding consent to enter are continuously developing as a result of court decisions. Therefore, you should provide students with the most up-to-date information regarding consent to enter. Include specific examples which address who can give consent and under what circumstances.

**Note:** Persons who live in the dwelling have authority to consent to entry. This includes children, although young children may only have authority to admit officers to that part of the dwelling which any caller would be allowed to enter.

The North Dakota Supreme Court concluded that a victim who "fled the marital residence, sought a protective order, and rented a new residence" because of domestic violence retained the authority to consent to a search of the marital home. *State v Huffman*, 542 N.W. 2d 718 (1996).

**Note:** Officers should not leave the scene of a domestic violence complaint uncertain whether everyone in the dwelling is safe; they need to determine what is happening when responding to a domestic violence call.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← a. **IDENTIFY** the authority of a police officer to enter the dwelling without a warrant when responding to a domestic violence complaint based on:

1. Consent by a person with authority to consent, including:

(a) adult occupants;

← (b) child occupants, taking into account:

- age; and
- area of dwelling to be entered.

←

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

This material is limited to the authority of police officers to enter the scene when responding to a domestic violence complaint, i.e., when they are investigating whether a crime has been committed.

Officers may discover evidence of domestic violence after having lawfully entered a dwelling for reasons *other* than responding to a domestic violence complaint. For example, officers may be performing a “community caretaking function” (*People v. Davis*, 442 Mich 1 (1993); *United States v. Rohrig*, 98 F.3d 1506 (1996)), such as responding to a neighbor’s complaint about loud music at night, or seeking to administer aid to a person in need of emergency assistance. Police “community caretaking” functions are varied; what they have in common is that they are not performed to investigate or solve crimes. (*People v. Davis*, 442 Mich 1 (1993)). Because the purpose of the officers in entering is not to investigate crimes, probable cause is not required for entry.

“ . . . we hold that police may enter a dwelling without a warrant when they reasonably believe that a person within is in need of immediate aid. They must possess specific and articulable facts that lead them to this conclusion. In addition, the entry must be limited to the justification therefor, and the officer may not do more than is reasonably necessary to determine whether a person is in need of assistance, and to provide that assistance.”

*People v. Davis*, 442 Mich 1, 25-26 (1993)

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



2. exigent circumstances, including:

(a) risk of danger to police or others inside or outside the dwelling;

(b) imminent destruction of evidence.

(c) need to prevent the suspect's escape;

(d) hot pursuit.

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## LAWS REGARDING DOMESTIC VIOLENCE

<b>CONTENT TO BE LEARNED BY STUDENT</b>	<b>INSTRUCTOR NOTES</b>
<p data-bbox="310 394 1062 495"><b>b. IDENTIFY the need to document the grounds that justify entry.</b></p> <p data-bbox="310 905 1062 1005"><b>c. IDENTIFY that a police officer should arrest in the following circumstances:</b></p> <ol data-bbox="358 1094 1062 1325" style="list-style-type: none"><li data-bbox="358 1094 643 1129">1. a warrant exists;</li><li data-bbox="358 1220 1062 1325">2. a felony, misdemeanor, or ordinance violation is committed in the officer's presence;</li></ol>	

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Discussion:** Discuss Michigan's domestic violence warrantless arrest statute (MCL 764.15a) which authorizes officers to arrest based on probable cause to believe that a misdemeanor assault, assault and battery, or aggravated assault has been or is being committed. This statute was amended in 1996 to authorize warrantless arrest for violation of a "substantially corresponding local ordinance."

**Note:** The statute defines the domestic relationship that must exist between the victim and assailant before the warrantless arrest statute can be applied:

- spouse or former spouse;
- resides or resided together in the same household;
- or
- has had a child in common.

**Note:** Emphasize that the statute does not recognize a "statute of limitations" on former relationships.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

3. probable cause exists to believe:

(a) a felony has been committed;

← (b) a misdemeanor assault, assault and battery, or aggravated assault has been or is being committed, or a violation of a substantially corresponding local ordinance occurred or is occurring, and there is a domestic relationship between the assailant and the victim defined as:

- ←
- spouse or former spouse;
  - resides or resided together in the same household; or
  - has had a child in common (MCL 764.15a);

(c) the person is in violation of a condition of release (conditional bond) (MCL 764.15e(1));

(d) the person has violated a condition of probation or parole (MCL 764.15(1) (g)); or

(e) the person is in violation of a Personal Protection Order (PPO) (MCL 764.15b) (see I.H.2.10.).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** The domestic relationship between the assailant and the victim required for a warrantless misdemeanor arrest is the same as the domestic relationship that permits enhanced penalties for assault, assault and battery, and aggravated assault (see I.H.2.2.).

**Note:** Emphasize to the students that the defined relationships are not necessary for an assault to have taken place or an arrest to be made—only for an arrest to be made on a misdemeanor assault, assault and battery, aggravated assault, or violation of a substantially corresponding local ordinance when there is no warrant and when the assault was not committed in the presence of the officer.

**Note:** Arrests should still be made for other crimes committed in a domestic violence incident. Stress to the students that they must conduct a thorough investigation. The investigation should not stop as soon as probable cause has been established for a misdemeanor crime. Multiple crimes may have been committed; all should be investigated and considered in the probable cause determination.

**Note:** Address the lack of a legal definition for the terms “reside together” and “resided together.” No definition exists in the statute and the courts have made no clarifying decisions. Emphasize that the purpose of the statute is to insure safety, and most departments interpret the statute broadly. No suits have been brought for wrongful arrest by an assailant claiming that the assailant did not “reside together” with the victim. It is much more likely that failure of the officer to act after a serious injury to the victim will result in the officer being sued should the victim be injured again by the assailant.

**Note:** Arrest authority and procedures for violation of a Personal Protection Order (PPO) are addressed in I.H.2.10. Procedures following arrest for violation of a condition of release are addressed in I.H.2.13.j.

**LAWS REGARDING DOMESTIC VIOLENCE**

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**

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**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.7. OVERVIEW

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### DOMESTIC RELATIONSHIP PERSONAL PROTECTION ORDER

#### Teaching Goal:

The goal of this objective is to provide students with an understanding of the nature and uses of domestic relationship Personal Protection Orders (PPOs).

#### Learning Focus:

- ❶ Who may obtain a domestic relationship PPO?
- ❷ What conduct can be prohibited by a domestic relationship PPO?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2. — 263).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.7. OVERVIEW

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### Objective I.H.2.7.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of a Domestic Relationship Personal Protection Order (PPO).

[Note: In Michigan there are two types of Personal Protection Orders (PPOs): Domestic Relationship PPOs and Non-Domestic Stalking PPOs. For Non-Domestic Stalking PPOs see I.H.2.8.]

#### Performance/Testing Criteria:

- a. Identifies that a domestic relationship Personal Protection Order (PPO) is a court order issued by the circuit court prohibiting certain conduct.
- b. Identifies that a violation of a PPO is criminal contempt of court.
- c. Identifies that an individual (the petitioner) may obtain a domestic relationship PPO only if there is a domestic relationship between the petitioner and the person restrained or enjoined (the respondent) defined as (MCL 600.2950):
  - (1) spouse or former spouse;
  - (2) reside or resided together in the same household;
  - (3) has had a child in common; or
  - (4) has or has had a dating relationship.
- d. Recognizes that the existence of a domestic relationship will be determined by the circuit court before the court issues the PPO.
- e. Identifies conduct that can be restrained or enjoined by a domestic relationship PPO as:
  - (1) entering onto premises;
  - (2) assaulting, attacking, beating, molesting, or wounding a named individual;
  - (3) threatening to kill or physically injure a named individual;
  - (4) removing minor children from the individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction;

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.7. OVERVIEW

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- (5) purchasing or possessing a firearm;
  - (6) interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined;
  - (7) interfering with petitioner at petitioner's place of employment or engaging in conduct that impairs petitioner's employment relationship or environment [Note: This may include stalking.]; or
  - (8) any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence. [Note: This may include stalking.]
- f. Recognizes that to obtain a domestic relationship PPO the petitioner shall:
- (1) go to circuit court and file a petition, on a form provided without charge by the court, requesting a domestic relationship PPO; and
  - (2) provide evidence in support of the request demonstrating probable cause to believe the respondent may commit one or more of the acts that can be prohibited by the PPO (see I.H.2.7.e.).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Officers should know how PPOs are obtained because victims will ask officers about PPOs; in addition, the written notice of rights officers must provide victims (see I.H.2.13.) includes information about PPOs.

**Note:** Students need to know that PPOs are orders issued by the *circuit court*.

**Note:** Explain that violating a PPO is not a crime in and of itself; violating a PPO is criminal contempt of court punishable by imprisonment for not more than 93 days and/or a fine of not more than \$500.

**Note:** Explain that conduct which violates a PPO may also constitute a violation of the criminal law. The penalty provided for violation of a PPO may be imposed in addition to any penalty imposed for any criminal offense arising from the same conduct (MCL 600.2950(22)).

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



a. IDENTIFY that a domestic relationship Personal Protection Order (PPO) is a court order issued by the circuit court prohibiting certain conduct.



b. IDENTIFY that a violation of a PPO is criminal contempt of court.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** For the purposes of obtaining a domestic relationship PPO, the definition of the requisite relationship is broader than that for warrantless arrest (see I.H.2.6.) and enhanced penalties for assault, assault and battery, and aggravated assault (see I.H.2.2.). Domestic relationship for obtaining a PPO includes a dating relationship which is defined as "frequent, intimate associations primarily characterized by the expectation of affectional involvement." The term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

**Note:** Officers should advise victims to keep a copy of their PPO with them at all times.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← c. **IDENTIFY** that an individual (the petitioner) may obtain a domestic relationship PPO only if there is a domestic relationship between the petitioner and the person restrained or enjoined (the respondent) defined as (MCL 600.2950):

1. spouse or former spouse;
2. reside or resided together in the same household;
3. has had a child in common; or
4. has or has had a dating relationship.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Emphasize that the existence of a domestic relationship will be predetermined by the circuit court judge (MCL 600.2950). The officer does not need to make this determination at the scene of an alleged violation of a PPO.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**d. RECOGNIZE that the existence of a domestic relationship will be determined by the circuit court before the court issues the PPO.**

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Premises can include locations other than the petitioner's residence, i.e., the children's school or baby-sitter, the petitioner's parent's home, etc.

**Note:** The PPO can be used to protect the petitioner's children as well as the petitioner.

**Note:** Explain that stalking can be enjoined under 7.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**e. IDENTIFY conduct that can be restrained or enjoined by a domestic relationship PPO as:**

- ← 1. entering onto premises;
- ← 2. assaulting, attacking, beating, molesting, or wounding a named individual;
- 3. threatening to kill or physically injure a named individual;
- 4. removing minor children from the individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction;
- 5. purchasing or possessing a firearm;
- 6. interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined;
- ← 7. interfering with petitioner at petitioner's place of employment or engaging in conduct that impairs petitioner's employment relationship or environment [Note: This may include stalking.];

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Explain that a broad range of conduct can be prohibited under 8, including stalking.

**Note:** If there is a domestic relationship between the assailant and the victim, the victim should obtain a domestic relationship PPO to prohibit stalking behaviors. A non-domestic stalking PPO (see I.H.2.8) should be obtained by a victim only when the victim does *not* have a domestic relationship with the assailant.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



8. any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence.

[Note: This may include stalking.]



## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Explain to the students that the petitioner has to convince the court that there is probable cause to believe the respondent will engage in one or more of the acts to be prohibited by the PPO.

The petitioner can do this by providing testimony, affidavits, documents (including police and medical reports) and other evidence.

Explain to students the importance of documentation by the victim in obtaining a PPO.

**Note:** A person who knowingly and intentionally makes a false statement to the court in support of a petition for a domestic relationship PPO is subject to the contempt powers of the court (MCL 600.2950(23)).

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**f. RECOGNIZE that to obtain a domestic relationship PPO the petitioner shall:**

1. go to circuit court and file a petition, on a form provided without charge by the court, requesting a domestic relationship PPO; and
2. provide evidence in support of the request demonstrating probable cause to believe the respondent may commit one or more of the acts that can be prohibited by the PPO (see I.H.2.7.e.).

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.8. OVERVIEW

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### NON-DOMESTIC STALKING PERSONAL PROTECTION ORDER

#### Teaching Goal:

The goal of this objective is to provide students with an understanding of the nature and uses of non-domestic stalking Personal Protection Orders (PPOs).

#### Learning Focus:

- ❶ What is a non-domestic stalking PPO?
- ❷ Who should obtain a non-domestic stalking PPO?
- ❸ What conduct can be prohibited by a non-domestic stalking PPO?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2. — 263).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.8. OVERVIEW

### Objective I.H.2.8.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of a Non-Domestic Stalking Personal Protection Order (PPO).**

**Performance/Testing Criteria:**

- a. Identifies that a non-domestic stalking Personal Protection Order (PPO) is a court order issued by the circuit court prohibiting stalking behavior.
- b. Identifies that a violation of a PPO is criminal contempt of court.
- c. Identifies that a domestic relationship is *not* required for a non-domestic stalking PPO (MCL 600.2950a). [Note: In a domestic relationship, stalking is included in a domestic relationship PPO. See I.H.2.7.e.]
- d. Identifies that conduct that can be restrained or enjoined by a non-domestic stalking PPO includes, but is not limited to:
  - (1) following or appearing within the sight of an individual;
  - (2) approaching or confronting that individual in a public place or on private property;
  - (3) appearing at the workplace or residence of that individual;
  - (4) entering onto or remaining on property owned, leased, or occupied by that individual;
  - (5) contacting that individual by telephone;
  - (6) sending mail or electronic communications to that individual;
  - (7) placing an object on, or delivering an object to, property owned, leased, or occupied by that individual; or
  - (8) purchasing or possessing a firearm.
- e. Recognizes that to obtain a non-domestic stalking PPO the petitioner must:
  - (1) go to circuit court and file a petition, on a form provided without charge by the court, requesting a non-domestic stalking PPO; and
  - (2) provide evidence in support of the request demonstrating that the respondent has engaged in stalking.

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.8. OVERVIEW

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## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Tell students that if there is a domestic relationship between the parties (spouse, former spouse; reside or resided together; child in common; past or present dating relationship), the victim should obtain a domestic relationship PPO even if the assailant is stalking the victim. (See I.H.2.7.)

A non-domestic stalking PPO should be obtained only by a victim of stalking who does not have a domestic relationship with the stalker.

**Note:** Point out that this is the same as for a domestic relationship PPO, which is also a court order prohibiting certain conduct, violation of which is criminal contempt of court punishable by imprisonment for not more than 93 days and/or a fine of not more than \$500.

**Note:** Explain that conduct which violates a non-domestic stalking PPO may also constitute a violation of the criminal law. The penalty provided for violation of a PPO may be imposed in addition to any penalty imposed for any criminal offense arising from the same conduct (MCL 600.2950a(19)).

**Note:** Emphasize to students that a non-domestic stalking PPO can be obtained by anyone who is being stalked in order to restrain *anyone* who is stalking. *No* relationship, domestic or otherwise, is necessary. For example, non-domestic stalking PPOs can be obtained to restrain neighbors, co-workers, or strangers who stalk.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← a. **IDENTIFY** that a non-domestic stalking Personal Protection Order (PPO) is a court order issued by the circuit court prohibiting stalking behavior.
- ← b. **IDENTIFY** that a violation of a PPO is criminal contempt of court.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Make sure to clarify that the purpose of a non-domestic stalking PPO is to protect a person against *stalking* behaviors. It is not appropriate for other situations, such as neighbor-neighbor disputes involving, for example, loud noise or a dog trespassing in the yard. Stress to the students that they should *not* advise a person whose problem is something other than stalking to go to circuit court and obtain a non-domestic stalking PPO.

**Note:** Officers should advise victims to keep a copy of their PPO with them at all times.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← c. **IDENTIFY** that a domestic relationship is *not* required for a non-domestic stalking PPO (MCL 600.2950a). [Note: In a domestic relationship, stalking is included in a domestic relationship PPO. See I.H.2.7.e.]

←

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

A non-domestic stalking PPO can enjoin or restrain stalking conduct that is prohibited under the stalking law (MCL 750.411h, 750.411i; MCL 600.2950a(1)).

## LAWS REGARDING DOMESTIC VIOLENCE

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p data-bbox="215 401 256 443">←</p> <p data-bbox="302 401 1049 562"><b>d. IDENTIFY that conduct that can be restrained or enjoined by a non-domestic stalking PPO includes, but is not limited to:</b></p> <ol data-bbox="347 632 1049 1734" style="list-style-type: none"><li data-bbox="347 632 1049 716">1. following or appearing within the sight of an individual;</li><li data-bbox="347 785 1049 869">2. approaching or confronting that individual in a public place or on private property;</li><li data-bbox="347 938 1049 1022">3. appearing at the workplace or residence of that individual;</li><li data-bbox="347 1092 1049 1176">4. entering onto or remaining on property owned, leased, or occupied by that individual;</li><li data-bbox="347 1245 1049 1287">5. contacting that individual by telephone;</li><li data-bbox="347 1356 1049 1440">6. sending mail or electronic communications to that individual;</li><li data-bbox="347 1509 1049 1635">7. placing an object on, or delivering an object to, property owned, leased, or occupied by that individual; or</li><li data-bbox="347 1705 1049 1747">8. purchasing or possessing a firearm.</li></ol>	

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** The petitioner must convince the court that the respondent has engaged in stalking.

**Note:** A person who knowingly and intentionally makes a false statement to the court in support of a petition for a non-domestic stalking PPO is subject to the contempt powers of the court (MCL 600.2950a(20)).

**Note:** The responsibility of the petitioner in seeking a non-domestic stalking PPO is substantially the same as that of a petitioner seeking a domestic relationship PPO:

1. go to circuit court and file a petition seeking a non-domestic stalking PPO on a form provided free of charge by the court;
2. provide evidence that the respondent has engaged in stalking;
3. have the respondent served with the PPO; and
4. provide the clerk of the court with the proof of service.

**Note:** Remind students that an assailant who engages in misdemeanor stalking (see I.H.2.4.) where at least one act of unconsented contact is in violation of a PPO (domestic relationship or non-domestic stalking PPO) commits the felony of aggravated stalking (see I.H.2.5.).

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**e. RECOGNIZE that to obtain a non-domestic stalking PPO the petitioner must:**

1. go to circuit court and file a petition, on a form provided without charge by the court, requesting a non-domestic stalking PPO; and
2. provide evidence in support of the request demonstrating that the respondent has engaged in stalking.



**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.9. OVERVIEW

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### COURT PROCEDURES RELATED TO PERSONAL PROTECTION ORDERS

#### Teaching Goal:

The goal of this objective is to provide students with an understanding of court procedures related to Personal Protection Orders (PPOs).

#### Learning Focus:

- ① When must a circuit court issue a PPO?
- ② What can the respondent do after learning of the PPO?
- ③ What are the responsibilities of the clerk of the court that issues a PPO?
- ④ What are the responsibilities of the petitioner?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2. — 263).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.9. OVERVIEW

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### Objective I.H.2.9.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of the Court Procedures Related to Personal Protection Orders (PPOs).**

**Performance/Testing Criteria:**

- a. Recognizes that the circuit court must:
  - (1) issue a domestic relationship PPO if the court determines that there is probable cause to believe the respondent may commit one or more of the acts that can be prohibited by the PPO; or
  - (2) state immediately in writing the specific reasons for refusing to issue the PPO.
  
- b. Recognizes that the circuit court must:
  - (1) issue a non-domestic stalking PPO if the court determines that the respondent has engaged in stalking, or
  - (2) state immediately in writing the specific reasons for refusing to issue the PPO.
  
- c. Recognizes that a PPO (domestic relationship or non-domestic stalking) shall be issued by the circuit court ex parte (without notice to the respondent) if it clearly appears from specific facts shown that:
  - (1) immediate and irreparable injury, loss or damage will result from delay required to give notice; or
  - (2) notice itself will precipitate adverse reaction before a PPO can be issued.
  
- d. Recognizes that the respondent may file a motion, on a form provided without charge by the circuit court, to modify or rescind an ex parte PPO:
  - (1) within 14 days after being served with or receiving notice of the PPO;  
or
  - (2) for good cause shown, after 14 days.
  
- e. Identifies that the circuit court must schedule a hearing on a motion to modify or rescind a PPO within:
  - (1) 14 days after the filing of the motion; or

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.9. OVERVIEW

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- (2) 5 days (expedited hearing) after the filing of the motion if the PPO prohibits the purchase or possession of a firearm and the respondent is a:
  - (a) person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of employment;
  - (b) certified police officer;
  - (c) sheriff or deputy sheriff;
  - (d) member of the Michigan Department of State Police; or
  - (e) local corrections officer, Department of Corrections employee, or federal law enforcement officer who carries a firearm during the normal course of employment.
  
- f. Recognizes that the clerk of the circuit court that issues a PPO shall immediately:
  - (1) file a true copy of the PPO with the law enforcement agency designated by the court on the PPO to enter the PPO into the LEIN;
  - (2) immediately provide the petitioner with at least two true copies of the PPO;
  - (3) inform the petitioner that the petitioner may take a true copy of the PPO to the designated law enforcement agency for immediate entry into the LEIN;
  - (4) notify the designated law enforcement agency when the clerk receives proof that the respondent has been served with the PPO; and
  - (5) notify the designated law enforcement agency when the PPO has been rescinded, modified, or extended by court order.
  
- g. Recognizes that the petitioner must ensure:
  - (1) respondent is served with the PPO; and
  - (2) proof of service is provided to the clerk of the circuit court that issued the PPO.

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## LAWS REGARDING DOMESTIC VIOLENCE

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p><b>a. RECOGNIZE that the circuit court must:</b></p> <ol style="list-style-type: none"><li>1. issue a domestic relationship PPO if the court determines that there is probable cause to believe the respondent may commit one or more of the acts that can be prohibited by the PPO; or</li><li>2. state immediately in writing the specific reasons for refusing to issue the PPO.</li></ol> <p><b>b. RECOGNIZE that the circuit court must:</b></p> <ol style="list-style-type: none"><li>1. issue a non-domestic stalking PPO if the court determines that the respondent has engaged in stalking, or</li><li>2. state immediately in writing the specific reasons for refusing to issue the PPO.</li></ol>	

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Explain to students that ex parte PPOs are issued where the need for victim safety outweighs the need to provide prior notice to the respondent.

As with domestic relationship PPOs, a non-domestic stalking PPO will be issued ex parte if the court determines victim safety requires it.

**Note:**

An ex parte non-domestic stalking PPO is valid for not less than 182 days (MCL 600.2950a (9)).

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**c. RECOGNIZE that a PPO (domestic relationship or non-domestic stalking) shall be issued by the circuit court ex parte (without notice to the respondent) if it clearly appears from specific facts shown that:**

1. immediate and irreparable injury, loss or damage will result from delay required to give notice; or
2. notice itself will precipitate adverse reaction before a PPO can be issued.



## **LAWS REGARDING DOMESTIC VIOLENCE**

### **STRATEGIES FOR TEACHING THIS OBJECTIVE**

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**Note:**

It is important for students to understand that the respondent has the right to go to the court that issued the PPO ex parte and challenge it. The respondent has the right to be heard. The court will provide the respondent with the necessary forms free of charge. The respondent does not need an attorney to do this.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**d. RECOGNIZE that the respondent may file a motion, on a form provided without charge by the circuit court, to modify or rescind an ex parte PPO (MCL 600.2950(13)):**

1. within 14 days after being served with or receiving notice of the PPO;  
or
2. for good cause shown, after 14 days.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Only the court can dismiss or modify a PPO. Officers at the scene of a PPO violation involving, for example, a claim by the assailant that the victim invited the assailant to visit the victim's premises despite a PPO prohibition should arrest the assailant and let the court address the issue of modifying or dismissing the PPO.

**Note:** P.A. 115 of 1997, effective August 20, 1997, requires the petitioner to notify the court before issuance of a PPO (domestic relationship or non-domestic stalking) if the respondent is a:

- (a) person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of employment;
- (b) certified police officer;
- (c) sheriff or deputy sheriff;
- (d) member of the Michigan Department of State Police;
- or
- (e) local corrections officer, Department of Corrections employee, or federal law enforcement officer who carries a firearm during the normal course of employment.

If the court issues an ex parte PPO against such a respondent and the PPO contains a prohibition against the purchase or possession of a firearm, the court must schedule a hearing within 5 days of the filing of a motion by the respondent to modify or rescind the PPO.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**e. IDENTIFY that the circuit court must schedule a hearing on a motion to modify or rescind a PPO within:**

1. 14 days after the filing of the motion; or
2. 5 days (expedited hearing) after the filing of the motion if the PPO prohibits the purchase or possession of a firearm and the respondent is a:
  - person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of employment;
  - certified police officer;
  - sheriff or deputy sheriff;
  - member of the Michigan Department of State Police; or
  - local corrections officer, Department of Corrections employee, or federal law enforcement officer who carries a firearm during the normal course of employment.



**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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**Note:**

Explain to the students that the PPO will be entered into the LEIN.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**f. RECOGNIZE that the clerk of the circuit court that issues a PPO shall immediately:**

1. file a true copy of the PPO with the law enforcement agency designated by the court on the PPO to enter the PPO into the LEIN;
2. immediately provide the petitioner with at least two true copies of the PPO;
3. inform the petitioner that the petitioner may take a true copy of the PPO to the designated law enforcement agency for immediate entry into the LEIN;
4. notify the designated law enforcement agency when the clerk receives proof that the respondent has been served with the PPO; and
5. notify the designated law enforcement agency when the PPO has been rescinded, modified, or extended by court order.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** It is the responsibility of the petitioner to have the respondent served with the PPO and to provide the clerk of the circuit court with the proof of service (for entry into the LEIN).

**Note:** Remind students that an assailant who engages in misdemeanor stalking (see I.H.2.4.) where at least one act of unconsented contact is in violation of a PPO (domestic relationship or non-domestic stalking PPO) commits the felony of aggravated stalking (see I.H.2.5.).

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← g. **RECOGNIZE** that the petitioner must ensure:

1. respondent is served with the PPO; and
2. proof of service is provided to the clerk of the circuit court that issued the PPO.

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**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.10. OVERVIEW

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### ENFORCEMENT OF PERSONAL PROTECTION ORDERS

#### Teaching Goal:

The goal of this objective is to provide students with an understanding of enforcement requirements for Personal Protection Orders (PPOs).

#### Learning Focus:

- ① Should the officer arrest if probable cause exists to believe that an individual is in violation of a PPO?
- ② What are the responsibilities of the officer when responding to a call alleging a violation of a PPO when the assailant has not been served?
- ③ At what point is an arrest made after serving or providing notice to the assailant?
- ④ What are the procedures following an arrest for violation of a PPO?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2. — 263).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.10. OVERVIEW

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### Objective I.H.2.10.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Enforcement of Domestic Relationship and Non-Domestic Stalking Personal Protection Orders (PPOs).**

#### Performance/Testing Criteria:

- a. Identifies that a Personal Protection Order (PPO) is effective when signed by a judge.
- b. Identifies that a PPO is immediately enforceable anywhere in Michigan by any law enforcement agency that has:
  - (1) received a true copy of the PPO;
  - (2) been shown a true copy of the PPO; or
  - (3) verified the existence of the PPO in the LEIN.
- c. Identifies that if the individual restrained or enjoined has been served, a police officer should arrest if probable cause exists to believe:
  - (1) a domestic relationship PPO or non-domestic stalking PPO exists;
  - (2) the PPO states on its face that violation subjects the violator to immediate arrest and criminal contempt punishable by not more than 93 days and/or a fine of not more than \$500; and
  - (3) the individual is in violation of the PPO by engaging in or having engaged in the conduct restrained or enjoined by the PPO (MCL 764.15b(1)).
- d. Identifies that if the individual restrained or enjoined has not been served, the law enforcement agency or officer responding to a call alleging a violation of a PPO must:
  - (1) serve the individual restrained or enjoined with a true copy of the PPO; or
  - (2) provide the individual restrained or enjoined actual notice of the:
    - (a) existence of the PPO;
    - (b) specific conduct restrained or enjoined;
    - (c) penalties for violating the PPO; and
    - (d) location where the individual restrained or enjoined may obtain a copy of the order; and

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.10. OVERVIEW

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- (3) complete proof of service form and provide a copy to:
  - (a) the victim;
  - (b) the law enforcement agency that entered the PPO into the LEIN;  
and
  - (c) the circuit court that issued the PPO.
  
- e. Identifies that after being served or provided notice of the PPO at the scene, the individual restrained or enjoined shall be given an opportunity to comply with the PPO before the law enforcement officer makes a custodial arrest for violation of the PPO.
  
- f. Identifies that the failure to immediately comply with the PPO shall be grounds for an immediate custodial arrest.
  
- g. Identifies that a thorough criminal investigation should be conducted whenever there is an alleged violation of a PPO.
  
- h. Recognizes that an arrest should be made for violation of any criminal law even when the assailant is also arrested for violation of a PPO.
  
- i. Demonstrates a working knowledge of the procedures following an arrest for violation of a PPO, including:
  - (1) the individual arrested shall be brought before the circuit court in the county where the violation occurred within 24 hours to answer to a charge of contempt for violation of the PPO (MCL 764.15b(2));
  - (2) the circuit court for each county of this state has jurisdiction to conduct contempt proceedings based upon a violation of a PPO issued by the circuit court of any county of this state;
  - (3) if a circuit court judge is not available within 24 hours after arrest, the individual shall be brought within 24 hours before the district court which will set bond and order the individual to appear before the circuit court; and
  - (4) the court of arraignment shall notify the circuit court that issued the PPO that the issuing court may request that the individual be returned to that county at the expense of the requesting county to stand trial.
  
- j. Identifies the requirement to prepare a written report documenting all facts of the investigation even if no arrest is made. (See I.H.2.13.d.).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Emphasize to the students that the purpose of the ex parte PPO is to provide immediate safety. The PPO becomes effective when signed by a judge, even though the person enjoined or restrained has not yet been served and the PPO has not yet been entered into the LEIN (MCL 600.2950(8),(17) and MCL 600.2950a(5),(14)).

## LAWS REGARDING DOMESTIC VIOLENCE

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p>← a. <b>IDENTIFY</b> that a PPO is effective when signed by a judge.</p> <p>b. <b>IDENTIFY</b> that a PPO is immediately enforceable anywhere in Michigan by any law enforcement agency that has:</p> <ol style="list-style-type: none"><li>1. received a true copy of the PPO;</li><li>2. been shown a true copy of the PPO; or</li><li>3. verified the existence of the PPO in the LEIN.</li></ol>	

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Service of the PPO can be verified through the LEIN or by seeing proof of service (the victim might have this).

**Note:** A person "is in violation of" a PPO if the person commits one or more of the acts that the PPO specifically restrains the person from committing (e.g., assaulting; removing children from a person with legal custody except as authorized by a court order; purchasing or possessing a firearm; interfering with the petitioner at the petitioner's place of employment; any other conduct specified in the PPO) (MCLA 764.15b(1)).

All PPOs do not contain the same prohibitions. Officers need to read the PPO (or be informed of its contents by, for example, the law enforcement agency that has it) to determine the specific conduct restrained or enjoined.

**Note:** Emphasize that the victim cannot give "permission" to violate a PPO, for example, by inviting the assailant onto the premises after the order was issued.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← c. **IDENTIFY** that if the assailant has been served, a police officer should arrest if probable cause exists to believe:
1. a domestic relationship PPO or non-domestic stalking PPO exists; and
  2. the PPO states on its face that violation subjects the violator to immediate arrest and criminal contempt punishable by not more than 93 days and/or a fine of not more than \$500; and
  - ← 3. the individual is in violation of the PPO by engaging in or having engaged in the conduct restrained or enjoined by the PPO (MCL 764.15b(1)).
- ←

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Exercise:** What happens if "A" obtains an ex parte PPO restraining "B" from entering onto the premises occupied by "A" and then "A" invites "B," who has been served with the PPO, onto those premises? Is there a PPO violation when "B" enters onto the premises? By whom?

- (a) A PPO is a court order. Only the court can change its order.
- (b) "A" cannot change the court's order
- (c) "B" has violated the court's order.
- (d) Consider the liability that might result from failure to arrest "B" for a clear violation of a PPO.
- (e) Arrest allows the *court* to address the issue of whether or not the PPO is necessary.
- (f) The respondent has the opportunity to seek modification or dismissal of the PPO by filing a motion in the circuit court within 14 days of receiving notice of the PPO (see I.H.2.9).
- (g) The respondent may have good cause to file such a motion even if 14 days have passed if the victim is inviting the respondent to the premises in violation of the order. The *court* should determine the need to continue the order.

**Note:** There is no requirement that the PPO violation occur in the officer's presence. The officer may arrest with "reasonable cause to believe" (MCL 764.15b(1)(a)).

**Note:** There is no time limit on the officer's authority to arrest for violation of a PPO.

**LAWS REGARDING DOMESTIC VIOLENCE**

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**

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## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Discussion:** What should the officer do if the violator has left the scene?

(a) Warrantless arrest authority does not “expire” under MCLA 764.15b.

(b) Discuss comfort level of officers concerning warrantless arrest authority with:

- Passage of time.
- Violator’s travel outside officer’s jurisdiction. A statutory amendment is required before an officer can rely on receipt of positive information from another police officer by radio, telephone, etc. to provide the officer probable cause to believe a PPO has been violated by an individual. Compare MCL 764.15(1)(e) and (f).

(c) Suggestions for law enforcement officers:

- Consider passage of time and danger (do a lethality assessment; see I.H.1.8. and I.H.3.11.).
- Look for the PPO violator and arrest.
- Consider a *crime* for which a criminal warrant can be obtained (Note: A criminal warrant cannot be obtained for the PPO violation itself).
- Always consider a warrant for *stalking*. Repeated violations of a PPO likely will constitute the crime of stalking. Also, stalking in violation of a PPO is a felony, aggravated stalking (see I.H.2.5.)
- Last resort: If no crime has been committed along with the PPO violation, victims can be advised to file a motion to show cause and ask the court to issue an order to show cause or a bench warrant for the violator. The victim uses own attorney (or agency such as Women’s Survival Center in Oakland County).

(d) Problems with requiring the victim to petition for a show cause hearing:

- Confusion for victim.
- Cost for victim.
- Delay/danger for victim.
- Questionable authority of prosecutor to prosecute con-

**LAWS REGARDING DOMESTIC VIOLENCE**

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**



## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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tempt proceeding initiated by show cause rather than prosecuting proceeding initiated by arrest (MCLA 764.15b(5)).

**Note:**

Some circuit court judges will on their own motion order the respondent to show cause.

**LAWS REGARDING DOMESTIC VIOLENCE**

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**



## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

The PPO statutes provide that officers “responding to a domestic violence call alleging violation of a PPO” shall give verbal notice to individuals restrained or enjoined by a PPO who have not been served (MCL 600.2950(21); MCL 600.2950a(18)). This unfortunate drafting was clearly an oversight with regard to non-domestic stalking PPOs where *no* domestic relationship is required between the victim and the assailant and, therefore, the call alleging a violation of such a PPO will not be a “domestic violence” call. Students should be told that officers should give verbal notice as required when responding to *any* call alleging a violation of a PPO. This clearly was the legislative intent; otherwise the provision regarding verbal notice in the non-domestic stalking PPO statute (MCL 600.2950a(18)) would make no sense.

Officers can give verbal notice in situations other than when responding to a call alleging a violation of a PPO. The issue is whether the LEIN entry can be changed in those situations. Currently no statutory authority for this exists. Therefore, if the police officer, during a routine traffic stop, determines by the LEIN that there is a PPO issued against the person stopped, but the person has not been served or notified about the PPO, the police officer’s *verbal notice* is apparently not sufficient to change the LEIN entry to “served” or “actual notice given,” allowing warrantless arrest without further service or notice.

**Note:**

Stress that the officer can always *serve* the person restrained and the LEIN entry can be changed after service at any time, under any circumstances.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**d. INFORM students that if the individual restrained or enjoined has not been served, the law enforcement agency or officer responding to a call alleging a violation of a PPO shall:**

1. serve the individual restrained or enjoined with a true copy of the PPO; or



## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

The statute requires the officer to give the individual who has not been served notice of the PPO. Explain that the officer may detain the individual at the scene to do this.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



2. provide the individual restrained or enjoined actual notice of the:

(a) existence of the PPO;

(b) specific conduct restrained or enjoined;

(c) penalties for violating the PPO; and

(d) location where the individual restrained or enjoined may obtain a copy of the order; and

3. complete proof of service form and provide a copy to:

(a) the victim;

(b) the law enforcement agency that entered the PPO into the LEIN; and

(c) the circuit court that issued the PPO.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

If the assailant complies, no arrest is made, but the officer must:

1. prepare a written report documenting all the facts of the investigation (including that the assailant was given notice of the PPO) (see I.H.2.13.d);
2. prepare a proof of service; and
3. provide a copy of the proof of service to:
  - (a) the victim;
  - (b) the law enforcement agency that entered the PPO into the LEIN; and
  - (c) the circuit court that issued the PPO.

If an arrest is made, the officer must do 1, 2, and 3 above. In addition, the written report should document that the assailant was given notice of the PPO and an opportunity to comply, and that the assailant failed to comply.

**Note:**

Stress to the students that when responding to a call alleging a violation of a PPO, officers must conduct a thorough investigation to determine what crimes might also have been committed by the assailant. Crimes far more serious than violation of a PPO may have been committed.

Emphasize that a person who violates a PPO can be arrested and prosecuted for the PPO violation *and* any crimes the person committed (MCL 600.2950(21); MCL 600.2950a(18)).

## LAWS REGARDING DOMESTIC VIOLENCE

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p>e. <b>INFORM</b> students that after being served or provided notice of the PPO at the scene, the individual restrained or enjoined shall be given an opportunity to comply with the PPO before the law enforcement officer makes a custodial arrest for violation of the PPO.</p> <p>← f. <b>STRESS</b> that the failure to immediately comply with the PPO shall be grounds for an immediate custodial arrest.</p> <p>g. <b>IDENTIFY</b> that a thorough criminal investigation should be conducted whenever there is an alleged violation of a PPO.</p> <p>← h. <b>RECOGNIZE</b> that arrest should be made for violation of any criminal law even when the assailant is also arrested for violation of a PPO.</p>	

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** An individual arrested for violation of a PPO will not be released on bond before the individual is brought before the court.

**Note:** Remind students that PPOs are circuit court orders. The circuit court will decide whether the PPO has been violated.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**i. DEMONSTRATE a working knowledge of the procedures following an arrest for violation of a PPO, including:**

- ←
1. the individual arrested shall be brought before the circuit court in the county where the violation occurred within 24 hours to answer to a charge of contempt for violation of the PPO (MCL 764.15b(2));
  2. the circuit court for each county of this state has jurisdiction to conduct contempt proceedings based upon a violation of a PPO issued by the circuit court of any county of this state;
  - ← 3. if a circuit court judge is not available within 24 hours after arrest, the individual shall be brought before the district court within 24 hours and the district court will set bond and order the individual to appear before the circuit court; and
  4. the court of arraignment shall notify the circuit court that issued the PPO that the issuing court may request that the individual be returned to that county at the expense of the requesting county to stand trial.

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## LAWS REGARDING DOMESTIC VIOLENCE

<b>CONTENT TO BE LEARNED BY STUDENT</b>	<b>INSTRUCTOR NOTES</b>
<p>j. <b>IDENTIFY</b> the requirement to prepare a written report documenting all facts of the investigation even if no arrest is made (See I.H.2.13.d.).</p>	

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.11. OVERVIEW

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### PERSONAL PROTECTION ORDERS AND THE PURCHASE OR POSSESSION OF A FIREARM

#### Teaching Goal:

The goal of this objective is to provide students with an understanding of the effect of Personal Protection Orders (PPOs) on the purchase and possession of firearms. Further, the student will be given information on enforcement of PPOs issued with a prohibition against the purchase or possession of a firearm.

#### Learning Focus:

- ❶ Can any (domestic relationship or non-domestic stalking) PPO be issued with a prohibition against the purchase or possession of a firearm?
- ❷ What enforcement requirements do police officers have when a PPO with a prohibition against the purchase or possession of a firearm is violated?
- ❸ If a PPO restrains or enjoins an individual from purchasing or possessing a firearm, are there any exceptions, such as for police officers, military personnel, or persons with a concealed weapon license?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2. — 263).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.11. OVERVIEW

### Objective I.H.2.11.:

At the end of this objective the student will be able to:

**Demonstrate an Understanding of Personal Protection Orders (PPOs) and Their Effect on Firearm Purchase or Possession.**

#### Performance/Testing Criteria:

- a. Identifies that a PPO (domestic relationship or non-domestic stalking) may prohibit an individual from purchasing or possessing a firearm.
- b. Identifies that if an individual prohibited by a PPO from purchasing or possessing a firearm has been served and is in possession of a firearm, the officer should:
  - (1) arrest the individual; and
  - (2) seize firearms as evidence, including all firearms:
    - (a) in the possession of the individual;
    - (b) in plain view; and
    - (c) found during a valid search.
- c. Identifies that if an individual prohibited by a PPO from purchasing or possessing a firearm has not been served and, after being served or provided notice of the PPO, chooses to comply, the officer may take possession of the firearm for safe keeping.
- d. Identifies that if an individual is prohibited by a PPO from purchasing or possessing a firearm, there are no exceptions, including:
  - (1) police officers, and
  - (2) persons with a concealed weapon permit.
- e. Identifies that an individual prohibited by an ex parte PPO from purchasing or possessing a firearm may file a motion to modify or rescind the PPO and request a hearing (see I.H.2.9.d.).
- f. Identifies that the circuit court shall schedule a hearing on a motion to modify or rescind a PPO within:
  - (1) 14 days after the filing of the motion; or

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.11: OVERVIEW

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- (2) 5 days (expedited hearing) after the filing of the motion if the PPO prohibits the purchase or possession of a firearm and the respondent is a:
- (a) person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of employment;
  - (b) certified police officer;
  - (c) sheriff or deputy sheriff;
  - (d) member of the Michigan Department of State Police; or
  - (e) local corrections officer, Department of Corrections employee, or federal law enforcement officer who carries a firearm during the normal course of employment.
- g. Identifies that upon entry into the LEIN of *any* PPO (domestic relationship or non-domestic stalking; with or without a prohibition on the purchase or possession of a firearm), the Department of State Police must mail a letter to the individual restrained or enjoined stating that:
- (1) a PPO was entered into the LEIN on a certain date;
  - (2) the individual *cannot* obtain a license to *purchase a pistol* or obtain a *concealed weapon license* until the PPO is removed from the LEIN; and
  - (3) the individual may request that the state police correct or expunge inaccurate information entered into the LEIN. (MCL 28.422b)
- h. Recognizes that federal law provides that a person who has been convicted of a domestic violence misdemeanor may not purchase or possess a firearm.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** MCL 600.2950(1)(e); MCL 600.2950a(22).

Remind students that not all PPOs contain the same prohibitions. Officers need to read the PPO to determine what conduct is prohibited. Not all PPOs prohibit the purchase or possession of a firearm.

The prohibition lasts only as long as the PPO is in effect; it is not a lifetime prohibition.

**Note:** If the victim lives in the house with the assailant, the victim can consent to a search of the house.

The North Dakota Supreme Court concluded that a victim who "fled the marital home, sought a protective order, and rented a new residence" because of domestic violence retained the authority to consent to a search of the marital home. *State v Huffman*, 542 N.W. 2d 718 (1996).

**Note:** Officers cannot obtain a search warrant to look for firearms possessed in violation of a PPO, because violation of a PPO is not a crime.

The circuit court that issued the PPO could issue an order authorizing officers to enter the premises and seize firearms purchased or possessed in violation of the PPO.

A condition of the assailant's release on bond could be that the assailant must turn over all firearms in the assailant's possession. At arraignment, the court could be asked to impose such a condition (no possession of firearms) and to enter an order authorizing officers to enter the assailant's home to remove any firearms.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← a. **IDENTIFY** that a PPO (domestic relationship or non-domestic stalking) may prohibit an individual from purchasing or possessing a firearm.
- b. **IDENTIFY** that if an individual prohibited by a PPO from purchasing or possessing a firearm has been served and is in possession of a firearm, the officer should:
- (1) arrest the individual, and
  - (2) seize firearms as evidence, including all firearms:
    - (a) in the possession of the individual;
    - (b) in plain view; and
    - ← (c) found during a valid search.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Students should be told to check department policy for guidance about what to do with guns taken at the scene.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**c. IDENTIFY that if an individual prohibited by a PPO from purchasing or possessing a firearm has not been served and, after being served or provided notice of the PPO, chooses to comply, the officer may take possession of the firearm for safe keeping.**

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Discussion:** The court might issue the PPO with a limitation on the prohibition (for example, the individual might be permitted to keep a hunting rifle at the cabin, or a police officer might be permitted to carry a service weapon while working), but the statute recognizes no exceptions.

## LAWS REGARDING DOMESTIC VIOLENCE

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p>← d. <b>IDENTIFY</b> that if an individual is prohibited by a PPO from purchasing or possessing a fire-arm, there are no exceptions, including:</p> <ol style="list-style-type: none"><li>1. police officers, and</li><li>2. persons with a concealed weapon permit.</li></ol> <p>e. <b>IDENTIFY</b> that an individual prohibited by an ex parte PPO from purchasing or possessing fire-arm may file a motion to modify or rescind the PPO and request a hearing (see I.H.2.9.d.).</p>	

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

A PPO issued against a police officer with a provision prohibiting the purchase or possession of a firearm *would* affect the police officer's job.

P.A. 115 of 1997, effective October 20, 1997, requires the petitioner to notify the court before issuance of a PPO (domestic relationship or non-domestic stalking) if the respondent is a:

- (a) person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of employment;
- (b) certified police officer;
- (c) sheriff or deputy sheriff;
- (d) member of the Michigan Department of State Police;  
or
- (e) local corrections officer, Department of Corrections employee, or federal law enforcement officer who carries a firearm during the normal course of employment.

If the court issues a PPO *ex parte* against such a respondent and the PPO contains a prohibition against the purchase or possession of a firearm, the court must schedule a hearing within 5 days of the filing of a motion by the respondent to modify or rescind the PPO.

## LAWS REGARDING DOMESTIC VIOLENCE

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p>← f. <b>IDENTIFY</b> that the circuit court shall schedule a hearing on a motion to modify or rescind a PPO within:</p> <ol style="list-style-type: none"><li>1. 14 days after the filing of the motion; or</li><li>2. 5 days (expedited hearing) after the filing of the motion if the PPO prohibits the purchase or possession of a firearm and the respondent is a:<ol style="list-style-type: none"><li>(a) person who is issued a license to carry a concealed weapon and is required to carry a weapon as a condition of employment;</li><li>(b) certified police officer;</li><li>(c) sheriff or deputy sheriff;</li><li>(d) member of the Michigan Department of State Police; or</li><li>(e) local corrections officer, Department of Corrections employee, or federal law enforcement officer who carries a firearm during the normal course of employment.</li></ol></li></ol>	

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Discussion:** Any PPO (not just a PPO with a specific prohibition against purchasing or possessing a firearm) entered into the LEIN causes the letter to be sent by the state police.

This prohibition lasts only as long as the PPO is in effect.

This prohibition does not affect all firearms; only the purchase of a *pistol*.

This prohibition does *not* affect a police officer's job; an officer does not need a concealed weapon license to carry a service weapon.

This prohibition is also not retroactive. The individual can continue to possess any firearms the individual already has; existing concealed weapon licenses are not automatically revoked.

Again, compare the situation of an individual against whom a PPO with a specific prohibition against the purchase or possession of a firearm has been issued: this *does* apply to firearms already owned, and this *does* affect a police officer's job.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**g. IDENTIFY** that upon entry into the LEIN of *any* PPO (domestic relationship or non-domestic stalking; with or without a prohibition on the purchase or possession of a firearm), the Department of State Police must mail a letter to the individual restrained or enjoined stating that:

1. a PPO was entered into the LEIN on a certain date;
2. the individual *cannot* obtain a license to *purchase a pistol* or obtain a *concealed weapon license* until the PPO is removed from the LEIN; and
3. the individual may request that the state police correct or expunge inaccurate information entered into the LEIN (MCL 28.422b).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Discussion:**

This federal law does not concern PPOs but does affect an individual's ability to purchase or possess a firearm. Under federal law it is now unlawful for any person convicted of a "misdemeanor crime of domestic violence" to ship, transport, possess or receive firearms or ammunition (18 U.S.C. 922g.). This statute *does* affect a police officer's job. There are no exceptions in this statute. It applies to police officers and would prohibit an officer from carrying or possessing a firearm even as required by the job.

The statute is retroactive; it includes all convictions, whenever they occurred.

It does not, however, include Michigan pleas under advisement entered pursuant to MCL 769.4a (see I.H.2.3.).

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**h. RECOGNIZE that federal law provides that a person who has been convicted of a domestic violence misdemeanor may not purchase or possess a firearm.**

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

#### Effect of PPOs and Domestic Violence Misdemeanor Convictions On Gun Purchases and Possession

	Effect on Gun Purchase and and Possession	Effect on Police Officer's Job
<b>All PPOs</b>	Restrained party cannot obtain: <ul style="list-style-type: none"><li>•License to purchase a pistol</li><li>•Concealed weapon license</li></ul>	<i>Does not affect police officer's job</i>
<b>Some PPOs</b>	PPO specifically states that restrained party cannot purchase or possess a firearm	<i>Does affect Police police officer's job</i>
<b>Domestic Violence Misdemeanor Convictions</b>	Under federal law, a convicted defendant cannot possess a firearm	<i>Does affect police officer's job</i>

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.12. OVERVIEW

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### PROBABLE CAUSE IN DOMESTIC VIOLENCE CASES

#### Teaching Goal:

The goal of this objective is to review the probable cause (reasonable cause) determination and to give students information they will need in determining whether or not probable cause exists to believe a crime has been committed at a domestic violence scene. Part of this goal is to provide specific examples directly related to domestic violence cases in order to illustrate the concept.

#### Learning Focus:

- ① What factors should the officer consider in establishing probable cause?
- ② What are the factors the officer should *not* consider in determining probable cause?
- ③ How should the officer respond to allegations of mutual battering?

#### Materials Needed:

Appendix I.H.2. "Laws Relating to Domestic Violence" (page I.H.2. —263).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.12. OVERVIEW

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### Objective I.H.2.12.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of Probable Cause (Reasonable Cause) as It Relates to Domestic Violence.

#### Performance/Testing Criteria:

- a. Identifies that the Michigan standard for probable cause (reasonable cause) requires only those facts and circumstances sufficient to cause a fair minded person of average intelligence to believe that the suspected person has committed or is committing a crime.
- b. Identifies that the probable cause determination does *not* require:
  - (1) that it is more probable than not that a crime has been committed;
  - (2) corroborating physical evidence; however, the presence of physical evidence bolsters the existence of probable cause; or
  - (3) that the officer conduct a mini-trial to determine the truth.
- c. Identifies that to establish probable cause the officer should consider factors such as:
  - (1) statements by the victim, assailant, children or other witnesses;
  - (2) the dispatcher's information;
  - (3) physical evidence that a crime occurred;
  - (4) aggressive or threatening behavior by the assailant;
  - (5) information gathered by investigating wounds to determine:
    - (a) offensive wounds, and
    - (b) defensive wounds;
  - (6) property in the house damaged or broken;
  - (7) brandishing of weapons; and
  - (8) the existence of a Personal Protection Order (PPO).
- d. Identifies that in determining probable cause the officer should *not* consider the following factors:
  - (1) the lack of a PPO;
  - (2) the fact that no arrests were made previously;
  - (3) the victim's unwillingness to prosecute;
  - (4) the officer's belief that there will be no prosecution;
  - (5) verbal assurances by either party that the violence will stop;
  - (6) the possibility of reprisals against the victim;

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.12. OVERVIEW

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- (7) the race, ethnicity, sexual preference, social class and/or occupation of the victim or the assailant;
  - (8) threats by the assailant to sue the police; or
  - (9) negative consequences to the assailant's status in the community.
- e. Identifies that a finding of probable cause is not precluded by:
- (1) denial by either party that violence occurred; or
  - (2) a lack of visible bruises or injuries.
- f. Identifies that officers should not arrest an individual if the officer has probable cause to believe the individual was acting in lawful self-defense or in the lawful defense of another person.
- g. Identifies that a person may lawfully use:
- (1) whatever force the person honestly and reasonably believes is necessary for self-protection or to protect another person from danger; and
  - (2) deadly force when the person honestly and reasonably believes oneself or another person is in imminent danger of being killed, seriously injured or forcibly sexually penetrated.
- h. Identifies that a person has no duty to retreat from:
- (1) an assault in one's home, or
  - (2) a forcible entry of one's home.
- i. Identifies that where there are allegations of mutual battering the officer should determine who the assailant is by considering:
- (1) the intent of the law to protect victims of domestic violence;
  - (2) the intent of the law that officers should not make dual arrests to avoid conducting a thorough criminal investigation;
  - (3) the degree of injury inflicted on the individuals involved;
  - (4) the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household;
  - (5) any history of domestic violence between the individuals;
  - (6) offensive and defensive wounds;
  - (7) the size, strength, and bulk of the parties;
  - (8) the possibility that one of the parties acted in self-defense;
  - (9) the apparent ability of each party to do what was alleged;
  - (10) witness statements (including children); and
  - (11) other evidence (e.g., physical and circumstantial).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Clarify to the class that under Michigan law reasonable cause and probable cause are the same standard.

**Note:** Stress again to the students that probable cause **does not require** the officer to determine that the crime occurred beyond a reasonable doubt, *nor* does it require that the officer determine that the possibility of crime is supported by a preponderance of the evidence.

Emphasize that the probable cause standard is the same in domestic violence cases as in any other case. The fact of an intimate relationship between the assailant and victim does *not* raise the probable cause standard.

**Note:** Stress to the students that **actual physical contact between the assailant and victim need not have taken place** for an assault to have occurred. As with general assault, domestic assault can occur even in the absence of physical contact. (Physical contact would make the assault a battery.) The assailant's threat, coupled with present ability to carry out the threat, is enough to constitute assault.

**Exercise:** Ask the class if the word of the victim alone, if believed by the officer, would be enough to constitute probable cause. The answer is, of course, yes.

## LAWS REGARDING DOMESTIC VIOLENCE

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p>← a. <b>IDENTIFY</b> that the Michigan standard for probable cause (reasonable cause) requires only those facts and circumstances sufficient to cause a fair minded person of average intelligence to believe that the suspected person has committed or is committing a crime.</p> <p>← b. <b>IDENTIFY</b> that the probable cause determination does <i>not</i> require:</p> <ol style="list-style-type: none"><li>1. that it is more probable than not that a crime has been committed;</li><li>← 2. corroborating physical evidence; however, the presence of physical evidence bolsters the existence of probable cause; or</li><li>← 3. that the officer conduct a mini-trial to determine the truth.</li></ol>	

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Emphasize that the officer should conduct a thorough criminal investigation at a domestic violence scene to determine probable cause.

**Note:** Stress to the students the importance of their investigation, evidence gathering and documentation to successful prosecution.

**Note:** Emphasize to students that these are factors to *consider*, not a list of factors that are required to establish probable cause.

**Note:** Use examples from your own experience.

**Note:** Explain "defensive wounds."

**Example:** While the assailant has the victim in a choke-hold from behind—arm around the neck of the victim—the victim bites the assailant on the inner, upper arm to get the assailant to release the victim.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← c. **IDENTIFY** that to establish probable cause the officer should consider factors such as:
1. statements by the victim, assailant, children or other witnesses;
  2. the dispatcher's information;
  - ← 3. physical evidence that a crime occurred;
  4. aggressive or threatening behavior by the assailant;
  - ← 5. information gathered by investigating wounds to determine:
    - (a) offensive wounds, and
    - (b) defensive wounds;
  6. property in the house damaged or broken;
  7. brandishing of weapons; and
  8. the existence of a Personal Protection Order (PPO).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Exercise:**

This exercise is provided in order to help the students understand establishing probable cause in a domestic violence incident to determine whether a crime has been committed. Ask the class, point by point, if the following factors should be considered when the officer makes the determination of whether or not there is probable cause. The answer to each is no.

- ① the lack of a personal protection order;
- ② the fact that no arrests were made previously;
- ③ the victim's unwillingness to prosecute;
- ④ the officer's belief that there will be no prosecution;
- ⑤ verbal assurances by either party that the violence will stop;
- ⑥ the possibility of reprisals against the victim;
- ⑦ the race, ethnicity, sexual preference, social class and/or occupation of the victim or the assailant;
- ⑧ threats by the assailant to sue the police; and
- ⑨ negative consequences to the assailant's status in the community.

**Note:**

Explain to students why the *existence* of a PPO is to be considered in establishing probable cause (history of domestic violence; circuit court finding of reason to believe assailant will engage in behaviors prohibited in PPO; etc.) but *lack* of a PPO is *not* to be considered.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**d. IDENTIFY that in determining probable cause the officer should *not* consider the following factors:**

1. the lack of a PPO;
2. the fact that no arrests were made previously;
3. the victim's unwillingness to prosecute;
4. the officer's belief that there will be no prosecution;
5. verbal assurances by either party that the violence will stop;
6. the possibility of reprisals against the victim;
7. the race, ethnicity, sexual preference, social class and/or occupation of the victim or the assailant;
8. threats by the assailant to sue the police; or
9. negative consequences to the assailant's status in the community.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** See MCL 776.22; MSA 28.1274(3).

**Note:** Review the reasons a victim of domestic violence would deny that violence occurred (see I.H.1.5.).

**Note:** Bruising often takes time to develop. Head injuries, such as a concussion or fractured skull, are not always visible.

**Note:** MCL 776.22(3)(b)(ii) explicitly so provides.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← e. **IDENTIFY** that a finding of probable cause is not precluded by:
- ← 1. denial by either party that violence occurred; or
- ← 2. a lack of visible bruises or injuries.
- ← f. **IDENTIFY** that officers should not arrest an individual if the officer has probable cause to believe the individual was acting in lawful self-defense or in the lawful defense of another person.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Explain that greater force than that used or threatened may be necessary if the victim is smaller or weaker than the assailant.

**Note:** Explain that simply because the victim picked up a knife does not necessarily mean the victim has committed a crime. When the victim uses a knife, the victim is using deadly force. But if the victim honestly and reasonably feared serious injury, the victim's use of the knife is justified. And the fact that the victim was not badly beaten in this incident does not mean that the victim could not have honestly and reasonably feared serious injury; the victim's picking up of the knife could have stopped the assailant this time.

Stress that the right to use force in self-defense and the defense of others is based upon reasonable belief. Even if the person is wrong about how much danger the person is in, the use of force is lawful as long as the person's belief about the danger was honest and reasonable.

**Note:** A person has no duty to retreat from either an assault or a forcible entry in one's own home. *People v. Lenkevich*, 394 Mich 117 (1975). The no-duty-to-retreat rule applies even when the assailant is a co-dweller in the home. *People v. McDaniels*, 70 Mich App. 469 (1976); *People v. Mathis* (on remand), 75 Mich App. 320 (1977). The no-duty-to-retreat-in-your-own-dwelling rule applies whether the force used or threatened was deadly or non-deadly (see CJI 2d 7.17).

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**g. IDENTIFY that a person may lawfully use**

1. whatever force the person honestly and reasonably believes is necessary for self-protection or to protect another person from danger; and



2. deadly force when the person honestly and reasonably believes oneself or another person is in imminent danger of being killed, seriously injured or forcibly sexually penetrated.



**h. IDENTIFY that a person has no duty to retreat from:**

1. an assault in one's home, or
2. a forcible entry of one's home.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Emphasize that an officer should not avoid conducting a thorough criminal investigation by simply arresting both parties where there are allegations of mutual battering.

MCL 776.22 explicitly provides that is the intent of the law to protect victims of domestic violence and directs officers to consider a number of factors when faced with allegations of mutual battering to determine who the assailant is.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← i. **IDENTIFY** that where there are allegations of mutual battering the officer should determine who the assailant is by considering:
1. the intent of the law to protect victims of domestic violence;
  2. the intent of the law that officers should not make dual arrests to avoid conducting a thorough criminal investigation;
  3. the degree of injury inflicted on the individuals involved;
  4. the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household;
  5. any history of domestic violence between the individuals;
  6. offensive and defensive wounds;
  7. the size, strength, and bulk of the parties;
  8. the possibility that one of the parties acted in self-defense;
  9. the apparent ability of each party to do what was alleged;
  10. witness statements (including children); and
  11. other evidence (e.g., physical and circumstantial).

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.13. OVERVIEW

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### PROCEDURAL REQUIREMENTS WHEN RESPONDING TO DOMESTIC VIOLENCE

#### Teaching Goal:

The goal of this objective is to provide students with an understanding of the procedural requirements that must take place after responding to a domestic violence call.

#### Learning Focus:

- ① What are the procedural requirements of the officer in regard to the victim of domestic violence?
- ② What are the requirements in regard to documenting the domestic violence incident?
- ③ What are the procedural requirements of the officer in regard to the assailant?

#### Materials Needed:

Appendix 1.H.2. "Laws Relating to Domestic Violence" (page I.H.2. — 263).

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.13. OVERVIEW

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### Objective I.H.2.13.:

At the end of this objective the student will be able to:

#### Demonstrate an Understanding of the Procedural Requirements When Responding to Domestic Violence.

#### Performance/Testing Criteria:

- a. Identifies the requirement to provide victims the written notice required by MCL 764.15c which must include the following (see I.H.3.12.):
  - (1) name and telephone number of the responding police agency;
  - (2) name and badge number of the responding officer; and
  - (3) a prescribed statement informing the victim of the:
    - (a) right to obtain a copy of the police incident report;
    - (b) right to go to court and file a petition requesting a Personal Protection Order (PPO); and
    - (c) local domestic violence shelter program and other resources that provide victims information about services and legal rights.
- b. Identifies the requirement to provide or arrange for emergency medical assistance to victims (MCL 776.22 (3) (f)) (see I.H.3.12.).
- c. Identifies the requirement to provide the victim within 24 hours of the initial contact with the information required by the Crime Victim's Rights Act (MCL 780.753), including:
  - (1) availability of emergency and medical services, if applicable;
  - (2) availability of victim's compensation benefits and the address of the crime victim's compensation board;
  - (3) address and phone number of the prosecuting attorney; and
  - (4) required statement regarding information on the status of the case.
- d. Identifies the requirement to prepare a written report after responding to an incident involving domestic violence or a violation of a PPO, even if no arrest is made, documenting all facts of the investigation, including (MCL 764.15c) (see I.H.3.14.):
  - (1) address, date, and time of the incident;
  - (2) name, address, home and work telephone numbers, race, sex, and date of birth of:

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.13. OVERVIEW

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- (a) victim;
  - (b) assailant; and
  - (c) witnesses, including children;
  - (3) information describing the assailant and whether there is a PPO issued against assailant;
  - (4) relationship of any witness to victim or assailant;
  - (5) name of person who called the law enforcement agency;
  - (6) relationship of victim and assailant;
  - (7) whether drug or alcohol use was involved and by whom;
  - (8) narrative about the incident and the scene, describing:
    - (a) the incident and what led up to it;
    - (b) whether and how many times assailant physically assaulted victim;
    - (c) any weapon or object used;
    - (d) injuries sustained by the victim and how injuries were sustained;
    - (e) property damage; and
    - (f) if victim sought medical attention, information about transportation of victim, admittance to hospital or clinic for treatment, and name and telephone number of attending physician;
  - (9) description of previous domestic violence incidents between assailant and victim; and
  - (10) date and time of the report, and name, badge number, and signature of the officer completing the report.
- e. Identifies that the law enforcement agency shall retain the completed report in its files (MCL 764.15c(3)).
- f. Identifies that the law enforcement agency shall also file a copy of the written report with the prosecuting attorney within 48 hours after the domestic violence incident is reported to the law enforcement agency (MCL 764.15c(3)).
- g. Identifies that when an arrest is made without a warrant for assault, assault and battery, violation of a substantially corresponding local ordinance, or aggravated assault, the assailant shall not be released on interim bond, but shall be brought before a magistrate for arraignment as soon as possible where the relationship between the assailant and the victim is:
- (1) spouse or former spouse;

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.13. OVERVIEW

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- (2) reside or resided together in the same household; or
  - (3) has had a child in common.
- h. Identifies that when an arrest is made with a warrant for assault, assault and battery, aggravated assault, or violation of a substantially corresponding local ordinance, the assailant shall not be released on interim bond, but shall be brought before a magistrate for arraignment as soon as possible where the relationship between the assailant and the victim is:
- (1) spouse or former spouse; or
  - (2) reside or resided together in the same household.
- i. Identifies that if a magistrate is not available or arraignment cannot be held within 24 hours, the following must happen:
- (1) release of the assailant after 20 hours; or
  - (2) continued hold of the assailant beyond 20 hours based upon the opinion of the arresting officer or department that it is unsafe to release the assailant (MCL 780.581 (3)).
- j. Identifies the requirement, when an arrest is made for violation of conditional release (conditional bond), to prepare a "complaint of violation of conditional release" pursuant to MCL 764.15e, containing (see I.H.3.10):
- (1) officer's name and badge number;
  - (2) statement of verification;
  - (3) statement of conditions; and
  - (4) statement of probable cause that assailant violated the conditions.

# LAWS REGARDING DOMESTIC VIOLENCE

## OBJECTIVE I.H.2.13. OVERVIEW

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## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** The text of statute MCL 764.15c (MSA 28.874(3)) is provided here for your convenience:

After investigating or intervening in a domestic dispute as described in section 15a or 15b of this chapter, a peace officer shall provide the victim with a copy of the notice in this section. The notice shall be written and shall include all of the following:

- (a) The name and telephone number of the responding police agency;
- (b) The name and badge number of the responding officer;
- (c) The following statement:

- "You may obtain a copy of the police incident report for your case by contacting this law enforcement agency at the telephone number provided.
- The domestic violence shelter program and other resources in your area are (include local information).
- Information about emergency shelter, counseling services, and the legal rights of domestic violence victims is available from these resources.
- Your legal rights include the right to go to court and file a petition requesting a personal protection order to protect you or other members of your household from domestic abuse which could include the following:
  - (a) An order restraining or enjoining an abuser from entering onto premises.
  - (b) An order restraining or enjoining the abuser from assaulting, attacking, beating, molesting, or wounding you.
  - (c) An order restraining or enjoining the abuser from threatening to kill or physically injure you or another person.
  - (d) An order restraining or enjoining the abuser from removing minor children from you, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.
  - (e) An order restraining or enjoining the abuser from engaging in stalking behavior.
  - (f) Beginning April 1, 1996, an order restraining or enjoining the abuser from purchasing or possessing a firearm.
  - (g) An order restraining or enjoining the abuser from interfering with your efforts to remove your children or personal property from premises that are solely owned or leased by the abuser.
  - (h) An order restraining or enjoining the abuser from interfering with you at your place of employment or engaging in conduct that impairs your employment relationship or environment.
  - (i) An order restraining or enjoining the abuser from engaging in any other specific act or conduct that imposes upon or interferes with your personal liberty or that causes a reasonable apprehension of violence.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← a. **IDENTIFY** the requirement to provide victims the information card as required by MCL 764.15c which contains the following (see I.H.3.12):
1. name and telephone number of the responding police agency;
  2. name and badge number of the responding officer; and
  3. a prescribed statement informing the victim of the:
    - (a) right to obtain a copy of the police incident report;
    - (b) right to go to court and file a petition requesting a Personal Protection Order (PPO); and
    - (c) local domestic violence shelter program and other resources that provide victims information about services and legal rights.

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**b. IDENTIFY the requirement to provide or arrange for emergency medical assistance to victims (MCL 776.22 (3) (f)).**

**c. IDENTIFY the requirement to provide the victim within 24 hours of the initial contact with the information required by the Crime Victim's Rights Act (MCL 780.753), including:**

1. availability of emergency and medical services, if applicable;
2. availability of victim's compensation benefits and the address of the crime victim's compensation board;
3. address and phone number of the prosecuting attorney; and
4. required statement regarding information on the status of the case.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** This information is also covered in I.H.3.14.

The instructor should explain to the students the importance of careful and complete documentation to successful prosecution. Be specific. Tell the students what you want to see in the written report and *why* it is important.

**Note:** Explain to students the importance of documenting indicators of lethality (see I.H.3.11. and I.H.3.14.) for purposes of conditional release (conditional bond).

Explain to students the options available to the court in imposing conditions of release, including orders to stay away from the victim, turn in all firearms, go to drug and/or alcohol treatment, etc.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**d. IDENTIFY the requirement to prepare a written report after responding to an incident involving domestic violence or a violation of a PPO, even if no arrest is made, documenting all facts of the investigation, including (MCL 764.15c) (see I.H.3.14.):**

1. address, date, and time of the incident;
2. name, address, home and work telephone numbers, race, sex, and date of birth of:
  - (a) victim;
  - (b) assailant; and
  - (c) witnesses, including children;
3. information describing the assailant and whether there is a PPO issued against assailant;
4. relationship of any witness to victim or assailant;
5. name of person who called the law enforcement agency;
6. relationship of victim and assailant;
7. whether drug or alcohol use was involved and by whom;

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Explain to students the importance of documenting the names of the physician(s) and nurse(s) who actually treat the victim.

**Note:** Explain to students the importance of including dates and locations of previous incidents. This information will enable the prosecutor to obtain police reports of prior incidents which can be used to determine whether the incidents involved domestic violence for purposes of enhanced sentencing (see I.H.2.2.).

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

8. narrative about the incident and the scene, describing:
- (a) the incident and what led up to it;
  - (b) whether and how many times assailant physically assaulted victim;
  - (c) any weapon or object used;
  - (d) injuries sustained by the victim and how injuries were sustained;
  - (e) property damage; and
  - (f) if victim sought medical attention, information about transportation of victim, admittance to hospital or clinic for treatment, and name and telephone number of attending physician;
9. description of previous domestic violence incidents between assailant and victim; and
10. date and time of the report, and name, badge number, and signature of the officer completing the report.

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- e. IDENTIFY that the law enforcement agency shall retain the completed report in its files (MCL 764.15c(3)).
- f. IDENTIFY that the law enforcement agency shall also file a copy of the written report with the prosecuting attorney within 48 hours after the domestic violence incident is reported to the law enforcement agency (MCL 764.15c(3)).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

MCL 780.582a provides that interim bond is denied to the assailant who is arrested with or without a warrant for misdemeanor domestic assault, assault and battery, aggravated assault, or violation of a substantially corresponding local ordinance.

Instead of being released on interim bond or personal recognizance, the assailant shall be held until brought (as soon as possible) before a magistrate for arraignment. If a magistrate is not available or if an immediate trial cannot be held within 24 hours, the assailant must be released after 20 hours.

This statute helps ensure that an assailant cannot immediately either bond out or be released on personal recognizance. The assailant must be brought within 24 hours before a magistrate or judge who will read the charges and have the opportunity to set the conditions of bond prior to release, or the assailant will spend 20 hours in jail.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← g. **IDENTIFY** that when an arrest is made without a warrant for assault, assault and battery, violation of a substantially corresponding local ordinance, or aggravated assault, the assailant shall not be released on interim bond, but shall be brought before a magistrate for arraignment as soon as possible where the relationship between the assailant and the victim is:

1. spouse or former spouse;
2. reside or resided together in the same household; or
3. has had a child in common.

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

The interim bond statute (MCL 780.581) was amended in 1991 to add Sec. 2a, which denied interim bond to assailants arrested with or without a warrant for domestic assault. Subsection (a) of 2a deals with arrests made without a warrant under MCL 764.15a. Subsection (b) of 2a deals with arrests made pursuant to a warrant.

In 1990, for a warrantless arrest in these cases (and therefore denial of interim bond under Subsection (a) of 2a), the relationship between the assailant and the victim had to be spouse, former spouse, or reside or resided together in the same household. Subsection (b) of 2a similarly provides that interim bond will be denied where the relationship between the assailant and victim is spouse, former spouse, or reside or resided together in the same household.

However, in 1994, the warrantless misdemeanor arrest statute was amended to include the relationship of "has had a child in common" between the assailant and the victim. The effect of this was to expand the scope of MCL 780.582a(a) because (a) expressly refers to arrests made without a warrant under MCL 764.15a.

The Legislature failed, however, to similarly amend Subsection (b). Since there is no reason to have a narrower definition of the requisite relationship for purposes of denial of interim bond where the arrest is made with a warrant, the failure to amend MCL 780.582a(b) must have been inadvertent.

**Note:**

The interim bond statute also permits the assailant to be held longer than 20 hours if, in the opinion of the arresting officer, it is unsafe to release the assailant.

Again, stress to students the importance of identifying and documenting indicators of lethality.

If the assailant is to be held longer than 20 hours, the officer must document the reasons in the jail records.

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← h. **IDENTIFY** that when an arrest is made with a warrant for assault, assault and battery, aggravated assault, or violation of a substantially corresponding local ordinance, the assailant shall not be released on interim bond, but shall be brought before a magistrate for arraignment as soon as possible where the relationship between the assailant and the victim is:

- (1) spouse or former spouse; or
- (2) reside or resided together in the same household.

← i. **IDENTIFY** that if a magistrate is not available or arraignment cannot be held within 24 hours, the following must happen:

- 1. release of the assailant after 20 hours; or
- 2. continued hold of the assailant beyond 20 hours based upon the opinion of the arresting officer or department that it is unsafe to release the assailant (MCL 780.581 (3)).

## LAWS REGARDING DOMESTIC VIOLENCE

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Explain to students the importance of properly preparing the complaint for violation of conditional release. (See a copy of a "Conditional Bond" on page 260 and a copy of a "Complaint of Violation of Conditional Release" on page 262.)

## LAWS REGARDING DOMESTIC VIOLENCE

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← j. **IDENTIFY** the requirement, when an arrest is made for violation of conditional release (conditional bond), to prepare a “complaint of violation of conditional release” pursuant to MCL 764.15e, containing (see I.H.3.10.):

1. officer's name and badge number;
2. statement of verification;
3. statement of conditions;
4. statement of probable cause that assailant violated the conditions.

# LAWS REGARDING DOMESTIC VIOLENCE

## STRATEGIES FOR TEACHING THIS OBJECTIVE

<b>STATE OF MICHIGAN</b> 6TH CIRCUIT COURT	<b>DOMESTIC VIOLENCE</b> <b>BAIL BOND CONDITIONS</b>	CASE NO _____ P.O. No. _____
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**THE PEOPLE  
OF THE  
STATE OF MICHIGAN**

VS

Defendant's Name, Address and Telephone Number \_\_\_\_\_

Sex:  Male  Female

Height \_\_\_\_\_ Eye-Color \_\_\_\_\_  
Weight \_\_\_\_\_ Hair-Color \_\_\_\_\_  
Race \_\_\_\_\_ Date-of-Birth \_\_\_\_\_

### CONDITIONAL BOND

Bond Amount: \$ \_\_\_\_\_ Bond Type:  Cash or Surety  10%  PR  
Offense(s): \_\_\_\_\_ Next Court Dates: \_\_\_\_\_

**BY SIGNING THIS BOND, THE DEFENDANT STATES THAT HE/SHE HAS READ THE SAME AND AGREES TO ABIDE BY ALL OF THE TERMS AND CONDITIONS CONTAINED HEREIN.**

1. Not have direct or indirect contact with \_\_\_\_\_ until further order of the court.
2. Not enter or return to the premises known as \_\_\_\_\_ until further notice.
3. Not assault, beat, molest or otherwise verbally harass, intimidate or threaten anyone or be involved in any crime.
4. Not consume alcohol or use other controlled substances.
5. Submit to PBT or urine testing at the request of any police or court officer.
6. Not possess a firearm or other dangerous weapon.
7. Appear for any arraignment, pre-trial, trial or sentencing, and appear at such times and places as may be directed by the Court. If I am represented by an attorney, any notice to appear may be given to my attorney in place of personal notice to me.
8. Not leave the state of Michigan without the permission of the Court.
9. Notify the Court immediately by certified mail of any change of address or phone number.
10. Other \_\_\_\_\_

Pursuant to MCLA 764.15e and 765.6b  
***VIOLATION OF ANY OF THE ABOVE CONDITIONS WILL RESULT IN A WARRANTLESS ARREST***

Effective Date Of Order: \_\_\_\_\_ Defendant \_\_\_\_\_

**IT IS SO ORDERED** \_\_\_\_\_  
Judge/Magistrate Bar No.

This Order to be entered in Law Enforcement Info Network.

Order expires on \_\_\_\_/\_\_\_\_/\_\_\_\_.

**LAWS REGARDING DOMESTIC VIOLENCE**

**CONTENT TO BE LEARNED BY STUDENT**

**INSTRUCTOR NOTES**

**LAWS REGARDING DOMESTIC VIOLENCE**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PEOPLE OF THE STATE OF MICHIGAN

Plaintiff,

V

No.  
HON.

Defendant,

COMPLAINT OF VIOLATION OF CONDITIONAL RELEASE

I, \_\_\_\_\_, am a peace officer. I have determined by:  
[print or type name & badge no.]

- L.E.I.N. and verification with the police agency holding the order
- Certified or true copy of order
- Other [Describe] \_\_\_\_\_

That \_\_\_\_\_ released \_\_\_\_\_  
[court] [name of defendant]  
subject to the following conditions [state or attach a statement of relevant conditions]

I have reasonable cause to believe that on \_\_\_\_\_ at \_\_\_\_\_ the defendant  
[date] [time]  
violated those conditions as follows: [state violations]

\_\_\_\_\_  
[signature]

\_\_\_\_\_  
[law enforcement agency]

\_\_\_\_\_  
[date]

MSA § 4.463 (1996)

MCL § 28.243

§ 4.463. Arrests for felonies and certain misdemeanors, forwarding to state police and FBI.

Sec. 3. (1) The police department of a city or village, the police department of a township, the sheriff's department of a county, the department of state police, and any other governmental law enforcement agency in the state, immediately upon the arrest of a person for a felony or for a misdemeanor for which the maximum possible penalty exceeds 92 days imprisonment or a fine of \$ 1,000.00, or both, or for a juvenile offense, shall take the person's fingerprints in duplicate and forward the fingerprints to the department of state police within 72 hours after the arrest. One set of fingerprints shall be sent to the division on forms furnished by the commanding officer, and 1 set of fingerprints shall be furnished to the director of the federal bureau of investigation on forms furnished by the director.

Misdemeanor arrests; failure of arrestee to produce identification; fingerprinting, forwarding to state police, return to arresting agency. (2) The police department of a city or village, the police department of a township, the sheriff's department of a county, the department of state police, and any other governmental law enforcement agency in the state may take 1 set of fingerprints of a person who is arrested for a misdemeanor punishable by imprisonment for not more than 92 days, or a fine of not more than \$1,000.00, or both, and who fails to produce satisfactory evidence of identification as required by section 1 of Act No. 44 of the Public Acts of 1961, being section 780.581 of the Michigan Compiled Laws. These fingerprints shall be forwarded to the department of state police immediately. Upon completion of the identification process by the department of state police, the fingerprints shall be returned to the arresting agency.

Misdemeanor arrests, fingerprinting, forwarding to department only upon conviction. (3) The police department of a city or village, the police department of a township, the sheriff's department of a county, the department of state police, and any other governmental law enforcement agency in the state, upon the arrest of a person for a misdemeanor, may take the person's fingerprints on forms furnished by the commanding officer, but may not forward the fingerprints to the department unless the person is convicted of a misdemeanor.

No petition against juvenile; persons released without charge; return of fingerprints, arrest card and description; right to demand return of information; notification. (4) If a petition is not authorized for a juvenile accused of a juvenile offense or if a person arrested for having committed a felony or a misdemeanor is released without a charge made against him or her, the official taking or holding the person's fingerprints, arrest card, and description shall immediately return this information to the person without the necessity of a request. If this information is not returned, the person shall have the absolute right to demand and receive its return at any time after the person's release and without need to petition for court action. The local police agency shall notify the commanding officer in

writing that no petition was authorized against the juvenile or that no charge was made against the arrested person if the juvenile's or arrested person's fingerprints were forwarded to the department.

Juvenile adjudication; finding of not guilty; return of fingerprints, arrest card and description; right to obtain court order for return of information; writ of mandamus; notification to commanding officer. (5) If a juvenile is adjudicated and found not to be within the provisions of section 2(a)(1) of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws, or if an accused is found not guilty of the offense, the arrest card, the fingerprints, and description shall be returned to him or her by the official holding this information. If for any reason the official holding the information does not return the information within 60 days of the adjudication or the finding of not guilty, the accused shall have the right to obtain an order from the court having jurisdiction over the case for the return of the information. If the order of return is not complied with, the accused shall have the right to petition the juvenile division of the probate court of the county where the original petition was filed or the circuit court of the county where the original charge was made for a preemptory writ of mandamus to require issuance of the order of return. Upon final disposition of the charge against the accused, the clerk of the court entering the disposition shall notify the commanding officer of any finding of not guilty or not guilty by reason of insanity, dismissal, or nolle prosequi, if it appears that the accused was initially arrested for a felony or a misdemeanor punishable by imprisonment for more than 92 days or of any finding that a juvenile accused of a juvenile offense is not within the provisions of section 2(a)(1) of Act No. 288 of the Public Acts of 1939.

Final disposition of charge; notification to commanding officer as to adjudication or conviction; summary of deposition or sentence. (6) Upon final disposition of the charge against the accused, the clerk of the court entering the disposition shall immediately advise the commanding officer of the final disposition of the arrest for which the accused was fingerprinted if a juvenile was adjudicated to have committed a juvenile offense or if the accused was convicted of a felony or a misdemeanor. With regard to any adjudication or conviction, the clerk shall transmit to the commanding officer information as to any adjudication or finding of guilty or guilty but mentally ill; any plea of guilty, nolo contendere, or guilty but mentally ill; the offense of which the accused was convicted; and a summary of any deposition or sentence imposed. The summary of the sentence shall include any probationary term; any minimum, maximum, or alternative term of imprisonment; the total of all fines, costs, and restitution ordered; and any modification of sentence. If the sentence is imposed under any of the following sections, the report shall so indicate:

(a) Section 7411 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7411 of the Michigan Compiled Laws.

(b) Sections 11 to 15 of chapter II of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 762.11 to 762.15 of the Michigan Compiled Laws.

(c) Section 4a of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 769.4a of the Michigan Compiled Laws.

(d) Section 350a(4) of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.350a of the Michigan Compiled Laws.

Record of disposition of each charge; notification of FBI. (7) The commanding officer shall record the disposition of each charge and shall inform the director of the federal bureau of investigation of the final disposition of the felony or misdemeanor arrest.

Comparison of fingerprints and descriptions to those on file; notification of criminal record. (8) The commanding officer shall compare the fingerprints and description received with those already on file and if the commanding officer finds that the person arrested has a criminal record, the commanding officer shall immediately inform the arresting agency and prosecuting attorney of this fact.

Exceptions to provisions requiring return of fingerprints, arrest card and description; return ordered by judge. (9) The provisions of this section requiring the return of the fingerprints, arrest card, and description shall not apply in the following cases:

(a) The person arrested was charged with the commission or attempted commission, or if the person arrested is a juvenile, was charged with an offense which if committed by an adult would constitute the commission or attempted commission, of a crime with or against a child under 16 years of age or the crime of criminal sexual conduct in any degree, rape, sodomy, gross indecency, indecent liberties, or child abusive commercial activities.

(b) The person arrested has a prior conviction other than a misdemeanor traffic offense, unless a judge of a court of record, except the probate court, by express order entered on the record, orders the return.

Fingerprinting; exception from forwarding requirement, persons accused and convicted under vehicle code; offenses punishable by more than 92 days imprisonment; second offenses. (10) Subsection (3) does not permit the forwarding to the department of the fingerprints of a person accused and convicted under the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws, or under a local ordinance substantially corresponding to a provision of Act No. 300 of the Public Acts of 1949, unless the offense is punishable upon conviction by imprisonment for more than 92 days or is an offense which would be punishable by imprisonment for more than 92 days as a second conviction.

MSA § 28.92(1b) (1996)

MCL § 28.422b

§ 28.92(1b). Entry of order or disposition into Law Enforcement Information Network; written notice; person subject of order; request to amend inaccuracy; notice of grant or denial of request; hearing; exemption from public disclosure.

Sec. 2b. (1) Upon entry of an order or disposition into the law enforcement information network under any provision of law described in section 2(3)(a), the department of state police shall immediately send written notice of that entry to the person who is the subject of the order or disposition. The notice shall be sent by first-class mail to the last known address of the person. The notice shall include at least all of the following:

(a) The name of the person.

(b) The date the order or disposition was entered into the law enforcement information network.

(c) A statement that the person cannot obtain a license to purchase a pistol or obtain a concealed weapon license until the order or disposition is removed from the law enforcement information network.

(d) A statement that the person may request that the state police correct or expunge inaccurate information entered into the law enforcement information network.

(2) A person who is the subject of an order entered into the law enforcement information network under any provision of law described in section 2(3)(a) may request that the department of state police do either of the following:

(a) Amend an inaccuracy in the information entered into the law enforcement information network under any provision of law described in section 2(3)(a).

(b) Expunge the person's name and other information concerning the person from the law enforcement information network regarding 1 or more specific entries in the law enforcement information network under any provision of law described in section 2(3)(a) because 1 or more of the following circumstances exist:

(i) The person is not subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(ii) The person is not subject to an order or disposition determining that the person is legally incapacitated.

(iii) The person is not subject to an injunctive order that prohibits the purchase or possession of a firearm by the person issued under any of the following:

(A) Section 2950 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2950 of the Michigan Compiled Laws.

(B) Section 2950a of Act No. 236 of the Public Acts of 1961, being section 600.2950a of the Michigan Compiled Laws.

(C) Section 14 of chapter 84 of the Revised Statutes of 1846, being section 552.14 of the Michigan Compiled Laws.

(iv) The person is not subject to an order for release subject to protective conditions that prohibits the purchase or possession of a firearm by the person issued under section

6b of chapter V of Act No. 175 of the Public Acts of 1927, being section 765.6b of the Michigan Compiled Laws.

(3) Before the expiration of 30 days after a request is made to amend an inaccuracy in the law enforcement information network under subsection (2)(a) or to expunge 1 or more specific entries from the law enforcement information network under subsection (2)(b)(i) to (iv), the department of state police shall conduct an investigation concerning the accuracy of the information contained in the law enforcement information network, either grant or deny the request and provide the person with written notice of that grant or denial. A notice of denial shall include a statement specifying the basis of the denial, and that a person may appeal the denial pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(4) If the department of state police refuses a request by a person for amendment or expunction under subsection (2), or fails to act within 30 days after receiving the request under subsection (2), the person may request a hearing before a hearing officer appointed by the department of state police for a determination of whether information entered into the law enforcement information network should be amended or expunged because it is inaccurate or false. The department of state police shall conduct the hearing pursuant to Act No. 306 of the Public Acts of 1969.

(5) Information contained in an order or disposition filed with the department of state police under any provision of law described in section 2(3)(a)(i) to (vii) is exempt from public disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

**SENATE BILL 114**  
**(Act 115, Public Acts of 1997)**

**MCL 600.2950, MSA 27A.2950**  
**and**  
**MCL 600.2950a, MSA 27A 2950a**

Sec. 2950. (1) By commencing an independent action to obtain relief under this section, by joining a claim to an action, or by filing a motion in an action in which the petitioner and the individual to be restrained or enjoined are parties, an individual may petition the circuit court to enter a personal protection order to restrain or enjoin a spouse, a former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual residing or having resided in the same household as the victim from doing 1 or more of the following:

- (a) Entering onto premises.
- (b) Assaulting, attacking, beating, molesting, or wounding a named individual.
- (c) Threatening to kill or physically injure a named individual.
- (d) Removing minor children from the individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.
- (e) Beginning April 1, 1996, purchasing or possessing a firearm.
- (f) Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.
- (g) Interfering with petitioner at petitioner's place of employment or engaging in conduct that impairs petitioner's employment relationship or environment.
- (h) Any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence.

(2) IF THE RESPONDENT IS A PERSON WHO IS ISSUED A LICENSE TO CARRY A CONCEALED WEAPON AND IS REQUIRED TO CARRY A WEAPON AS A CONDITION OF HIS OR HER EMPLOYMENT, A POLICE OFFICER CERTIFIED BY THE MICHIGAN LAW ENFORCEMENT TRAINING COUNCIL ACT OF 1965, 1965 PA 203, MCL 28.601 TO 28.616, A SHERIFF, A DEPUTY

SHERIFF OR A MEMBER OF THE MICHIGAN DEPARTMENT OF STATE POLICE, A LOCAL CORRECTIONS OFFICER, DEPARTMENT OF CORRECTIONS EMPLOYEE, OR FEDERAL LAW ENFORCEMENT OFFICER WHO CARRIES A FIREARM DURING THE NORMAL COURSE OF HIS OR HER EMPLOYMENT, THE PETITIONER SHALL NOTIFY THE COURT OF THE RESPONDENT'S OCCUPATION PRIOR TO THE ISSUANCE OF THE PERSONAL PROTECTION ORDER. THIS SUBSECTION DOES NOT APPLY TO A PETITIONER WHO DOES NOT KNOW THE RESPONDENT'S OCCUPATION.

(3) A petitioner may omit his or her address of residence from documents filed with the court under this section. If a petitioner omits his or her address of residence, the petitioner shall provide the court with a mailing address.

(4) The court shall issue a personal protection order under this section if the court determines that there is reasonable cause to believe that the individual to be restrained or enjoined may commit 1 or more of the acts listed in subsection (1). In determining whether reasonable cause exists, the court shall consider all of the following:

(a) Testimony, documents, or other evidence offered in support of the request for a personal protection order.

(b) Whether the individual to be restrained or enjoined has previously committed or threatened to commit 1 or more of the acts listed in subsection (1).

(5) A court shall not issue a personal protection order that restrains or enjoins conduct described in subsection (1)(a) if all of the following apply:

(a) The individual to be restrained or enjoined is not the spouse of the moving party.

(b) The individual to be restrained or enjoined has a property interest in the premises.

(c) The moving party has no property interest in the premises.

(6) A court shall not refuse to issue a personal protection order solely due to the absence of any of the following:

(a) A police report.

(b) A medical report.

(c) A report or finding of an administrative agency.

(d) Physical signs of abuse or violence.

(7) If the court refuses to grant a personal protection order, it shall state immediately in writing the specific reasons it refused to issue a personal protection order. If a hearing is held, the court shall also immediately state on the record the specific reasons it refuses to issue a personal protection order.

(8) A personal protection order shall not be made mutual. Correlative separate personal protection orders are prohibited unless both parties have properly petitioned the court pursuant to subsection (1).

(9) A personal protection order is effective when signed by a judge.

(10) The court shall designate the law enforcement agency that is responsible for entering the personal protection order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 TO 28.216.

(11) A personal protection order shall include all of the following:

(a) A statement that the personal protection order has been entered to restrain or enjoin conduct listed in the order and that violation of the personal protection order will subject the individual restrained or enjoined to immediate arrest and the civil and criminal contempt powers of the court, and that if he or she is found guilty of criminal contempt, he or she shall be imprisoned for not more than 93 days and may be fined not more than \$500.00.

(b) A statement that the personal protection order is effective when signed by a judge and is immediately enforceable.

(c) A statement listing the type or types of conduct enjoined.

(d) An expiration date stated clearly on the face of the order.

(e) A statement that the personal protection order is enforceable anywhere in Michigan by any law enforcement agency.

(f) The law enforcement agency designated by the court to enter the personal protection order into the law enforcement information network.

(g) For ex parte orders, a statement that the individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing within 14 days after the individual restrained or enjoined has been served or has received actual notice of the order and that motion forms and filing instructions are available from the clerk of the court.

(12) An ex parte personal protection order shall be issued and effective without written or oral notice to the individual restrained or enjoined or his or her attorney if it clearly appears from specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued.

(13) A personal protection order issued under subsection (12) is valid for not less than 182 days. The individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing under the Michigan court rules. The motion to modify or rescind the personal protection order shall be filed within 14 days after the order is served or after the individual restrained or enjoined has received actual notice of the personal protection order unless good cause is shown for filing the motion after the 14 days have elapsed.

(14) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 14 days after the filing of the motion to modify or rescind. IF THE RESPONDENT IS A PERSON DESCRIBED IN SUBSECTION (2) AND THE PERSONAL PROTECTION ORDER PROHIBITS HIM OR HER FROM PURCHASING OR POSSESSING A FIREARM, THE COURT SHALL SCHEDULE A HEARING ON THE MOTION TO MODIFY OR RESCIND THE EX PARTE PERSONAL PROTECTION ORDER WITHIN 5 DAYS AFTER THE FILING OF THE MOTION TO MODIFY OR RESCIND.

(15) The clerk of the court that issues a personal protection order shall do both of the following immediately upon issuance and without requiring a proof of service on the individual restrained or enjoined:

(a) File a true copy of the personal protection order with the law enforcement agency designated by the court in the personal protection order.

(b) Provide the petitioner with not less than 2 true copies of the personal protection order.

(16) The clerk of the court shall inform the petitioner that he or she may take a true copy of the personal protection order to the law enforcement agency designated by the court in subsection (10) to be immediately entered into the law enforcement information network.

(17) The law enforcement agency that receives a true copy of the personal protection order under subsection (15) OR (16) shall immediately and without requiring proof of service enter the personal protection order into the law enforcement information network

as provided by THE L.E.I.N. POLICY COUNCIL ACT OF 1974, 1974 PA 163, MCL 28.211 TO 28.216.

(18) A personal protection order issued under this section shall be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the individual restrained or enjoined or by any other manner provided in the Michigan court rules. A proof of service shall be filed with the clerk of the court issuing the personal protection order. This subsection does not prohibit the immediate effectiveness of a personal protection order or its immediate enforcement under subsections (21) and (22).

(19) The clerk of the court shall immediately notify the law enforcement agency that received the personal protection order under subsection (15) OR (16) if either of the following occurs:

(a) The clerk of the court has received proof that the individual restrained or enjoined has been served.

(b) The personal protection order is rescinded, modified, or extended by court order.

(20) The law enforcement agency that receives information under subsection (19) shall enter the information or cause the information to be entered into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(21) Subject to subsection (22), a personal protection order is immediately enforceable anywhere in this state by any law enforcement agency that has received a true copy of the order, is shown a copy of it, or has verified its existence on the law enforcement information network as provided by THE L.E.I.N. POLICY COUNCIL ACT OF 1974, 1974 PA 163, MCL 28.211 TO 28.216.

(22) If the individual restrained or enjoined has not been served, the law enforcement agency or officer responding to a domestic violence call alleging a violation of a personal protection order shall serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined of the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. The law enforcement officer shall enforce the personal protection order and immediately enter or cause to be entered into the law enforcement information network that the individual restrained or enjoined has actual notice of the personal protection order. If the individual restrained or enjoined has not received notice of the personal protection order, the individual restrained or enjoined shall be given an opportunity to comply with the personal protection order before the law enforcement officer makes a custodial arrest for violation of the personal protection order. The failure to immediately comply with the personal

protection order shall be grounds for an immediate custodial arrest. This subsection does not preclude an arrest under section 15 or 15a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15 AND 764.15A.

(23) An individual who refuses or fails to comply with a personal protection order is subject to the criminal contempt powers of the court and, if found guilty, shall be imprisoned for not more than 93 days and may be fined not more than \$ 500.00. The criminal penalty provided for under this section may be imposed in addition to a penalty that may be imposed for another criminal offense arising from the same conduct.

(24) An individual who knowingly and intentionally makes a false statement to the court in support of his or her petition for a personal protection order is subject to the contempt powers of the court.

(25) A personal protection order issued under this section is also enforceable under section 15b of chapter IV of THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 764.15B.

(26) A personal protection order issued under this section is also enforceable under chapter 17.

(27) As used in this SECTION:

(a) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(B) "LAW ENFORCEMENT OFFICER" MEANS AN OFFICER OR AGENT EMPLOYED BY A LAW ENFORCEMENT AGENCY OF THE UNITED STATES GOVERNMENT WHOSE PRIMARY RESPONSIBILITY IS THE ENFORCEMENT OF LAWS OF THE UNITED STATES.

(C) "Personal protection order" means an injunctive order issued by the circuit court restraining or enjoining activity and individuals listed in subsection (1).

Sec. 2950a. (1) By commencing an independent action to obtain relief under this section, by joining a claim to an action, or by filing a motion in an action in which the petitioner and the individual to be restrained or enjoined are parties, an individual may petition the circuit court to enter a personal protection order to restrain or enjoin an individual from engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411H AND 750.411I. Relief may be sought and granted under this section whether or not the individual to be restrained or enjoined has been charged or convicted under section 411h or 411i of THE MICHIGAN

PENAL CODE, 1997 Mi. ALS 115; 1997 Mi. P.A. 115; 1997 Mi. SB 114 1931 PA 328, MCL 750.411H AND 750.411I for the alleged violation.

(2) IF THE RESPONDENT IS A PERSON WHO IS ISSUED A LICENSE TO CARRY A CONCEALED WEAPON AND IS REQUIRED TO CARRY A WEAPON AS A CONDITION OF HIS OR HER EMPLOYMENT, A POLICE OFFICER CERTIFIED BY THE MICHIGAN LAW ENFORCEMENT TRAINING COUNCIL ACT OF 1965, 1965 PA 203, MCL 28.601 TO 28.616, A SHERIFF, A DEPUTY SHERIFF OR A MEMBER OF THE MICHIGAN DEPARTMENT OF STATE POLICE, A LOCAL CORRECTIONS OFFICER, A DEPARTMENT OF CORRECTIONS EMPLOYEE, OR A FEDERAL LAW ENFORCEMENT OFFICER WHO CARRIES A FIREARM DURING THE NORMAL COURSE OF HIS OR HER EMPLOYMENT, THE PETITIONER SHALL NOTIFY THE COURT OF THE RESPONDENT'S OCCUPATION PRIOR TO THE ISSUANCE OF THE PERSONAL PROTECTION ORDER. THIS SUBSECTION DOES NOT APPLY TO A PETITIONER WHO DOES NOT KNOW THE RESPONDENT'S OCCUPATION.

(3) A petitioner may omit his or her address of residence from documents filed with the court pursuant to this section. If a petitioner omits his or her address of residence, the petitioner shall provide the court a mailing address.

(4) If the court refuses to grant a personal protection order, it shall state in writing the specific reasons it refused to issue a personal protection order. If a hearing is held, the court shall also immediately state on the record the specific reasons it refuses to issue a personal protection order.

(5) A personal protection order shall not be made mutual. Correlative separate personal protection orders are prohibited unless both parties have properly petitioned the court pursuant to subsection (1).

(6) A personal protection order is effective when signed by a judge.

(7) The court shall designate the law enforcement agency that is responsible for entering the personal protection order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 TO 28.216.

(8) A personal protection order issued under this section shall include all of the following:

(a) A statement that the personal protection order has been entered to enjoin or restrain conduct listed in the order and that violation of the personal protection order will subject the individual restrained or enjoined to immediate arrest and the civil and criminal contempt powers of the court, and that if he or she is found guilty of criminal contempt,

he or she shall be imprisoned for not more than 93 days and may be fined not more than \$500.00.

(b) A statement that the personal protection order is effective when signed by a judge and is immediately enforceable.

(c) A statement listing the type or types of conduct enjoined.

(d) An expiration date stated clearly on the face of the order.

(e) A statement that the personal protection order is enforceable anywhere in Michigan by any law enforcement agency.

(f) The law enforcement agency designated by the court to enter the personal protection order into the law enforcement information network.

(g) For ex parte orders, a statement that the individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing within 14 days after the individual restrained or enjoined has been served or has received actual notice of the personal protection order and that motion forms and filing instructions are available from the clerk of the court.

(9) An ex parte personal protection order shall be issued and effective without written or oral notice to the individual enjoined or his or her attorney if it clearly appears from specific facts shown by verified complaint, written motion, or affidavit that immediate and irreparable injury, loss, or damage will result from the delay required to effectuate notice or that the notice will itself precipitate adverse action before a personal protection order can be issued.

(10) A personal protection order issued under subsection (9) is valid for not less than 182 days. The individual restrained or enjoined may file a motion to modify or rescind the personal protection order and request a hearing pursuant to the Michigan court rules. The motion to modify or rescind the personal protection order shall be filed within 14 days after the order is served or after the individual restrained or enjoined has received actual notice of the personal protection order unless good cause is shown for filing the motion after the 14 days have elapsed.

(11) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE court shall schedule a hearing on the motion to modify or rescind the ex parte personal protection order within 14 days after the filing of the motion to modify or rescind. IF THE RESPONDENT IS A PERSON DESCRIBED IN SUBSECTION (2) AND THE PERSONAL PROTECTION ORDER PROHIBITS HIM OR HER FROM PURCHASING OR POSSESSING A FIREARM, THE COURT SHALL SCHEDULE A HEARING ON THE MOTION TO MODIFY OR RESCIND THE EX PARTE

**PERSONAL PROTECTION ORDER WITHIN 5 DAYS AFTER THE FILING OF THE MOTION TO MODIFY OR RESCIND.**

(12) The clerk of the court that issues a personal protection order shall do both of the following immediately upon issuance and without requiring a proof of service on the individual restrained or enjoined:

(a) File a true copy of the personal protection order with the law enforcement agency designated by the court in the personal protection order.

(b) Provide petitioner with not less than 2 true copies of the personal protection order.

(13) The clerk of the court shall inform the petitioner that he or she may take a true copy of the personal protection order to the law enforcement agency designated by the court in subsection (7) to be immediately entered into the law enforcement information network.

(14) The law enforcement agency that receives a true copy of the personal protection order under subsection (12) OR (13) shall immediately and without requiring proof of service enter the personal protection order into the law enforcement information network, as provided by THE L.E.I.N. POLICY COUNCIL ACT OF 1974, 1974 PA 163, MCL 28.211 TO 28.216.

(15) A personal protection order issued under this section shall be served personally or by registered or certified mail, return receipt requested, delivery restricted to the addressee at the last known address or addresses of the individual restrained or enjoined or by any other manner provided in the Michigan court rules. A proof of service shall be filed with the clerk of the court issuing the personal protection order. This subsection does not prohibit the immediate effectiveness of a personal protection order or its immediate enforcement under subsections (18) and (19).

(16) The clerk of the court shall immediately notify the law enforcement agency that received the personal protection order under subsection (12) OR (13) if either of the following occurs:

(a) The clerk of the court has received proof that the individual restrained or enjoined has been served.

(b) The personal protection order is rescinded, modified, or extended by court order.

(17) The law enforcement agency that receives information under subsection (16) shall enter the information or cause the information to be entered into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(18) Subject to subsection (19), a personal protection order is immediately enforceable anywhere in this state by any law enforcement information network as provided by THE L.E.I.N. POLICY COUNCIL ACT OF 1974, 1974 PA 163, MCL 28.211 TO 28.216.

(19) If the individual restrained or enjoined has not been served, the law enforcement agency or officer responding to a domestic violence call alleging a violation of a personal protection order shall serve the individual restrained or enjoined with a true copy of the order or advise the individual restrained or enjoined of the existence of the personal protection order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. The law enforcement officer shall enforce the personal protection order an immediately enter or cause to be entered into the law enforcement information network that the individual restrained or enjoined has actual notice of the personal protection order. If the individual restrained or enjoined has not received notice of the personal protection order, the individual restrained or enjoined shall be given an opportunity to comply with the personal protection order before the law enforcement officer makes a custodial arrest for violation of the personal protection order. The failure to immediately comply with the personal protection order shall be grounds for an immediate custodial arrest. This subsection does not preclude an arrest under section 15 or 15a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15 AND 764.15A.

(20) An individual who refuses or fails to comply with a personal protection order issued under this section is subject to the criminal contempt powers of the court and, if found guilty of criminal contempt, shall be imprisoned for not more than 93 days and may be fined not more than \$ 500.00. The criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed of any other criminal offense arising from the same conduct.

(21) An individual who knowingly and intentionally makes a false statement to the court in support of his or her petition for a personal protection order is subject to the contempt powers of the court.

(22) A personal protection order issued under this section is also enforceable under section 15b of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.15B.

(23) Beginning April 1, 1996, a personal protection order issued under this section may enjoin or restrain an individual from purchasing or possessing a firearm.

(24) A personal protection order issued under this section is also enforceable under chapter 17.

(25) As used in this section:

(A) "Federal law enforcement officer" MEANS AN OFFICER OR AGENT EMPLOYED BY A LAW ENFORCEMENT AGENCY OF THE UNITED STATES GOVERNMENT WHOSE PRIMARY RESPONSIBILITY IS THE ENFORCEMENT OF LAWS OF THE UNITED STATES.

(B) "PERSONAL protection order" means an injunctive order issued by circuit court restraining or enjoining conduct prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411H AND 750.411I.

MSA § 28.276 (1996)

MCL § 750.81

§ 28.276. Assault or assault and battery of individual, spouse or former spouse, individual having child in common, or household resident.

Sec. 81. (1) A person who assaults or assaults and batters an individual, if no other punishment is prescribed by law, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(2) Except as provided in subsection (3) or (4), an individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(3) An individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, in violation of subsection (2), and who has previously been convicted of assaulting or assaulting and battering his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, in violation of this section or a local ordinance substantially corresponding to this section, or in violation of section 81a, 82, 83, 84, or 86, may be punished by imprisonment for not more than 1 year or a fine of not more than \$ 1,000.00, or both.

(4) An individual who assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, in violation of subsection (2), and who has 2 or more previous convictions for assaulting or assaulting and battering his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, in violation of this section or a local ordinance substantially corresponding to this section, or in violation of section 81a, 82, 83, 84, or 86, is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,500.00, or both.

MSA § 28.276(1) (1996)

MCL § 750.81a

§ 28.276(1). Assault; infliction of serious injury.

Sec. 81a. (1) A person who assaults an individual without a weapon and inflicts serious or aggravated injury upon that individual without intending to commit murder or to inflict great bodily harm less than murder is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(2) Except as provided in subsection (3), an individual who assaults his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, without a weapon and inflicts serious or aggravated injury upon that individual without intending to commit murder or to inflict great bodily harm less than murder is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(3) An individual who assaults his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, in violation of subsection (2), and who has 1 or more previous convictions for assaulting or assaulting and battering his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household, in violation of this section or section 81, 82, 83, 84, or 86 or a local ordinance substantially corresponding to section 81, is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$ 2,500.00, or both.

MSA § 28.305 (a) (1996)

MCL § 750.110a

§ 28.305 (a). Home invasion; definitions; degrees; penalties.

Sec. 110a. (1) As used in this section:

(a) "Dwelling" means a structure or shelter that is used permanently or temporarily as a place of abode, including an appurtenant structure attached to that structure or shelter.

(b) "Dangerous weapon" means 1 or more of the following:

(i) A loaded or unloaded firearm, whether operable or inoperable.

(ii) A knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

(iii) An object that is likely to cause death or bodily injury when used as a weapon and that is used as a weapon or carried or possessed for use as a weapon.

(iv) An object or device that is used or fashioned in a manner to lead a person to believe the object or device is an object or device described in subparagraphs (i) to (iii).

(c) "Without permission" means without having obtained permission to enter from the owner or lessee of the dwelling or from any other person lawfully in possession or control of the dwelling.

(2) A person who breaks and enters a dwelling with intent to commit a felony or a larceny in the dwelling or a person who enters a dwelling without permission with intent to commit a felony or a larceny in the dwelling is guilty of home invasion in the first degree if at any time while the person is entering, present in, or exiting the dwelling either of the following circumstances exists:

(a) The person is armed with a dangerous weapon.

(b) Another person is lawfully present in the dwelling.

(3) A person who breaks and enters a dwelling with intent to commit a felony or a larceny in the dwelling or a person who enters a dwelling without permission with intent to commit a felony or a larceny in the dwelling is guilty of home invasion in the second degree.

(4) Home invasion in the first degree is a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$ 5,000.00, or both.

(5) Home invasion in the second degree is a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$ 3,000.00, or both.

(6) The court may order a term of imprisonment imposed for home invasion in the first degree to be served consecutively to any term of imprisonment imposed for any other criminal offense arising from the same transaction.

§ (7) Imposition of a penalty under this section does not bar imposition of a penalty under any other applicable law.

**SENATE BILL 342**  
**(Act 65, Public Acts of 1997)**

**MCL 750.411h, MSA 28.643(8)**  
**and**  
**MCL 750.411I, MSA 28.643(9)**

Sec. 411h. (1) As used in this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose.

(b) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(c) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(d) "Stalking" means a "willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(e) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

- (i) Following or appearing within the sight of that individual.
- (ii) Approaching or confronting that individual in a public place or on private property.
- (iii) Appearing at that individual's workplace or residence.
- (iv) Entering onto or remaining on property owned, leased, or occupied by that individual.
- (v) Contacting that individual by telephone.
- (vi) Sending mail or electronic communications to that individual.

(vii) Placing an object on or delivering an object to, property owned, leased, or occupied by that individual.

(f) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(2) An individual who engages in stalking is guilty of a crime as follows:

(a) Except as provided in subdivision (b), a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$ 1,000.00, or both.

(b) If the victim was less than 18 years of age at any time during the individual's course of conduct and the individual is 5 or more years older than the victim, a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$ 10,000.00, or both.

(3) The court may place an individual convicted of violating this section on probation for a term of not more than 5 years. If a term of probation is ordered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:

(a) Refrain from stalking any individual during the term of probation.

(b) Refrain from having any contact with the victim at the offense.

(c) Be evaluated to determine the need for psychiatric, psychological, or social counseling and if, determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.

(4) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(5) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

Sec. 411i. (1) A used in this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose.

(b) "Credible threat" means a threat to kill another individual or a threat to inflict physical injury upon another individual that is made in any manner or in any context that causes the individual hearing or receiving the threat to reasonably fear for his or her safety or the safety of another individual.

(c) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment 1997 Mi. ALS 65; 1997 Mi. P.A. 65; 1997 Mi. SB 342 or counseling.

(d) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(e) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(f) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

- (i) Following or appearing within the sight of that individual.
- (ii) Approaching or confronting that individual in a public place or on private property.
- (iii) Appearing at that individual's workplace or residence.
- (iv) Entering onto or remaining on property owned, leased or occupied by that individual.
- (v) Contacting that individual by telephone.
- (vi) Sending mail or electronic communications to that individual.
- (vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

(g) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(2) An individual who engages in stalking is guilty of aggravated stalking if the violation involves any of the following circumstances:

(a) At least 1 of the actions constituting the offense is in violation of a restraining order and the individual has received actual notice of that restraining order or at least 1 of the action is in violation of an injunction or preliminary injunction.

(b) At least 1 of the actions constituting the offense is in violation of a condition of probation, a condition or parole, a condition of pretrial release, or a condition of release on bond pending appeal.

(c) The course of conduct includes the making of 1 or more credible threats against the victim, a member of the victims family, or another individual living in the same household as the victim.

(d) The individual has been previously convicted of a violation of this section or section 411h.

(3) Aggravated stalking is a felony punishable as follows:

(a) Except as provided in subdivision (b), by imprisonment for not more than 5 years or a fine of not more than \$ 10,000.00, or both.

(b) If the victim was less than 18 years of age at any time during the individual's course of conduct and the individual is 5 or more years older than the victim, by imprisonment for not more than 10 years or a fine of not more than \$ 15,000.00, or both.

(4) The court may place an individual convicted of violating this section on probation for any term of years, but not less than years. If a term of probation is ordered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:

(a) Refrain from stalking any individual during the term of probation.

(b) Refrain from any contact with the victim of the offense.

(c) Be evaluated to determine the need for psychiatric, psychological, or social counseling and if determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.

(5) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(6) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for contempt of court arising from the same conduct.

MSA § 28.860(1) (1996)

MCL § 764.1a

§ 28.860(1). Complaint; allegations; sworn testimony; finding of reasonable cause; basis of factual obligations; complaint alleging violation of §§ 28.276 and 28.276(1) or corresponding ordinance; compliance with § 28.860.

Sec. 1a. (1) A magistrate shall issue a warrant upon presentation of a proper complaint alleging the commission of an offense and a finding of reasonable cause to believe that the individual accused in the complaint committed that offense. The complaint shall be sworn to before a magistrate or clerk.

(2) The finding of reasonable cause by the magistrate may be based upon 1 or more of the following:

(a) Factual allegations of the complainant contained in the complaint.

(b) The complainant's sworn testimony.

(c) The complainant's affidavit.

(d) Any supplemental sworn testimony or affidavits of other individuals presented by the complainant or required by the magistrate.

(3) The magistrate may require sworn testimony of the complainant or other individuals. Supplemental affidavits may be sworn to before an individual authorized by law to administer oaths. The factual allegations contained in the complaint, testimony, or affidavits may be based upon personal knowledge, information and belief, or both.

(4) The magistrate shall not refuse to accept a complaint alleging a violation of section 81 or 81a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81 and 750.81a of the Michigan Compiled Laws, or a violation of a local ordinance substantially corresponding to section 81 of Act No. 328 of the Public Acts of 1931 by the spouse of the victim, a former spouse of the victim, an individual with whom the victim has had a child in common, or an individual residing or having resided in the same household as the victim on grounds that the complaint is signed upon information and belief by an individual other than the victim.

(5) A warrant may be issued under this section only upon compliance with the requirements of section 1 of this chapter.

**MSA § 28.874 (1996)**

**MCL § 764.15**

§ 28.874. Arrest by officer without warrant; situations and circumstances.

Sec. 15. (1) A peace officer, without a warrant, may arrest a person in the following situations:

(a) When a felony, misdemeanor, or ordinance violation is committed in the peace officer's presence.

(b) When the person has committed a felony although not in the presence of the peace officer.

(c) When a felony in fact has been committed and the peace officer has reasonable cause to believe that the person has committed it.

(d) When the peace officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person has committed it.

(e) When the peace officer has received positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source that another peace officer holds a warrant for the arrest.

(f) When the peace officer has received positive information broadcast from a recognized police or other governmental radio station, or teletype, as may afford the peace officer reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person has committed it.

(g) When the peace officer has reasonable cause to believe that the person is an escaped convict, has violated a condition of parole from a prison, has violated a condition of probation imposed by a court, or has violated a condition of a pardon granted by the executive.

(h) When the peace officer has reasonable cause to believe that the person was, at the time of an accident, the driver of a vehicle involved in the accident and was operating the vehicle upon a public highway or other place open to the general public, including an area designated for the parking of vehicles, in the state while in violation of section 625(1) or (2) of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.625 of the Michigan Compiled Laws, or of a local ordinance substantially corresponding to section 625(1) or (2) of Act No. 300 of the Public Acts of 1949.

(i) When the peace officer has reasonable cause to believe that the person was, at the time of an accident, the driver of a snowmobile as defined in part 821 (snowmobiles) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.82101 to 324.82159 of the Michigan Compiled Laws, involved in the accident and was driving the snowmobile while under the influence of an intoxicating liquor; a controlled substance as defined in section 7104 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7104 of the Michigan Compiled Laws; or a combination of intoxicating liquor and a controlled substance.

§ (j) When the peace officer has reasonable cause to believe that the person was, at the time of an accident, the driver of an ORV as defined in part 811 (off-road recreation

vehicles) of Act No. 451 of the Public Acts of 1994, being sections 324.81101 to 324.81150 of the Michigan Compiled Laws, involved in the accident and was driving the ORV while under the influence of an intoxicating liquor; a controlled substance, as defined in section 7104 of Act No. 368 of the Public Acts of 1978 ; or a combination of intoxicating liquor and a controlled substance.

(k) When the peace officer has reasonable cause to believe that a violation of section 356c or 356d of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.356c and 750.356d of the Michigan Compiled Laws, has taken place or is taking place, and reasonable cause to believe that the person committed or is committing the violation, regardless of whether the violation was committed in the presence of the peace officer.

(2) An officer in the United States customs service or the immigration and naturalization service, without a warrant, may arrest a person if all of the following circumstances exist:

(a) The officer is on duty.

(b) One or more of the following situations exist:

(i) The person commits an assault or an assault and battery punishable under section 81 or 81a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81 and 750.81a of the Michigan Compiled Laws, on the officer.

(ii) The person commits an assault or an assault and battery punishable under section 81 or 81a of Act No. 328 of the Public Acts of 1931, on any other person in the presence of the officer, or commits any felony.

(iii) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person has committed it, and the reasonable cause is not founded on a customs search.

(iv) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source that a peace officer holds a warrant for the person's arrest.

(c) The officer has received training in the laws of this state equivalent to the training provided for an officer of a local police agency under the Michigan law enforcement officers training council act of 1965, Act No. 203 of the Public Acts of 1965, being sections 28.601 to 28.616 of the Michigan Compiled Laws.

CL '29, § 17149

MSA § 28.874(1) (1996)

MCL § 764.15a

§ 28.874(1). Arrest without warrant for assault of individual having child in common, household resident, or spouse or former spouse.

Sec. 15a. A peace officer may arrest an individual for violating section 81 or 81a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81 and 750.81a of the Michigan Compiled Laws, or a local ordinance substantially corresponding to section 81 of Act No. 328 of the Public Acts of 1931 regardless of whether the peace officer has a warrant or whether the violation was committed in his or her presence, if the peace officer has reasonable cause to believe both of the following:

- (a) The violation occurred or is occurring.
- (b) The individual has had a child in common with the victim, resides or has resided in the same household as the victim, or is a spouse or former spouse of the victim.

MSA § 28.874(2) (1996)

MCL § 764.15b

§ 28.874(2). Arrest without warrant for violation of personal protection order; answer to charge of contempt; hearing; bond; contempt proceedings, jurisdiction; criminal contempt, prosecution; entry of order into law enforcement information network.

Sec. 15b. (1) A peace officer, without a warrant, may arrest and take into custody an individual when the peace officer has reasonable cause to believe all of the following apply:

(a) A personal protection order has been issued under section 2950 or 2950a of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.2950 and 600.2950a of the Michigan Compiled Laws.

(b) The individual named in the personal protection order is in violation of the order. An individual is in violation of the order if that individual commits 1 or more of the following acts the order specifically restrains or enjoins the individual from committing:

(i) Assaulting, attacking, beating, molesting, or wounding a named individual.

(ii) Removing minor children from an individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.

(iii) Entering onto premises.

(iv) Engaging in conduct prohibited under section 411h or 411i of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.411h and 750.411i of the Michigan Compiled Laws.

(v) Threatening to kill or physically injure a named individual.

(vi) Beginning April 1, 1996, purchasing or possessing a firearm.

(vii) Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.

(viii) Interfering with petitioner at petitioner's place of employment or engaging in conduct that impairs petitioner's employment relationship or environment.

(ix) Any other act or conduct specified by the court in the personal protection order.

(c) The personal protection order states on its face that a violation of its terms subjects the individual to immediate arrest and to criminal contempt of court and, if found guilty of criminal contempt, the individual shall be imprisoned for not more than 93 days and may be fined not more than \$500.00.

(2) An individual arrested under this section shall be brought before the circuit court having jurisdiction in the cause within 24 hours after arrest to answer to a charge of contempt for violation of the personal protection order, at which time the court shall do each of the following:

(a) Set a time certain for a hearing on the alleged violation of the personal protection order within 72 hours after arrest, unless extended by the court on the motion of the arrested individual or the prosecuting attorney.

(b) Set a reasonable bond pending a hearing of the alleged violation of the personal protection order.

(c) Notify the prosecuting attorney of the criminal contempt proceeding.

(d) Notify the party who has procured the personal protection order and his or her attorney of record, if any, and direct the party to appear at the hearing and give evidence on the charge of contempt.

(3) In circuits where the circuit court judge may not be present or available within 24 hours after arrest, an individual arrested under this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall order the defendant to appear before the circuit court of the county for a hearing on the charge. The district court shall set bond for the individual.

(4) The circuit court for each county of this state has jurisdiction to conduct contempt proceedings based upon a violation of a personal protection order described in this section issued by the circuit court in any county of this state. The court of arraignment shall notify the circuit court that issued the personal protection order that the issuing court may request that the defendant be returned to that county for violating the personal protection order. If the circuit court that issued the personal protection order requests that the defendant be returned to that county to stand trial, the requesting county shall bear the cost of transporting the defendant to that county.

(5) The prosecuting attorney shall prosecute a criminal contempt proceeding initiated by the court under subsection ( 2 ) , unless the party who procured the personal protection order retains his or her own attorney for the criminal contempt proceeding. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court shall grant an adjournment for not less than 14 days or a lesser period requested if the prosecuting attorney moves for adjournment. If the prosecuting attorney prosecutes the criminal contempt proceeding, the court may dismiss the proceeding upon motion of the prosecuting attorney for good cause shown.

(6) Upon receiving a true copy of a personal protection order issued in compliance with this section, the law enforcement agency shall enter the order into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28.211 to 28.216 of the Michigan Compiled Laws.

MSA § 28.874(3) (1996)

MCL § 764.15c

§ 28.874(3). Investigation or intervention in domestic dispute; providing victim with notice of rights; report; retention and filing of report.

Sec. 15c. (1) After investigating or intervening in a domestic dispute as described in section 15a or 15b of this chapter, a peace officer shall provide the victim with a copy of the notice in this section. The notice shall be written and shall include all of the following:

- (a) The name and telephone number of the responding police agency.
- (b) The name and badge number of the responding peace officer.
- (c) The following statement:

“You may obtain a copy of the police incident report for your case by contacting this law enforcement agency at the telephone number provided.

The domestic violence shelter program and other resources in your area are (include local information).

Information about emergency shelter, counseling services, and the legal rights of domestic violence victims is available from these resources.

Your legal rights include the right to go to court and file a petition requesting a personal protection order to protect you or other members of your household from domestic abuse which could include the following:

- (a) An order restraining or enjoining the abuser from entering onto premises.
- (b) An order restraining or enjoining the abuser from assaulting, attacking, beating, molesting, or wounding you.
- (c) An order restraining or enjoining the abuser from threatening to kill or physically injure you or another person.
- (d) An order restraining or enjoining the abuser from removing minor children from you, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.
- (e) An order restraining or enjoining the abuser from engaging in stalking behavior.
- (f) Beginning April 1, 1996, an order restraining or enjoining the abuser from purchasing or possessing a firearm.
- (g) An order restraining or enjoining the abuser from interfering with your efforts to remove your children or personal property from premises that are solely owned or leased by the abuser.
- (h) An order restraining or enjoining the abuser from interfering with you at your place of employment or engaging in conduct that impairs your employment relationship or environment.
- (i) An order restraining or enjoining the abuser from engaging in any other specific act or conduct that imposes upon or interferes with your personal liberty or that causes a reasonable apprehension of violence.”

§ (2) The peace officer shall prepare a domestic violence report after investigating or intervening in a domestic dispute or an incident involving domestic violence as described

in subsection (1). The report shall contain, but is not limited to containing, all of the following:

(a) The address, date, and time of the occurrence or incident being investigated.

(b) The victim's name, address, home and work telephone numbers, race, sex, and date of birth.

(c) The suspect's name, address, home and work telephone numbers, race, sex, date of birth, and information describing the suspect and whether an injunction or restraining order covering the suspect exists.

(d) The name, address, home and work telephone numbers, race, sex, and date of birth of any witness, including a child of the victim or suspect, and the relationship of the witness to the suspect or victim.

(e) The following information about the occurrence or incident being investigated:

(i) The name of the person that called the law enforcement agency.

(ii) The relationship of the victim and suspect.

(iii) Whether alcohol or controlled substance use was involved in the occurrence or incident, and by whom it was used.

(iv) A brief narrative describing the dispute or incident and the circumstances that led to it.

(v) Whether and how many times the suspect physically assaulted the victim and a description of any weapon or object used.

(vi) A description of all injuries sustained by the victim and an explanation of how the injuries were sustained.

(vii) If the victim sought medical attention, information concerning where and how the victim was transported, whether the victim was admitted to a hospital or clinic for treatment, and the name and telephone number of the attending physician.

(viii) A description of any property damage reported by the victim or evident at the scene.

(f) A description of any previous domestic disputes or incidents involving domestic violence between the victim and the suspect.

(g) The date and time of the report and the name, badge number, and signature of the peace officer completing the report.

(3) The law enforcement agency shall retain the completed domestic violence report in its files. The law enforcement agency shall also file a copy of the completed domestic violence report with the prosecuting attorney within 48 hours after the dispute or incident is reported to the law enforcement agency.

MSA § 28.874(5) (1996)

MCL § 764.15e

§ 28.874(5). Violation of condition of release under § 765.6b; arrest without warrant; duties of peace officer; release on interim bond; priority to certain cases; hearing and revocation procedures.

Sec. 15e. (1) A peace officer, without a warrant, may arrest and take into custody a defendant who the peace officer has reasonable cause to believe is violating or has violated a condition of release imposed under section 6b of chapter V.

Duties of peace officer; complaint; form. (2) If a peace officer arrests a defendant under subsection (1), the peace officer shall do all of the following:

(a) Prepare a complaint of violation of conditional release substantially in the following format:

COMPLAINT OF VIOLATION OF CONDITIONAL RELEASE

I \_\_\_\_\_ am a peace officer. I have determined by:

(name)

L.E.I.N. and verification with the police agency holding the order

Certified or true copy of order

Other (Describe) \_\_\_\_\_

That \_\_\_\_\_ released \_\_\_\_\_ subject to the following conditions:

(court) (name of defendant)

(state or attach a statement of relevant conditions)

I have reasonable cause to believe that on \_\_\_\_\_ at \_\_\_\_\_ the defendant  
(date) (time)

violated those conditions as follows:

(state violations)

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

(b) If the arrest occurred within the judicial district of the court that imposed the conditions of release, the peace officer shall immediately provide 1 copy of the complaint to the defendant, the original and 1 copy of the complaint to that court, and 1 copy of the complaint to the prosecuting attorney for the case in which the conditional release was granted. The law enforcement agency shall retain 1 copy of the complaint.

(c) If the arrest occurred outside the judicial district of the court that imposed the conditions of release, the peace officer shall immediately provide 1 copy of the complaint

to the defendant, and the original and 1 copy of the complaint to the district court or municipal court in the judicial district in which the violation occurred. The law enforcement agency shall retain 1 copy of

(d) If the arrest occurred within the judicial district of the court that released the defendant subject to conditions, bring the defendant before that court within 1 business day following the defendant's arrest to answer the charge of violating the conditions of release.

(e) If the arrest occurred outside the judicial district of the court that released the defendant subject to conditions, bring the defendant before the district court or municipal court in the judicial district in which the violation occurred within 1 business day following the arrest. The court shall determine conditions of release and promptly transfer the case to the court that released the defendant subject to conditions. The court to which the case is transferred shall notify the prosecuting attorney, in writing, of the alleged violation.

Release of defendant prior to court appearance. (3) If, in the opinion of the arresting police agency or officer in charge of the jail, it is safe to release the defendant before the defendant is brought before the court pursuant to subsection (2), the arresting police agency or officer in charge of the jail may release the defendant on interim bond of not more than \$500.00 requiring the defendant to appear at the opening of court the next business day. If the defendant is held for more than 24 hours without being brought before the court pursuant to subsection (2), the officer in charge of the jail shall note in the jail records the reason it was not safe to release the defendant on interim bond pursuant to this subsection.

Priority. (4) The court shall give priority to cases brought under this section in which the defendant is in custody or in which the defendant's release would present an unusual risk to the safety of any person.

Application of Michigan rules of court. (5) The hearing and revocation procedures for cases brought under this section shall be governed by the Michigan rules of court.

MSA § 28.887(1) (1996)

MCL § 764.29

§ 28.887(1). Arraignment; examination of court file, fingerprints.

Sec. 29. ( 1) At the time of arraignment of a person on a complaint for a felony or a misdemeanor punishable by imprisonment for more than 92 days, the magistrate shall examine the court file to determine if the person has had fingerprints taken as required by section 3 of Act No. 289 of the Public Acts of 1925, being section 28.243 of the Michigan Compiled Laws.

Fingerprints. (2) If the person has not had his or her fingerprints taken prior to the time of arraignment for the felony or the misdemeanor punishable by imprisonment for more than 92 days, upon completion of the arraignment, the magistrate shall do either of the following:

(a) Order the person to submit himself or herself to the police agency that arrested or obtained the warrant for the arrest of the person so that the person's fingerprints can be taken.

(b) Order the person committed to the custody of the sheriff for the taking of the person's fingerprints.

MSA § 28.893(2) (1996)

MCL § 765.6b

§ 28.893(2). Release subject to protective conditions; contents of order; purchase or possession of firearm; entering or removing order from L.E.I.N.; authority to impose other conditions not limited.

Sec. 6b. (1) A judge or district court magistrate may release under this section a defendant subject to conditions reasonably necessary for the protection of 1 or more named persons. If a judge or district court magistrate releases under this section a defendant subject to protective conditions, the judge or district court magistrate shall make a finding of the need for protective conditions and inform the defendant on the record, either orally or by a writing that is personally delivered to the defendant, of the specific conditions imposed and that if the defendant violates a condition of release, he or she will be subject to arrest without a warrant and may have his or her bail forfeited or revoked and new conditions of release imposed, in addition to any other penalties that may be imposed if the defendant is found in contempt of court.

(2) An order or amended order issued under subsection (1) shall contain all of the following:

(a) A statement of the defendant's full name.

(b) A statement of the defendant's height, weight, race, sex, date of birth, hair color, eye color, and any other identifying information the judge or district court magistrate considers appropriate.

(c) A statement of the date the conditions become effective.

(d) A statement of the date on which the order will expire.

(e) A statement of the conditions imposed.

(3) An order or amended order issued under this subsection and subsection (1) may impose a condition that the defendant not purchase or possess a firearm.

(4) The judge or district court magistrate shall immediately direct a law enforcement agency within the jurisdiction of the court, in writing, to enter an order or amended order issued under subsection (1) or subsections (1) and (3) into the law enforcement information network as provided by the L.E.I.N. policy council act of 1974, Act No. 163 of the Public Acts of 1974, being sections 28.211 to 28.216 of the Michigan Compiled Laws. If the order or amended order is rescinded, the judge or district court magistrate shall immediately order the law enforcement agency to remove the order or amended order from the law enforcement information network.

(5) A law enforcement agency within the jurisdiction of the court shall immediately enter an order or amended order into the law enforcement information network as provided by Act No. 163 of the Public Acts of 1974, or shall remove the order or amended order from the law enforcement information network upon expiration of the order or as directed by the court under subsection (4).

(6) This section does not limit the authority of judges or district court magistrates to impose protective or other release conditions under other applicable statutes or court rules.

MSA § 28.1076(1) (1996)

MCL § 769.4a

§ 28.1076(1). Assault on spouse, former spouse, individual with child in common, or household resident; plea or finding of guilty; deferral of proceedings, probation order; pruior convictions; adjudication of guilt, upon violation of probation or otherwise; mandatory counseling; costs; discharge and dismissal; limitation; nonpublic record.

Sec. 4a. ( 1) When an individual who has not been convicted previously of a violation of section 81 or 81a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, as amended, being sections 750.81 and 750.81a of the Michigan Compiled Laws, or a violation of a local ordinance substantially corresponding to section 81 of Act No. 328 of the Public Acts of 1931 pleads guilty to, or is found guilty of, a violation of section 81 or 81a of Act No. 328 of the Public Acts of 1931, as amended, and the victim of the assault is the offender's spouse or former spouse, an individual who has had a child in common with the offender, or an individual residing or having resided in the same household as the offender, the court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney in consultation with the victim, may defer further proceedings and place the accused on probation as provided in this section. However, before deferring proceedings under this subsection, the court shall contact the department of state police and determine whether, according to the records of the department of state police, the accused has previously been convicted under section 81 or 81a of Act No. 328 of the Public Acts of 1931, or under a local ordinance substantially corresponding to section 81 of Act No. 328 of the Public Acts of 1931, or has previously availed himself or herself of this section. If the search of the records reveals an arrest for a violation of section 81 or 81a of Act No. 328 of the Public Acts of 1931 or a local ordinance substantially corresponding to section 81 of Act No. 328 of the Public Acts of 1931 but no disposition, the court shall contact the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this section.

(2) Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided in this chapter.

(3) An order of probation entered under subsection ( 1) may require the accused to participate in a mandatory counseling program. The court may order the accused to pay the reasonable costs of the program.

(4) The court shall enter an adjudication of guilt and proceed as otherwise provided in this chapter if any of the following circumstances exist:

(a) The accused commits an assaultive crime during the period of probation. As used in this subdivision, "assaultive crime" means 1 or more of the following:

(i) That term as defined in section 9a of chapter X.

(ii) A violation of chapter XI of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81 to 750.90 of the Michigan Compiled Laws.

(b) The accused violates an order of the court that he or she receive counseling regarding his or her violent behavior.

(c) The accused violates an order of the court that he or she have no contact with a named individual.

(5) Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(6) There may be only 1 discharge and dismissal under this section with respect to any individual. The department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to a court or police agency upon request pursuant to subsection ( 1) for the purpose of showing that a defendant in a criminal action under section 81 or 81a of Act No. 328 of the Public Acts of 1931, as amended, or a local ordinance substantially corresponding to section 81 of Act No. 328 of the Public Acts of 1931 has already once availed himself or herself of this section.

MSA § 28.1274(3) (1996)

MCL § 776.22

§ 28.1274(3). Domestic violence police calls; development, implementation, and evaluation of written policies and standards by police agencies.

Sec. 22. (1) Each police agency in this state shall, by January 1, 1995, develop, adopt, and implement written policies for police officers responding to domestic violence calls. The policies shall reflect that domestic violence is criminal conduct.

(2) Each police agency shall consult with the prosecuting attorney and with an area shelter for victims of domestic violence in the development, implementation, including training, and evaluation of the policies and standards.

(3) The policies shall address, but not be limited to addressing, all of the following:

(a) Procedures for conducting a criminal investigation with specific standards for misdemeanor and felony arrests.

(b) Procedures for making a criminal arrest. The procedures shall emphasize all of the following:

(i) In most circumstances, an officer should arrest and take an individual into custody if the officer has probable cause to believe the individual is committing or has committed domestic violence and his or her actions constitute a crime.

(ii) When the officer has probable cause to believe spouses, former spouses, individuals who have had a child in common, or other individuals who reside together or formerly resided together are committing or have committed crimes against each other, the officer, when determining whether to make an arrest of 1 or both individuals, should consider the intent of this section to protect victims of domestic violence, the degree of injury inflicted on the individuals involved, the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household, and any history of domestic violence between the individuals, if that history can reasonably be ascertained by the officer. In addition, the officer should not arrest an individual if the officer has reasonable cause to believe the individual was acting in lawful self-defense or in lawful defense of another individual.

(iii) A police officer's decision as to whether to arrest an individual should not be based solely on the consent of the victim to any subsequent prosecution or on the relationship of the individuals involved in the incident.

(iv) A police officer's decision not to arrest an individual should not be based solely upon the absence of visible indications of injury or impairment.

§ (c) Procedures for denial of interim bond, as provided in Act No. 44 of the Public Acts of 1961, being sections 780.581 to 780.588 of the Michigan Compiled Laws.

(d) Procedures for verifying a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.2950 and 600.2950a of the Michigan Compiled Laws.

(e) Procedures for making an arrest for a violation of a personal protection order.

(f) Procedures for providing or arranging for emergency assistance to victims including, but not limited to, medical care, transportation to a shelter, or remaining at the scene of an alleged incident of domestic violence for a reasonable time until, in the reasonable judgment of the police officer, the likelihood of further imminent violence has been eliminated.

(g) Procedures for informing the victim of community services and legal options that are available pursuant to section 15c of chapter IV of this act.

(h) Procedures for preparing a written report, whether or not an arrest is made.

(i) Training of peace officers, dispatchers, and supervisors.

(j) Discipline for noncompliance with the policy.

(k) Annual evaluations of the policy.

(4) The local policies developed, adopted, and implemented pursuant to this section shall be in writing and shall be available to the public upon request.

**MSA § 28.872(2a) (1996)**

**MCL § 780.582a**

§ 28.872(2a). Arraignment before magistrate, prior release prohibited; exception, magistrate unavailable.

Sec. 2a. A person shall not be released on an interim bond as provided in section 1 or on his or her own recognizance as provided in section 3a, but shall be held until he or she can be brought before a magistrate for arraignment as required under section 1 or 2 or, if a magistrate is not available or immediate trial cannot be held within 24 hours, the person shall be held for 20 hours, after which the person may be released on an interim bond as provided in section 1 or on his or her own recognizance as provided in section 3a, if either of the following applies:

(a) The person is arrested without a warrant under section 15a of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.15a of the Michigan Compiled Laws, or a city, village, or township ordinance substantially corresponding to that section.

(b) The person is arrested with a warrant for a violation of section 81 or 81a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81 and 750.81a of the Michigan Compiled Laws, or a city, village, or township ordinance substantially corresponding to section 81 or 81a of Act No. 328 of the Public Acts of 1931, and the person is a spouse, a former spouse, or a person who resides or has resided in the same household as the victim of the violation.

MSA § 28.1287(753) (1996)

MCL § 780.753

§ 28.1287(753). Information to be given victim.

Sec. 3. Within 24 hours after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, that agency shall give to the victim the following information in writing:

(a) The availability of emergency and medical services, if applicable.

(b) The availability of victim's compensation benefits and the address of the crime victims compensation board.

(c) The address and telephone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.

(d) The following statement:

"If you are not notified of an arrest in your case, you may call this law enforcement agency at [the law enforcement agency's telephone number] for the status of the case."



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# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Module Goal:

The goal of this module is to provide the student with safe and effective procedures for responding to, investigating, and documenting a domestic violence call. The students should be actively involved in the material and use the knowledge they gained from modules I.H.1., The Nature and Prevalence of Domestic Violence, and I.H.2., The Laws Regarding Domestic Violence, in their response and investigation.

### Instructor Requirements:

The objectives in this module must be taught by an instructor who has successfully completed the Training Council approved Domestic Violence Instructor Training Course. Appendix C contains a list of all law enforcement response instructors who have completed the mandated instructor training.

### Number of Hours of MLEOTC Mandated Instruction for this Module:

8 hours

### Summary of Module Objectives:

- ① Respond to the Scene of Domestic Violence.
- ② Make Initial Contact at the Scene of Domestic Violence.
- ③ Enter the Domestic Violence Scene Effectively and Safely.
- ④ Conduct a Preliminary Criminal Investigation Upon Entry to the Scene.
- ⑤ Interview the Suspected Assailant as Part of the Complete Criminal Investigation at a Domestic Violence Scene.
- ⑥ Interview the Victim as Part of the Complete Criminal Investigation at a Domestic Violence Scene.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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- ⑦ Determine Whether Probable Cause Exists to Make an Arrest When Responding to Domestic Violence.
- ⑧ Arrest a Domestic Violence Assailant After Establishing Probable Cause That a Crime Has Been Committed.
- ⑨ Arrest the Assailant After Establishing That a Personal Protection Order (PPO) Has Been Violated.
- ⑩ Arrest the Assailant After Establishing That a Conditional Release Order (Conditional Bond) Has Been Violated.
- ⑪ Complete the Criminal Investigation at the Domestic Violence Scene.
- ⑫ Provide Appropriate Assistance to the Domestic Violence Victim When an Arrest Has Been Made.
- ⑬ Secure a Domestic Violence Scene When an Arrest Cannot Be Made.
- ⑭ Write a Domestic Violence Report Documenting the Domestic Violence Investigation.

### Teaching Requirements:

Each student must pass a comprehensive examination to be certified as a law enforcement officer in Michigan. The instructional materials contained in this module are designed to provide direction to your instruction to ensure the students receive the preparation they require to successfully perform the tasks outlined in the module objectives. Unless the objectives are properly taught, it will not be possible for the students to demonstrate competence in this area.

### Note to Response Instructors:

All procedures outlined and being taught in Module I.H.3., "Domestic Violence Response Procedures," ensure compliance with Michigan law and are consistent with procedures outlined in the State of Michigan model policy, *The Law Enforcement Response to Domestic Violence*, endorsed by the Michigan Law Enforcement Officers Training Council and the Michigan Domestic Violence Prevention and Treatment Board (see section 5, Appendix A).

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.1.:

At the end of this objective the student will be able to:

#### Respond to the Scene of Domestic Violence.

#### Performance/Testing Criteria:

- a. Responds immediately to the scene.
- b. Evaluates the information received about the complaint, including:
  - (1) dispatch information:
    - (a) who is calling;
    - (b) location of the caller and the complaint, if different;
    - (c) phone number of the caller;
    - (d) what is happening (e.g., is the caller safe? is the assailant still present? etc.);
    - (e) presence of weapons;
    - (f) presence of children, as victims or witnesses;
    - (g) any reported injuries;
    - (h) whether a Personal Protection Order (PPO) is in effect;
    - (i) age of the complaint (e.g., in progress, hours old);
    - (j) prior history;
    - (k) whether the assailant is on probation or parole; and
    - (l) whether the assailant is subject to a conditional release order (conditional bond) (MCL 765.6b);
  - (2) information from witnesses; and
  - (3) information from other officers.
- c. Approaches the scene in a cautious manner:
  - (1) parks a short distance away;
  - (2) waits for backup assistance before entering the scene;
  - (3) exchanges information with assisting officer(s);
  - (4) uses cover on approach, with each officer using a separate approach;
  - (5) stands clear of the door or windows; and
  - (6) maintains avenues of escape.
- d. Observes and listens for unusual conditions upon arrival at the scene:
  - (1) loud arguments;
  - (2) fresh damage to residence; or
  - (3) any other unusual condition (e.g., number of persons, weapons involved, etc.).
- e. Requests assistance through the dispatcher if the situation warrants it.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.2.:

At the end of this objective the student will be able to:

#### Make Initial Contact at the Scene of Domestic Violence.

#### Performance/Testing Criteria:

- a. Attempts to make contact when it appears no one is at home:
  - (1) tries to establish voice contact by shouting for a response;
  - (2) attempts to engage the party in conversation if voice contact is achieved;
  - (3) asks the dispatcher to call the scene, if the number is available;
  - (4) talks to any available witnesses.
  
- b. Attempts to gain entry by obtaining consent:
  - (1) asks for permission to enter; and
  - (2) establishes the person's authority to give consent, considering:
    - (a) whether the person lives there;
    - (b) age of the person giving consent; and
    - (c) area of the dwelling to be entered.
  
- c. Considers a forced entry if there are exigent circumstances, including:
  - (1) risk or danger to police or others inside or outside the dwelling;
  - (2) imminent destruction of evidence;
  - (3) need to prevent the suspect's escape; and
  - (4) hot pursuit.
  
- d. Evaluates initial information when the suspected assailant answers the door:
  - (1) does not accept statements that the call was a mistake;
  - (2) is aware that there will likely be a denial or a minimizing of the violence;
  - (3) is aware that the assailant may blame the victim or blame alcohol or drugs for the violence;
  - (4) asks to speak to each person at the residence; and
  - (5) refuses to leave without speaking to the victim even when the assailant says everything is fine.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.2. (continued):

- e. Evaluates initial information when the victim answers the door:
  - (1) asks if the assailant is at the scene;
  - (2) does not accept statements that the call was a mistake;
  - (3) looks for signs of physical and/or emotional trauma;
  - (4) asks to speak to each person at the residence; and
  - (5) refuses to leave without further investigation, even if the victim says everything is fine.
  
- f. Evaluates initial information when a young child or youth answers the door:
  - (1) explains to the child who you are and why you are there;
  - (2) asks the child who else is present at the scene;
  - (3) evaluates whether there is an independent basis for entry (e.g., exigent circumstances);
  - (4) evaluates whether it is reasonable to enter the residence on the basis of the child's comments or behavior, indicating an emergency or exigent circumstances; and
  - (5) refuses to leave without further investigation when the child says everything is fine.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.3.:

At the end of this objective the student will be able to:

#### Enter the Domestic Violence Scene Effectively and Safely.

#### Performance/Testing Criteria:

- a. Enters the scene cautiously:
  - (1) uses safe entry tactics;
  - (2) looks for possible weapons;
  - (3) secures the scene;
  - (4) introduces self as a police officer;
  - (5) explains the necessity to ensure that everyone is safe;
  - (6) locates all those present at the scene;
  - (7) observes for any possible signs of injury; and
  - (8) advises all parties the police are there to conduct an investigation to determine if a crime has been committed.
- b. Separates the victim and the assailant immediately upon entry, if possible to separate rooms.
- c. Considers having the assailant step outside if the officer is working alone [*Note: One officer response to domestic violence complaints is **strongly discouraged** and is only to be used when no back-up unit is available*].
- d. Maintains physical separation of the victim and the assailant without losing eye contact with the other officer.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.4.:

At the end of this objective the student will be able to:

**Conduct a Preliminary Criminal Investigation upon Entry to the Scene.**

#### Performance/Testing Criteria:

- a. Observes the location, posture, and demeanor of all present when entry and separation is made.
- b. Scans the scene and makes a mental note about the condition of the scene.
- c. Makes a mental note of any spontaneous statements (excited utterances) made by those present (e.g., victim, assailant, witnesses, including children).
- d. Makes a mental note of the physical condition and emotional state of all those present.
- e. Takes note of anything that may be evidence of a crime which will need to be properly collected.
- f. Takes note of anything that may require explanation or that can be used by officers in interviewing.
- g. Seizes any weapons that are visible or available.
- h. Makes detailed notes of any apparent injuries.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.5.:

At the end of this objective the student will be able to:

**Interview the Suspected Assailant as Part of the Complete Criminal Investigation at a Domestic Violence Scene.**

#### Performance/Testing Criteria:

- a. Maintains physical separation of the victim and the suspected assailant without losing eye contact with the other officer.
- b. Interviews the suspected assailant:
  - (1) prevents the suspected assailant from making eye contact with the victim so as not to intimidate the victim;
  - (2) asks questions about the current incident; and
  - (3) remains neutral.
- c. Recognizes tactics that assailants might use when being interviewed:
  - (1) attempts to rationalize the violence;
  - (2) denies or minimizes the violence;
  - (3) blames the victim for causing the violence;
  - (4) attempts to make a complaint against the victim to counter any complaint the victim may be able to make in response to the assailant's violent behavior;
  - (5) presents a very calm, cooperative, non-combative demeanor; or
  - (6) attempts to draw the officer in by making statements such as "what would you do," or "you know how it is."

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### **Objective I.H.3.6.:**

At the end of this objective the student will be able to:

#### **Interview the Victim as Part of the Complete Criminal Investigation at a Domestic Violence Scene.**

#### **Performance/Testing Criteria:**

- a. Interviews the victim separately:
  - (1) prevents the suspected assailant from making eye contact with the victim so as not to intimidate the victim; and
  - (2) prevents the suspected assailant from listening to the victim interview to prevent interference and possible later retribution.
  
- b. Overcomes the reluctance of the victim to talk by:
  - (1) exercising patience;
  - (2) advising that a crime has occurred and that the victim has a right to be free from assault and abuse;
  - (3) giving assurance that the violence of the assailant is not the victim's fault;
  - (4) giving assurance that the victim is not alone in being the victim of abuse;
  - (5) advising the victim about the availability of support services through the local domestic violence shelter program;
  - (6) informing the victim that domestic violence usually happens again and gets worse unless there is intervention; and
  - (7) explaining to the victim that an arrest does not necessarily mean a prison term for the offender.
  
- c. Interviews the victim by asking:
  - (1) Where do you hurt?
  - (2) How did you get hurt?
  - (3) Who hurt you?
  - (4) What is your relationship to the assailant?
  - (5) What happened?
  - (6) How were you injured? Were you hit? If so, with a closed or open fist? Where on your body were you hit?
  - (7) Were there any weapons or objects used to strike you?
  - (8) Were any threats made against you or others?
  - (9) Were you forced to have sex when you did not want to?
  - (10) Did the assailant hurt any pets?

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

### Objective I.H.3.6. (continued):

- (11) Did the assailant break or damage anything?
  - (12) Is the assailant on probation or parole?
  - (13) Is the assailant out on bond?
  - (14) Are any court cases pending against the assailant?
  - (15) Does the assailant have reason to believe you might want to leave?
- d. Questions any statements by the victim that injuries were caused by an accident.
- e. Interviews the victim about behaviors that might constitute stalking, asking:
- (1) Has the assailant been following you?
  - (2) Has the assailant been showing up at your place of work?
  - (3) Has the assailant been coming to or watching your home?
  - (4) Has the assailant been trying to contact you by telephone or mail?
  - (5) Has the assailant threatened you, your family or anyone who lives with you?
  - (6) Has the assailant left you anything (e.g., flowers, letters, packages, etc.)?
  - (7) Has the assailant damaged any of your property?
- f. Asks historical questions:
- (1) When was the first time the assailant hit you?
  - (2) When was the first time you had to go to the doctor or hospital?
  - (3) When was the first time the assailant broke a bone?
  - (4) When was the first time the assailant used an object to hit you?
  - (5) When was the first time the assailant used a weapon?
  - (6) What incident was the most serious?
  - (7) Has the assailant ever been arrested for assaulting you or your family or friends? Where? When?
  - (8) Has the assailant ever forced you or threatened you to have sex when you did not want to?
  - (9) Is the assailant on probation or parole?
  - (10) Is the assailant out on bond?
  - (11) Are there any Personal Protection Orders (PPOs) or other court orders in effect against the assailant?
  - (12) Has the assailant ever stalked you in the past?
- g. Interviews children away from the parents, in the home.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.7.:

At the end of this objective the student will be able to:

**Determine Whether Probable Cause Exists to Make an Arrest When Responding to Domestic Violence.**

#### Performance/Testing Criteria:

- a. Attempts to establish probable cause by considering all relevant factors, including:
  - (1) statements by the victim, children or other witnesses;
  - (2) the dispatcher's and other officers' information;
  - (3) physical evidence that a crime occurred;
  - (4) aggressive or threatening behavior by the assailant;
  - (5) information gathered by investigating wounds to determine:
    - (a) offensive wounds, and
    - (b) defensive wounds;
  - (6) property in the house damaged or broken;
  - (7) brandishing of weapons; or
  - (8) the existence of a Personal Protection Order (PPO).
  
- b. Does *not* consider the following factors in determining probable cause:
  - (1) the lack of a PPO;
  - (2) the fact that no arrests were made previously;
  - (3) the victim's unwillingness to prosecute;
  - (4) the officer's belief that there will be no prosecution;
  - (5) verbal assurances by either party that the violence will stop;
  - (6) the possibility of reprisals against the victim;
  - (7) the race, ethnicity, sexual preference, social class and/or occupation of the victim or the assailant;
  - (8) threats by the assailant to sue the police; and
  - (9) negative consequences to the assailant's status in the community.
  
- c. Does *not* preclude a finding of probable cause based upon:
  - (1) denial by either party that violence occurred; or
  - (2) a lack of visible bruises or injuries.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### **Objective I.H.3.7. (continued):**

- d. Does not make a dual arrest to avoid determining the assailant, rather, conducts a complete investigation considering:
- (1) the intent of the law to protect victims of domestic violence;
  - (2) the intent of the law that officers should not make dual arrests to avoid conducting a thorough criminal investigation;
  - (3) the degree of injury inflicted on the individuals involved;
  - (4) the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household;
  - (5) any history of domestic violence between the individuals;
  - (6) offensive and defensive wounds;
  - (7) the size, strength, and bulk of the parties;
  - (8) the possibility that one of the parties acted in self-defense;
  - (9) the apparent ability of each party to do what was alleged;
  - (10) witness statements (including children); and
  - (11) other evidence (e.g., physical and circumstantial).

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.8.:

At the end of this objective the student will be able to:

#### Arrest a Domestic Violence Assailant After Establishing Probable Cause That a Crime Has Been Committed.

#### Performance/Testing Criteria:

- a. Affects an arrest when the assailant is present by:
  - (1) arresting and handcuffing the assailant;
  - (2) informing the assailant that the decision to arrest and prosecute is being made by the officer, not the victim;
  - (3) informing the assailant of release procedures:
    - (a) there will be no interim bond; and
    - (b) the assailant will be brought before a magistrate for arraignment as soon as possible; or
    - (c) if an arraignment cannot take place within 24 hours, release will occur after 20 hours; and
  - (4) securing the arrested assailant in the patrol car.
  
- b. Responds proactively when the assailant is not present:
  - (1) determines if it is safe for the victim to remain on the premises;
  - (2) provides assistance to the victim in relocating, if necessary;
  - (3) attempts to locate and arrest the assailant and issues a bulletin to attempt to locate the assailant; and
  - (4) seeks a warrant when unable to locate.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.9.:

At the end of this objective the student will be able to:

#### Arrest an Assailant After Establishing That a Personal Protection Order (PPO) Has Been Violated.

#### Performance/Testing Criteria:

- a. Asks the victim if a Personal Protection Order (PPO) (either a domestic relationship or non-domestic stalking) has been issued against the assailant.
- b. Verifies the validity of the PPO by:
  - (1) verifying it through LEIN; or
  - (2) seeing a true copy of the PPO.
- c. Determines if the assailant has been served by:
  - (1) verifying service via LEIN; or
  - (2) seeing a copy of the proof of service.
- d. Identifies that if the assailant has been served, a police officer shall arrest if probable cause exists to believe:
  - (1) a domestic relationship PPO or non-domestic stalking PPO exists;
  - (2) the PPO states on its face that violation subjects the violator to immediate arrest and criminal contempt punishable by not more than 93 days and/or a fine of not more than \$500; and
  - (3) the assailant is in violation of the PPO by engaging in or having engaged in the conduct restrained or enjoined by the PPO (MCL 764.15b(1)).
- e. Identifies that if the assailant has not been served, the law enforcement agency or officer responding to a call alleging a violation of a PPO shall:
  - (1) serve the assailant with a true copy of the PPO; or
  - (2) provide the assailant actual notice of the:
    - (a) existence of the PPO;
    - (b) specific conduct enjoined;
    - (c) penalties for violating the PPO; and
    - (d) location where the assailant may obtain a copy of the order; and

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.9. (continued):

- (3) complete a proof of service form and provide a copy to:
  - (a) the victim;
  - (b) the law enforcement agency that entered the PPO into the LEIN;  
and
  - (c) the circuit court that issued the PPO.
  
- f. Identifies that after being served or provided notice of the PPO at the scene, the assailant shall be given an opportunity to immediately comply with the PPO.
  
- g. Identifies that the failure to immediately comply with the PPO shall be grounds for an immediate custodial arrest.
  
- h. Conducts a thorough criminal investigation whenever there is an alleged violation of a PPO to determine if there also was a violation of any criminal law.
  
- i. Recognizes that arrest for a violation of a PPO does not preclude arrest for the violation of any criminal law.
  
- j. Responds proactively when the assailant is not present:
  - (1) determines if it is safe for the victim to remain on the premises;
  - (2) provides assistance to the victim in relocating, if necessary;
  - (3) attempts to locate and arrest the assailant and issues a bulletin to attempt to locate the assailant; and
  - (4) seeks a warrant for any crime committed when unable to locate.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.10.:

At the end of this objective the student will be able to:

**Arrest a Domestic Violence Assailant After Establishing That a Conditional Release Order (Conditional Bond) Has Been Violated.**

#### Performance/Testing Criteria:

- a. Determines that the assailant has been released on conditional bond via the LEIN.
- b. Arrests the assailant when there is probable cause to believe the assailant is violating or has violated a provision of a conditional release order (conditional bond).
- c. Prepares a "complaint of violation of conditional release" pursuant to MCL 764.15e, containing:
  - (1) officer's name and badge number;
  - (2) statement of verification;
  - (3) statement of conditions; and
  - (4) statement of probable cause that assailant violated the conditions.
- d. Determines the court that imposed the conditions of release.
- e. Takes appropriate action, including:
  - (1) if the arrest occurred within the jurisdiction of the court that imposed the conditions of release, the officer shall:
    - (a) immediately provide the original and one copy of the complaint to that court;
    - (b) immediately provide one copy of the complaint to:
      - (i.) the assailant; and
      - (ii.) the prosecuting attorney for the case in which the conditional release was granted;
    - (c) retain one copy of the complaint; and
    - (d) bring the assailant before that court within one business day following the arrest; or

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.10. (continued):

- (2) if the arrest occurred outside the jurisdiction of the court that imposed the conditions of release, the officer shall:
  - (a) immediately provide the original and one copy of the complaint to the district or municipal court where the violation occurred;
  - (b) immediately provide one copy of the complaint to the assailant;
  - (c) retain one copy of the complaint; and
  - (d) bring the assailant before the district or municipal court where the violation occurred within one business day following the arrest.
  
- f. Recognizes the importance of the arresting officer's written report since it will be used by the arresting police agency or officer in charge of the jail to determine whether it is safe to release the assailant before the assailant is brought before the court.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.11.:

At the end of this objective the student will be able to:

#### Complete the Criminal Investigation at the Domestic Violence Scene.

#### Performance/Testing Criteria:

- a. Collects any other additional information:
  - (1) interviews other witnesses (e.g., other adults in the residence, neighbors, complainant, etc.); and
  - (2) prepares to write a complete report by documenting in the field notes:
    - (a) the victim's condition and demeanor;
    - (b) the assailant's condition and demeanor;
    - (c) spontaneous statements;
    - (d) any torn clothing;
    - (e) smeared makeup;
    - (f) any evidence of injuries, with a diagram; and
    - (g) referral(s) to victim services agencies.
  
- b. Collects and documents evidence of a crime:
  - (1) notes (sketches) the condition of the crime scene (e.g., disarray of/ damage to the physical surroundings);
  - (2) photographs and/or documents the crime scene;
  - (3) collects and tags as evidence firearms, other weapons and/or other objects used as weapons;
  - (4) photographs the victim's, assailant's and/or children's injuries;
  - (5) seizes and/or photographs other evidence of violence (e.g., broken dishes and furniture, damage to walls, doors, windows, etc.);
  - (6) requests 911 or dispatch audio tapes be held as evidence; and
  - (7) requests hospital/medical reports when applicable.
  
- c. Conducts a lethality assessment considering the following indicators (also see I.H.1.8.):
  - (1) the victim has left or the assailant has discovered the victim is about to leave or file for a divorce;

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.11. (continued):

- (2) weapons are present;
- (3) the assailant has threatened to kill the victim;
- (4) the assailant has ease of access to the victim and/or the victim's family;
- (5) the assailant has a history of prior calls to the police;
- (6) the assailant has engaged in stalking behavior;
- (7) the assailant has threatened the children;
- (8) the assailant has threatened to take the victim hostage;
- (9) the assailant has killed or mutilated a pet;
- (10) the assailant has a history of assaultive behavior;
- (11) the assailant has a history of weapons use;
- (12) the assailant has threatened suicide; or
- (13) the assailant has an alcohol and/or drug addiction.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.12.:

At the end of this objective the student will be able to:

#### Provide Appropriate Assistance to the Domestic Violence Victim When an Arrest Has Been Made.

#### Performance/Testing Criteria:

- a. Provides victims the written notice required by MCL 764.15c which must include the following:
  - (1) name and telephone number of the responding police agency;
  - (2) name and badge number of the responding officer; and
  - (3) a prescribed statement informing the victim of the:
    - (a) right to obtain a copy of the police incident report;
    - (b) right to go to court and file a petition requesting a Personal Protection Order (PPO); and
    - (c) local domestic violence shelter program and other resources that provide victims information about services and legal rights.
- b. Assists the victim in obtaining medical assistance consistent with departmental policy by:
  - (1) encouraging the victim, if reluctant, to obtain medical assistance, noting that:
    - (a) injuries are often not readily visible, and
    - (b) injuries can be documented that are not visible to the officer; and
  - (2) consulting with community shelters, which may provide or arrange for emergency medical assistance to victims.
- c. Assists the victim and the children with transportation (e.g., to a shelter or friend's home), in a manner that is consistent with departmental policy.
- d. Provides the victim within 24 hours of the initial contact with the information required by the Crime Victim's Rights Act (MCL 780.753), including:
  - (1) availability of emergency and medical services, if applicable;
  - (2) availability of victim's compensation benefits and the address of the crime victim's compensation board;
  - (3) address and phone number of the prosecuting attorney; and
  - (4) required statement regarding information on the status of the case.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### **Objective I.H.3.13.:**

At the end of this objective the student will be able to:

#### **Secure a Domestic Violence Scene When an Arrest Cannot Be Made.**

#### **Performance/Testing Criteria:**

- a. Creates a calm atmosphere at the scene before leaving.
- b. Assesses the lethality of the scene (See Objectives I.H.1.8. and I.H.3.11.).
- c. Ensures the safety of all parties.
- d. Provides victims the written notice required by MCL 764.15c which must include the following:
  - (1) name and telephone number of the responding police agency;
  - (2) name and badge number of the responding officer; and
  - (3) a prescribed statement informing the victim of the:
    - (a) right to obtain a copy of the police incident report;
    - (b) right to go to court and file a petition requesting a Personal Protection Order (PPO); and
    - (c) local domestic violence shelter program and other resources that provide victims information about services and legal rights.
- e. Documents in the report the reasons why an arrest was not made.
- f. Provides protection to the victim while essential property is collected (e.g., clothes, medicine, etc.) in preparation for leaving.
- g. Assists the victim and children with transportation (e.g., to a shelter or friend's home, etc.) when it is consistent with departmental policy.
- h. Advises the victim of the process for seeking a warrant if a misdemeanor assault took place prior to the arrival of officers, but the relationship between the assailant and the victim is not:
  - (1) spouse or former spouse;
  - (2) resides or resided together in the same household; or
  - (3) has had a child in common.
- i. Remains at the scene while the suspect leaves when the suspect has no property interest (e.g., dating relationship, suspect over stays parenting time, etc.).

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.14.:

At the end of this objective the student will be able to:

**Write a Domestic Violence Report Documenting the Domestic Violence Investigation.**

#### Performance/Testing Criteria:

- a. Writes a report consistent with Michigan law documenting the domestic violence response (MCL 764.15c).
- b. Reviews field notes taken at the domestic violence scene.
- c. Documents in the domestic violence written report all facts of the investigation, including:
  - (1) address, date, and time of the incident;
  - (2) name, address, home and work telephone numbers, race, sex, and date of birth of:
    - (a) victim;
    - (b) assailant; and
    - (c) witnesses, including children;
  - (3) information describing the assailant and whether there is a Personal Protection Order (PPO) issued against the assailant;
  - (4) relationship of any witness to victim or assailant;
  - (5) name of the person who called the law enforcement agency;
  - (6) relationship of the victim and assailant;
  - (7) whether drug or alcohol use was involved and by whom;
  - (8) narrative about the incident and the scene, describing:
    - (a) the incident and what led up to it;
    - (b) whether and how many times the assailant physically assaulted the victim;
    - (c) any weapon or object used;
    - (d) injuries sustained by the victim and how injuries were sustained;
    - (e) property damage;
    - (f) if the victim sought medical attention, information about transportation of the victim, admittance to the hospital or clinic for treatment, and name and telephone number of the attending physician;

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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### Objective I.H.3.14. (continued):

- (g) facts to support all elements of any offenses committed;
  - (h) all spontaneous statements (excited utterances) made at the scene;
  - (i) a description of the demeanor and emotional state of the person making spontaneous statements;
  - (j) documentation of evidence that was collected at the scene;
  - (k) the rationale for the arrest or no arrest decision;
  - (l) documentation that the victim was provided the written notice required;
  - (m) documentation of referrals made; and
  - (n) a second address and phone number for the victim which *must* remain confidential;
  - (9) description of previous domestic violence incidents between assailant and victim; and
  - (10) date and time of the report, and name, badge number, and signature of the officer completing the report.
- d. Documents any lethality factors identified that should be considered for purposes of conditional release (conditional bond).
- e. Writes a supplement to the report, if new information becomes available.
- f. Notifies Family Independence Agency's (FIA) Children's Protective Services when there is evidence of child abuse and completes an FIA form 3200 and attaches the domestic violence police report to it.

# RESPONSE PROCEDURES

## MODULE I.H.3. OVERVIEW

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# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.1. OVERVIEW

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### RESPOND TO THE SCENE OF DOMESTIC VIOLENCE

#### Teaching Goal:

The goal of this objective is to provide the student with an understanding of the critical information necessary for responding to a domestic violence call and strategies for approaching the scene in a safe and effective manner.

#### Learning Focus:

- ① What level of priority should domestic violence calls receive?
- ② What information should the officer initially be given or request when dispatched to a domestic violence scene?
- ③ What precautions should an officer take when approaching a domestic violence scene?
- ④ What conditions should the officer look and listen for upon initial arrival at the domestic violence scene?
- ⑤ When should officers at a domestic violence scene request assistance?

#### Resources Cited

U.S. Attorney General's Task Force on Family Violence, *Final Report*, Sept. 1984.

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.1. OVERVIEW

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### Objective I.H.3.1.:

At the end of this objective the student will be able to:

#### Respond to the Scene of Domestic Violence.

#### Performance/Testing Criteria:

- a. Responds immediately to the scene.
- b. Evaluates the information received about the complaint, including:
  - (1) dispatch information:
    - (a) who is calling;
    - (b) location of the caller and the complaint, if different;
    - (c) phone number of the caller;
    - (d) what is happening (e.g., is the caller safe? is the assailant still present? etc.);
    - (e) presence of weapons;
    - (f) presence of children, as victims or witnesses;
    - (g) any reported injuries;
    - (h) whether a Personal Protection Order (PPO) is in effect;
    - (i) age of the complaint (e.g., in progress, hours old);
    - (j) prior history;
    - (k) whether the assailant is on probation or parole; and
    - (l) whether the assailant is subject to a conditional release order (conditional bond) (MCL 765.6b);
  - (2) information from witnesses; and
  - (3) information from other officers.
- c. Approaches the scene in a cautious manner:
  - (1) parks a short distance away;
  - (2) waits for backup assistance before entering the scene;
  - (3) exchanges information with assisting officer(s);
  - (4) uses cover on approach, with each officer using a separate approach;
  - (5) stands clear of the door or windows; and
  - (6) maintains avenues of escape.

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.1. OVERVIEW

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- d. Observes and listens for unusual conditions upon arrival at the scene:
  - (1) loud arguments;
  - (2) fresh damage to residence; or
  - (3) any other unusual condition (e.g., number of persons, weapons involved, etc.).
  
- e. Requests assistance through the dispatcher if the situation warrants it.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Although it is true that in many jurisdictions officers do not handle dispatching or taking calls, officers should have knowledge of the information that a dispatcher should obtain. This knowledge will enable officers who do not receive vital information to ask if it is available.

**Suggested Teaching Strategy:** On the board, make a list of responses to the question, "Why is it important to immediately respond to domestic violence calls?"

- Lives are in danger.
- Officers could prevent an assault or other crime.
- Officer safety is maximized when officers arrive before violence escalates.
- Immediate response increases the possibility of preventing serious or fatal injuries.
- Immediate response decreases the possibility of a hostage situation.

Then put up an overhead of the objective outline.

**Note:** The above question assumes that the dispatcher or call taker has screened the call to make sure it concerns a situation that is in progress or current rather than an old complaint.

**Note:** You should emphasize also that those who may be taking the incoming calls or dispatching should immediately dispatch officers to the scene.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



- a. **EMPHASIZE** that the officer should immediately respond to the domestic violence scene upon being dispatched.

The U.S. Attorney General's Task Force on Family Violence recommends that domestic violence calls should receive high priority response.



## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Question for Students:**

When responding to a domestic violence scene, what information would be useful to you?

**Note:**

Instructors can obtain students' answers and compare them to those listed in the following material.

**Note:**

Although all the information listed is helpful, instructors should caution students about proper radio communication procedures as they relate to air time, the use of secondary frequencies (where available), etc.

**Note:**

Emphasize to the students that all of the elements covered in this objective are procedures that are to be done *prior* to making initial contact with either the victim or assailant.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**b. DISCUSS** the dispatch information that would assist officers during the initial stages of the complaint.

1. **Dispatch.** Officers need to evaluate the information received from the dispatcher in order to determine potential dangers at the scene. While the dispatcher may not be able to obtain all of the relevant details, the potential for unknown problems is reduced by the amount of critical information officers receive prior to arriving at the scene. The following is a list of information the call taker/dispatcher should obtain, but it is not meant to be exhaustive:

- identity of the person making the call;
- specific location of complaint (including apartment number, lot number, etc.);
- phone number of the caller;
- what is happening—whether or not the victim is safe;
- whether or not the assailant is still present;

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Protective conditions of release (conditional bond) are discussed in the legal section. See I.H.2.13. Violations of these conditions of release are now subject to warrantless arrest on probable cause pursuant to MCLA 764.15e and can be verified via LEIN. (See I.H.3.10.)

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

- presence of weapons;
- presence of children, as victims or witnesses;
- any reported injuries;
- age of the complaint (in progress, hours old);
- location of the caller if not at the scene (e.g. at neighbor's house);
- prior history (While not always a reliable predictor of what will happen in a particular incident, repeat calls may offer a potential for escalated violence because the level of violence often increases over time.);
- any personal protection orders that are in effect;
- any orders of conditional release (conditional bond) that may be in effect;
- whether or not the assailant is on parole; or
- probationary status of the assailant.

A dispatcher may be able to keep the caller on the telephone in order to relay additional information to officers who are responding to the call.

### INSTRUCTOR NOTES



## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Question for  
Students:**

What other sources of information are available to responding officers?

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



2. **Witnesses.** Witnesses may be able to give additional information that will be helpful to officers in making contact at the scene.
  
3. **Other officers.** Other officers may have additional information if they have responded to calls at this location before. Officers should share information.
  
4. Some agencies maintain a computerized log of prior calls by location or name of complainant. **The dispatcher** should check such logs and advise responding officers if the agency has a record of prior contacts.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Suggested  
Teaching  
Strategy:**

Use a flip chart or overhead to display the six headings listed under approaching the scene.

1. Initial approach.
2. Backup.
3. Exchange information.
4. Approaching the scene.
5. Doors and windows.
6. Avenues of escape.

Ask students to identify the specific tactics (bubbled information) for each heading.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**c. PROVIDE information on how to approach the scene in a cautious manner.**

Officers should approach a scene where domestic violence has been reported in the same manner they would approach any in-progress crime scene.

1. On initial approach, **park a short distance from the scene.** In approaching the scene, officers should also:

- Avoid lights and sirens unless the danger of the situation warrants extreme speed—assailants should not be alerted to the approach of the police.
- Approach from different directions when possible.
- Make sure the patrol car cannot be blocked.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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**Question for  
Students:**

What conditions should you look and listen for upon initial arrival?

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

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2. **Wait for backup** before entering the scene—more than one officer should respond to all domestic violence calls whenever possible. In addition, officers should always notify dispatch of arrival prior to entering the scene. While waiting for backup, officers should:

- Listen and observe the scene.
- Observe what is happening in **surrounding houses**. Are people looking out of windows? Are people gathering in the area?
- Make a mental note of the **physical layout** and conditions of the scene.
- Note **changes in conditions** (e.g., lights turning on or off, children starting to cry, drapes moving, children at windows, etc.).
- Always be cognizant of and maintain an **avenue of escape**.

3. **Exchange information with backup officer(s)** about observations. Coordinate the approach.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**4. In approaching the scene, use cover and concealment and use separate approaches.**

- When no other cover is available, use patrol car engine block for initial cover.
- Be quiet and careful not to telegraph the approach with loud radios, conversation, jingling keys, etc.
- Be aware of surroundings—fences, holes, dogs, obstacles or hazards.
- Look up—at the second floor, roofs, porches, etc.
- Be aware of clues to what can be found inside. For example, children's toys in the yard would indicate the possibility of children being present.
- Check vehicles in the driveway for recent arrival (warm hood). Look inside for clues—shotgun shells, handgun case, etc.

**5. Do not stand in front of doors or windows.**

Take a position of cover by standing on either side of the doorway (where possible) before attempting to make contact with individuals inside.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

6. **Maintain avenues of escape.** Officers should be aware of conditions as they change in order to maintain a safe exit (e.g., people coming from unexpected locations, neighbors entering the scene).

- Officers must be conscious of the position and movement of all parties, including other officers.
- Officers must take control of the scene to prevent unexpected entry or exit.

### INSTRUCTOR NOTES

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Suggested  
Teaching  
Strategy:**

List out items that will assist students—prior to making contact—in determining who is being aggressive. Stress that, before making contact, officers should listen for who is talking, who is threatening, etc.

**Note:**

Emphasize that listening before making contact is crucial to information gathering.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← d. **DESCRIBE conditions an officer must listen and look for upon arrival at the scene.**

← 1. **Listen before making contact.** By listening before making contact officers can gather a lot of information. Officers should listen for:

- loud arguments;
- number of people involved;
- children crying;
- from what part of the house the noises are coming (front, back, upstairs, outside);
- whether property in the house is being destroyed;
- what is being said;
- threats;
- dogs barking;
- weapons being used.

Officers should listen to try to determine:

- Who is most aggressive?
- Who is in control of the situation?
- What is actually being said?

Such statements can support probable cause to enter and arrest and may be admissible in court as excited utterances.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Instructors should point out that there will be some cases where an assault may be in progress and may require intervention before some of this information can be gathered.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

#### 2. Observe the scene:

Officers should look for fresh damage, e.g., broken window, forced door, broken items laying outside (or inside if visible). This can provide information on the possible type of crimes involved and can provide probable cause for an arrest.

If a window is available an officer can observe the interior layout and what is taking place inside.

- Are the suspect and victim together?
- If not, is it possible to tell where each is?
- Are weapons being used?
- Is there any evidence that could be hidden before entry is allowed?

These observations can help an officer decide if a forced entry is warranted.

#### 3. Other conditions to note:

- number of persons;
- nonconventional weapons involved—household items, baseball bats, chairs, vases, lamps, kitchen knives, fireplace pokers, etc.;
- crowd gathered;
- number of vehicles that are in the driveway.



## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

---

**Question for students:**

When should you ask for additional backup?

**Note:**

Stress to the students that it is better to ask for assistance and not need it than not to ask and then need it.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**e. EMPHASIZE that officers should request assistance through the dispatcher if the situation warrants it, such as:**

- the possibility of more individuals being involved than can be controlled by the responding officers;
- a possible hostage situation; or
- known history of violence or resistance.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

---

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.2. OVERVIEW

---

### INITIAL CONTACT AT THE SCENE

#### Teaching Goal:

The goal of this chapter is to provide the student with strategies for gaining entry to the domestic violence scene and for evaluating initial information when the suspected assailant, the victim or children answer the door.

#### Learning Focus:

- ① What actions should an officer take when it appears no one is home?
- ② What actions should an officer take for gaining entry when entry has been denied?
- ③ What actions should the officer take when the suspected assailant answers the door?
- ④ What are some of the questions the officer should ask when the victim answers the door?
- ⑤ What actions should the officer take when a child answers the door?

#### Materials Needed for Suggested Exercises:



The videotape, "The Pro-Arrest Response to Domestic Violence"



VCR and monitor

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.2. OVERVIEW

---

### Objective I.H.3.2.:

At the end of this objective the student will be able to:

#### Make Initial Contact at the Scene of Domestic Violence.

#### Performance/Testing Criteria:

- a. Attempts to make contact when it appears no one is at home:
  - (1) tries to establish voice contact by shouting for a response;
  - (2) attempts to engage the party in conversation if voice contact is achieved;
  - (3) asks the dispatcher to call the scene, if the number is available;
  - (4) talks to any available witnesses.
  
- b. Attempts to gain entry by obtaining consent:
  - (1) asks for permission to enter; and
  - (2) establishes the person's authority to give consent, considering:
    - (a) whether the person lives there;
    - (b) age of the person giving consent; and
    - (c) area of the dwelling to be entered.
  
- c. Considers a forced entry if there are exigent circumstances, including:
  - (1) risk or danger to police or others inside or outside the dwelling;
  - (2) imminent destruction of evidence;
  - (3) need to prevent the suspect's escape; and
  - (4) hot pursuit.
  
- d. Evaluates initial information when the suspected assailant answers the door:
  - (1) does not accept statements that the call was a mistake;
  - (2) is aware that there will likely be a denial or a minimizing of the violence;
  - (3) is aware that the assailant may blame the victim or blame alcohol or drugs for the violence;
  - (4) asks to speak to each person at the residence; and
  - (5) refuses to leave without speaking to the victim even when the assailant says everything is fine.

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.2. OVERVIEW

---

- e. Evaluates initial information when the victim answers the door:
  - (1) asks if the assailant is at the scene;
  - (2) does not accept statements that the call was a mistake;
  - (3) looks for signs of physical and/or emotional trauma;
  - (4) asks to speak to each person at the residence; and
  - (5) refuses to leave without further investigation, even if the victim says everything is fine.
  
- f. Evaluates initial information when a young child or youth answers the door:
  - (1) explains to the child who you are and why you are there;
  - (2) asks the child who else is present at the scene;
  - (3) evaluates whether there is an independent basis for entry (e.g., exigent circumstances);
  - (4) evaluates whether it is reasonable to enter the residence on the basis of the child's comments or behavior, indicating an emergency or exigent circumstances; and
  - (5) refuses to leave without further investigation when the child says everything is fine.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

---

**Exercise:**



Show "The Pro-Arrest Response to Domestic Violence."

DO NOT SHOW THE INTRODUCTORY PORTION that appears before the title. The statistics that appear in the introduction are incorrect.

**Question for Students:**

What should you do if you arrive at a scene and it appears that no one is home?

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

←

←

**a. DISCUSS the actions officers should take when it appears no one is home.**

After following the initial approach procedures in I.H.3.1.:

- Attempt to make voice contact.
- Ask the dispatcher to make telephone contact.
- Interview any witnesses (neighbors, etc.) in the area.
- Note if cars are present.
- Leave and return silently using another approach.
- Observe the scene for changes in lighting and listen for sounds.
- Pass information on to other officers and shifts if, after investigation, the decision to leave was made without making contact at the scene.
- If officers are uncomfortable about leaving a scene without gaining entry, they should request a supervisor to determine if a forced entry is warranted.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Emphasize to students that the best method of gaining entry is by obtaining consent.

**Note:** Refer students to the legal information about entry without a warrant they received in I.H.2.6.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← b. **DISCUSS** how officers should attempt to gain entry by obtaining consent.

1. Ask to be allowed into the residence.

←

2. Ask what the person's relationship to the property is. If a child answers the door, ask him or her if he or she lives there.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Actual entry procedures are discussed in Objective I.H.3.3.

**Note:** Refer students to the legal section I.H.2.6. about the authority of an officer to enter a domestic violence scene without a warrant.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

←

**c. DISCUSS what officers should do if entry continues to be denied.**

- Ask the dispatcher to call the scene and speak to the subject denying entry. This may provide an opportunity for others at the scene to allow entry.
- Talk to any available witnesses who may have information that may give officers grounds to enter.
- Observe the scene from a distance to possibly establish grounds for a forced entry.
- Approach again unannounced to listen and observe further.
- ←
- Consider a forced entry if exigent circumstances exist.
- If evidence of a crime in progress exists, a forced entry must be considered:
  - contact a supervisor when applicable;
  - follow laws governing forced entry for public safety; and
  - follow departmental procedures where applicable.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Refer the students to the information presented on assailants in the module on the nature and prevalence of domestic violence (I.H.1.3. and I.H.1.4.). Emphasize that they should draw on their knowledge of assailant behaviors and tactics in assessing assailant behavior and statements when responding to domestic violence scenes.

**Question for Students:** What tactics might an assailant use when answering the door? Refer students to information they learned from the videotape, "Understanding Domestic Violence Behavior: Assailant Interviews," that students viewed in module I.H.1.4. For example, the assailant may:

- state the call was a mistake;
- deny there is a problem;
- minimize the problem; or
- blame the victim for causing the violence.

**Question For Student:** What should you do to overcome the tactics the assailant is using?

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**d. EXPLAIN how to evaluate initial information when the suspected assailant answers the door.**

To overcome the tactics commonly used by assailants, officers should:

- not accept statements that the call was a mistake;
- be aware that the assailant is likely to deny or minimize the violence;
- be aware that the assailant may blame the victim or blame alcohol or drugs for the violence;
- ask to speak to each person at the scene; and
- refuse to leave without speaking to the victim even when the assailant says everything is fine.



## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

---

**Note:** Officers should use the safety and entry tactics that will be discussed in the next objective (I.H.3.3.).

**Note:** Again stress to the students that for an effective response officers must remember the information from Objectives I.H.1.5., I.H.1.6. and I.H.1.7., in the "Nature and Prevalence" module. For example, because the victim may be answering the door while the assailant watches or listens just out of view, officers must remember that victims can be very intimidated by the assailant. Also, fear can just as easily be demonstrated by anger or hostility.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← e. **EXPLAIN** how to evaluate initial information when the victim answers the door.

←

By being aware of how fear may impact a victim's behavior, officers can effectively evaluate the information that the victim is giving. Officers should:

- ask if the assailant is at the scene;
- scan the scene for the presence of other possible witnesses, including children;
- not accept statements that the call was a mistake;
- look for signs of physical and/or emotional trauma;
- ask to speak to each person at the residence;
- refuse to leave without further investigation when the victim says everything is fine.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

---

**Note:**

Instructors should note that officers need to address children using words and actions appropriate to the child's age.

## RESPONSE PROCEDURES

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p>← f. <b>EXPLAIN</b> what actions officers should take to evaluate initial information when a child answers the door.</p> <ul style="list-style-type: none"><li>• Explain to the child who the officers are and why they are there.</li><li>• Ask the child who is present at the scene.</li><li>• Evaluate whether there is an independent basis for entry (e.g., exigent circumstances).</li><li>• Evaluate whether it is reasonable to enter the residence on the basis of the child's comments or behavior which indicate an emergency or exigent circumstances.</li><li>• Ask to speak to an adult.</li><li>• Refuse to leave without further investigation when the child says everything is fine.</li></ul>	

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.3. OVERVIEW

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### ENTER THE DOMESTIC VIOLENCE SCENE EFFECTIVELY AND SAFELY

#### Teaching Goal:

The goal of this objective is to provide the student with techniques for an effective and safe entry to the domestic violence scene.

#### Learning Focus:

- ❶ What actions should an officer take to initiate an effective and safe entry?
- ❷ What is the first thing officers should do before interviewing the victim and suspected assailant?
- ❸ What is the most important procedure to follow after entry is gained when both the assailant and victim are present?

#### Materials Needed for Suggested Exercises:



The videotape, "The Pro-Arrest Response to Domestic Violence"



VCR and monitor

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.3. OVERVIEW

---

### Objective I.H.3.3.:

At the end of this objective the student will be able to:

#### Enter the Domestic Violence Scene Effectively and Safely.

#### Performance/Testing Criteria:

- a. Enters the scene cautiously:
  - (1) uses safe entry tactics;
  - (2) looks for possible weapons;
  - (3) secures the scene;
  - (4) introduces self as a police officer;
  - (5) explains the necessity to ensure that everyone is safe;
  - (6) locates all those present at the scene;
  - (7) observes for any possible signs of injury; and
  - (8) advises all parties the police are there to conduct an investigation to determine if a crime has been committed.
- b. Separates the victim and the assailant immediately upon entry, if possible to separate rooms.
- c. Considers having the assailant step outside if the officer is working alone [Note: One officer response to domestic violence complaints is *strongly discouraged* and is only to be used when no backup unit is available].
- d. Maintains physical separation of the victim and the assailant without losing eye contact with the other officer.

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.3. OVERVIEW

---

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Suggested  
Teaching  
Strategy:**

Use a flip chart to display the eight headings listed under entering the scene.

1. Use safe entry tactics.
2. Check for weapons.
3. Secure the scene.
4. Introduce yourself.
5. Explain the presence of police on the scene.
6. Locate all present at the scene.
7. Observe the condition of the scene and look for any possible signs of injury.
8. Advise all parties that the police are there to conduct a criminal investigation.

Ask students to identify the specific tactics (bubbled information) for each heading.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**a. DEMONSTRATE tactics to allow officers to cautiously and safely enter the scene.**

**1. Use safe entry tactics.**

- Maintain visual contact with partner.
- Use a cover/contact technique—one officer should make contact, explain their presence, and request entry while the second officer is covering.
- Use caution and visually inspect the interior—the cover officer is scanning the scene and taking note of surroundings while the contact officer attempts to gain permission to enter.
- Do not immediately enter a scene based upon just a verbal invitation (someone yelling “come in”).
- Use caution—swing the door open and pause to visually inspect the interior before entering.
- Note the hands and physical appearance of the person who answers the door.
- Scan the room.
- Note the location of others in the room.
- Make sure you can see both hands of everyone present.
- Open the door all the way, not letting anyone get behind both officers or between both officers and the door.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

#### 2. Check for weapons.

- Scan the room for weapons or objects which can be used as weapons.
- Check for the presence of possible weapons. A good technique for checking for weapons is to have one officer engage the assailant in conversation and then circle the assailant. The assailant is forced to turn in order to keep the officer in view, allowing the other officer to see the assailant's back, pockets, and waistband. Do not overlook the possibility that others present may possess weapons.

#### 3. Secure the scene.

- Observe the location and assess the body language of each individual:
  - Is one behind the other?
  - Are their hands visible? If not, ask people to take their hands out of their pockets, etc.
  - Is it possible that one of the individuals is being threatened by another?
- Restrain the assailant if necessary.
- Restrict the movement of all present.
- Eliminate distractions (for example, turn off radios and television).
- Do not allow anyone on the scene to walk out of sight.

#### 4. Introduce yourself as a police officer.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**5. Explain the presence of police on the scene.**

- Explain that officers are required to make sure that everyone is safe.

**6. Locate all present at the scene.**

- Do not assume that those first visible are the only individuals present.
- Ask who else is present.
- Make contact with all present.
- Be sure you know who is at the scene.
- Identify all present at the scene.

**7. Observe the condition of the scene and look for any possible signs of injury.**

- Secure medical treatment if necessary.
- If not life threatening, wait until the scene is under control before treating the injury.

**8. Advise all parties that the police are there to conduct a criminal investigation.**

- Advise all those present that they each will be interviewed separately.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Question for  
Students:**

What is the first thing you should do to begin an interview?

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**b. EMPHASIZE the importance of separating the victim and the assailant as soon after entry as possible, into separate rooms if possible.**

- Separate the victim and suspected assailant. This can help eliminate nonverbal intimidation of the victim and re-escalation of the violence.
- Avoid separating the victim and suspected assailant into kitchens and bedrooms—guns are often kept in bedrooms and the kitchen contains a great number of potential weapons.
- Use caution not to expose your weapon during the separation process.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

- c. **EXPLAIN** the technique of asking the assailant to step outside if the officer is working alone (Note: One officer response to domestic violence complaints is *strongly discouraged* and is only to be used when no backup unit is available at all.)

Consider interviewing the assailant outside if working alone—this would separate the victim and the assailant and remove the assailant from weapons that may be easily available inside the house.

Officers should position themselves to be able to monitor the door to prevent being surprised by someone in the house.

### INSTRUCTOR NOTES

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Exercise:**



Discuss **“The Pro-Arrest Response to Domestic Violence,”** which was shown in the preceding module. Replay relevant portions to emphasize specific points.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**d. EMPHASIZE the importance of maintaining (as much as possible) sight and sound separation of the victim and the assailant without losing eye contact with the other officer.**

- Maintain eye contact with each other, even when separating the parties into adjoining rooms.
- Never leave one officer alone with both the assailant and victim present.
- Do not allow recontact between the assailant and victim—this can cause a re-escalation.



**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.4. OVERVIEW

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### CONDUCT A PRELIMINARY CRIMINAL INVESTIGATION UPON ENTRY TO THE SCENE

#### Teaching Goal:

The goal of this objective is to provide the student with an understanding of the components of a preliminary investigation upon first entering the domestic violence scene.

#### Learning Focus:

- ① What should the officers note about the *surroundings* while approaching the scene?
- ② What should the officers note about the *individuals* present?
- ③ What statements should officers take note of when first entering the domestic violence scene? Why?
- ④ Of what use are contradictory or self-serving statements noted during the preliminary investigation?

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.4. OVERVIEW

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### Objective I.H.3.4.:

At the end of this objective the student will be able to:

**Conduct a Preliminary Criminal Investigation upon Entry to the Scene.**

**Performance/Testing Criteria:**

- a. Observes the location, posture, and demeanor of all present when entry and separation is made.
- b. Scans the scene and makes a mental note about the condition of the scene.
- c. Makes a mental note of any spontaneous statements (excited utterances) made by those present (e.g., victim, assailant, witnesses, including children).
- d. Makes a mental note of the physical condition and emotional state of all those present.
- e. Takes note of anything that may be evidence of a crime which will need to be properly collected.
- f. Takes note of anything that may require explanation or that can be used by officers in interviewing.
- g. Seizes any weapons that are visible or available.
- h. Makes detailed notes of any apparent injuries.

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.4. OVERVIEW

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## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Question for Students:**

What are some of the observations you can make prior to an interview that will give you information and build probable cause?

**Note:**

Emphasize to students that observations at the scene can provide crucial information before the interview even begins.

**Note:**

Officers should also pay close attention to and record in field notes any spontaneous statements (excited utterances) that occur before the interview actually begins.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

Officers should be observing for signs and conditions that will assist them in determining if probable cause exists that a crime has been committed.



- a. **EMPHASIZE** that the officer should observe all present when entry and separation is made.

Officers should note the:

- location;
- posture;
- demeanor;
- physical appearance and condition, and
- emotional condition of all present.

For example, an individual who is extremely agitated or intoxicated may be of danger to officers and anyone else present. Or an individual may be hiding a weapon or trying to block the officer's view into a particular area.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

**b. EMPHASIZE that officers must scan the scene and make a mental note about the condition of the scene.**

Officers should note:

- damage to furniture or walls;
- apparent signs of recent breakage;
- food spilled on floors or counters;
- kitchen knives, meat cleavers in rooms other than the kitchen; and
- broken glass, etc.

### INSTRUCTOR NOTES

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**c. DISCUSS the need for officers to make a note of any spontaneous statements (excited utterances) made by anyone present (victim, assailant, witnesses, including children, etc.).**

- Officers should take note of any statements made spontaneously either to officers or in the presence of officers. A frightened victim or witness, or an angry assailant, may blurt out information when police first arrive.
- Excited utterances are admissible in court and also become part of the officer's probable cause determination.
- In addition to the actual utterance, it is important to note the appearance, demeanor, and emotional state of the person making the statement, as well as how long after the event the statement was made.
- Officers can use these statements later in conducting an interview—individuals may have second thoughts about giving the same information, but if officers have made note of what was said originally, they will be able to question the individuals about their earlier statements.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- d. DISCUSS the necessity for the officer to make a mental note of the physical condition and emotional state of all those present.**

Although at this stage officers are not yet making detailed notes, the initial appearance can be important to making probable cause decisions later.

- e. DISCUSS the necessity for the officer to take note of anything that may be evidence of a crime which will need to be properly collected.**

Although officers cannot stop to properly collect evidence of a crime when first entering the domestic violence scene and separating the parties, it is important that they note items they will want to collect as well as ask questions about during the interview.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- f. **DISCUSS** how the mental notes made by an officer during the early stages of the investigation can assist officers in conducting a thorough investigation.

Officers must take note of anything that may require explanation or that can be used by officers in interviewing.

- Note anything that may require explanation.
- Note anything that can be used as a basis for questioning during the interview.

Because victims and witnesses can be traumatized by an incident of domestic violence, quite often they find it difficult to relate the events of the violence in a clear and systematic way.

Question victims about specifics to assist in recall.

Specific questions might refer to:

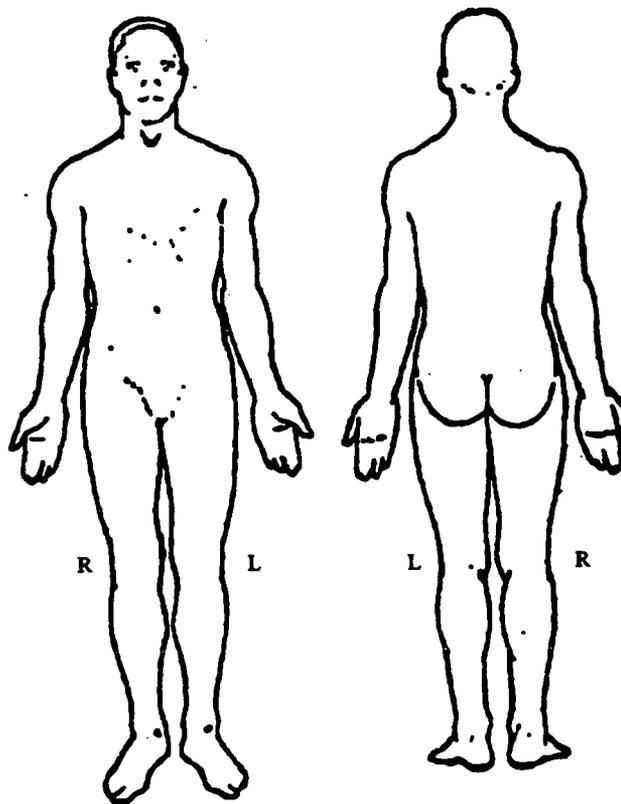
- damage to walls and furniture;
- bruises;
- crying children; etc.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

Explain to students that written notes on the physical and emotional conditions of the victim, combined with notes on what the victim says has happened, may be useful in either prosecution or in later attempts to provide appropriate intervention and referral to service agencies. Color pictures of injuries, at least two shots per injury with a standard object beside the injury (i.e., penny), will supplement the permanent record of injuries. If photography is not an option, a standard body diagram will make the reporting of location more efficient and accurate.



## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← g. **EMPHASIZE** that officers need to seize any weapons that are visible or available.

← h. **DISCUSS** the need for officers to make detailed notes of any apparent injuries.

Physical injuries are most commonly inflicted on the areas of the face, neck, head and trunk. Officers should note the size, color and location of all injuries as specifically as possible, using a body diagram if helpful. When detailing injuries, officers should note the following:

- general appearance (clean, well kept, versus dirty or dishevelled);
- bruises (note size, color, location, including black eyes);
- burns (splashing water, cigarette, etc.);
- rope or tie marks;
- imprints of objects, including hands, as bruising on the body;
- lacerations or abrasions;
- whip marks (particularly on back);
- deafness or difficulty with hearing (caused sometimes by slapping or hitting the side of the head);
- swelling on any part of the body, but particularly around the face, long bones, and joints;
- strangle marks on the neck or other indicators of choking:
  - raspy breathing;
  - hoarseness;
  - possible loss of voice;

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

- difficulty swallowing; or
- spots near injuries due to the bursting of tiny blood vessels (capillaries);
- blood in the eye;
- injection of the eye (like pink eye);
- crescent moon shape of fingernail marks;
- needle tracks; or
- injuries in various stages of healing (indicating repeated injury), for example, purple and yellow-green bruises.

In addition to observed injuries, officers should attempt to ascertain the possible extent of the injuries by asking specific questions, such as:

- Were you strangled?
- Were you shaken?
- Did you have trouble breathing?
- Did you faint or lose consciousness?
- Did you vomit?
- Are you having trouble swallowing?

Noting the emotional state of a person can also help determine the physical condition. Note:

- any obvious confusion or disorientation: slurred speech, inability to understand or remember;
- agitation;
- combativeness;
- significant fearfulness, especially in children;
- intoxication by alcohol or some other substance (dilated or very small pupils); and/or
- severe anxiety.

### INSTRUCTOR NOTES

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.5. OVERVIEW

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### INTERVIEW THE SUSPECTED ASSAILANT

#### Teaching Goal:

The goal of this objective is to provide the student with techniques to interview the suspected assailant as part of the complete criminal investigation at a domestic violence scene.

#### Learning Focus:

- ① Where should the domestic violence assailant be interviewed?
- ② What actions should the officer take to interview the suspected assailant?
- ③ What are some of the tactics that domestic violence assailants might use to gain the officer's sympathies during the interview?

#### Materials Needed for Suggested Exercises:



The Michigan State Police / Michigan Law Enforcement Officers Training Council videotape, "The Law Enforcement Response to Domestic Violence"



VCR and monitor

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.5. OVERVIEW

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### Objective I.H.3.5.:

At the end of this objective the student will be able to:

#### Interview the Suspected Assailant as Part of the Complete Criminal Investigation at a Domestic Violence Scene.

#### Performance/Testing Criteria:

- a. Maintains physical separation of the victim and the suspected assailant without losing eye contact with the other officer.
- b. Interviews the suspected assailant:
  - (1) prevents the suspected assailant from making eye contact with the victim so as not to intimidate the victim;
  - (2) asks questions about the current incident; and
  - (3) remains neutral.
- c. Recognizes tactics that assailants might use when being interviewed:
  - (1) attempts to rationalize the violence;
  - (2) denies or minimizes the violence;
  - (3) blames the victim for causing the violence;
  - (4) attempts to make a complaint against the victim to counter any complaint the victim may be able to make in response to the assailant's violent behavior;
  - (5) presents a very calm, cooperative, non-combative demeanor; or
  - (6) attempts to draw the officer in by making statements such as "what would you do," or "you know how it is."

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.5. OVERVIEW

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## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Exercise:**



Ask students to write down one statement that they might say to a suspect and victim. Show the video, "**The Law Enforcement Response to Domestic Violence.**" Ask students if they would change the way they questioned the assailant or interviewed the victim after watching the video.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**a. REPEAT the importance of physically separating the parties before conducting interviews.**

Officers should maintain physical separation of the victim and the suspected assailant during the interview. This will help:

- prevent the assailant from attempting to intimidate the victim through body language and eye contact;
- minimize the assailant's ability to interfere with the victim's interview; and
- prevent the assailant from changing stories to counter the victim's statements.

During the interview, officers should:

- maintain eye contact with partner;
- not allow others at the scene to intervene in the interview; and
- not allow recontact between the assailant and the victim.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Stress to the students that the questioning of the suspected assailant should be direct and concise and should be conducted in a fact-finding manner. Conducting the interview before the assailant has had time to think about the situation and insisting that the assailant discuss the actual assault can help avoid fabricated stories and excuses. The officer should not minimize the seriousness of the assault or indicate sympathy for the assailant.

An assailant arrested prior to the interview must be given *Miranda* warnings if a custodial interrogation is going to be conducted.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**b. EXPLAIN the tactics an officer should use to interview a suspected assailant.**

- Sight and sound separation will prevent the suspected assailant from attempting to intimidate the victim through eye contact and from hearing the victim's interview.
- Ask the suspected assailant questions *about the current incident*.
- Ask the suspected assailant *what* happened, not *why*.
- Maintain an air of neutrality.
- Do not get drawn into the suspected assailant's excuses.
- Avoid giving the assailant an excuse to escalate.
- Do not make unnecessary comments.
- Do not show hostility or anger.
- Conduct a complete interview.
- Conduct a thorough investigation.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Question for Students:**

What are some of the tactics an assailant might use during the interview?

- minimize or deny the violence,
- blame the victim for causing violence,
- claim to be an innocent victim,
- make counter complaints,
- attempt to manipulate officers.

**Note:**

These tactics were taught to students in Module I.H.1. and described by assailants as tactics they commonly use.

**Note:**

These tactics were also described by assailants in the video "**Understanding Domestic Violence Behavior: Assailant Interviews**" that may have been shown in I.H.1.4. and by an assailant in the Michigan State Police / MLEOTC video "**Law Enforcement's Response to Domestic Violence**" shown with this module.

**Note:**

Officers should listen to the assailant and advise the assailant that a complete investigation will be conducted.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

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**c. EMPHASIZE the tactics that assailants might use to manipulate officers when being interviewed.**

The assailant may:

- attempt to rationalize the violence—asking *what* happened not *why* it happened can counter this;
  - deny or minimize the violence;
  - blame the victim for causing the violence—again, ask *what* happened and avoid letting the assailant discuss *why*;
  - attempt to make a complaint against the victim to counter any complaint the victim may be able to make in response to the assailant's violence;
  - present a very calm, cooperative, non-combative demeanor in an attempt to persuade officers that the assailant is not guilty of any wrongdoing;
  - attempt to draw the officer in by making statements such as “what would you do” or “you know how it is.”
- ←

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.6. OVERVIEW

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### INTERVIEW THE VICTIM

#### Teaching Goal:

The goal of this objective is to provide the student with the strategies to interview the victim as part of the complete criminal investigation at a domestic violence scene.

#### Learning Focus:

- ① Why should the domestic violence victim be interviewed outside of the visual and hearing range of the assailant?
- ② What are some of the ways an officer can overcome the victim's reluctance to talk?
- ③ What questions should an officer use in interviewing the victim?
- ④ How should an officer respond to victims who claim their injuries were caused by an accident?
- ⑤ What questions should an officer ask to determine if the victim is being stalked?
- ⑥ What kind of historical questions should an officer ask?

#### Materials Needed for Suggested Exercises:



The videotape, "The Pro-Arrest Response to Domestic Violence"



The Michigan State Police / Michigan Law Enforcement Officers Training Council videotape, "The Law Enforcement Response to Domestic Violence"



VCR and monitor

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.6. OVERVIEW

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### Objective I.H.3.6.:

At the end of this objective the student will be able to:

#### Interview the Victim as Part of the Complete Criminal Investigation at a Domestic Violence Scene.

#### Performance/Testing Criteria:

- a. Interviews the victim separately:
  - (1) prevents the suspected assailant from making eye contact with the victim so as not to intimidate the victim; and
  - (2) prevents the suspected assailant from listening to the victim interview to prevent interference and possible later retribution.
  
- b. Overcomes the reluctance of the victim to talk by:
  - (1) exercising patience;
  - (2) advising that a crime has occurred and that the victim has a right to be free from assault and abuse;
  - (3) giving assurance that the violence of the assailant is not the victim's fault;
  - (4) giving assurance that the victim is not alone in being the victim of abuse;
  - (5) advising the victim about the availability of support services through the local domestic violence shelter program;
  - (6) informing the victim that domestic violence usually happens again and gets worse unless there is intervention; and
  - (7) explaining to the victim that an arrest does not necessarily mean a prison term for the offender.
  
- c. Interviews the victim by asking:
  - (1) Where do you hurt?
  - (2) How did you get hurt?
  - (3) Who hurt you?
  - (4) What is your relationship to the assailant?
  - (5) What happened?
  - (6) How were you injured? Were you hit? If so, with a closed or open fist?  
Where on your body were you hit?
  - (7) Were there any weapons or objects used to strike you?
  - (8) Were any threats made against you or others?

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.6. OVERVIEW

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- (9) Were you forced to have sex when you did not want to?
  - (10) Did the assailant hurt any pets?
  - (11) Did the assailant break or damage anything?
  - (12) Is the assailant on probation or parole?
  - (13) Is the assailant out on bond?
  - (14) Are any court cases pending against the assailant?
  - (15) Does the assailant have reason to believe you might want to leave?
- d. Questions any statements by the victim that injuries were caused by an accident.
- e. Interviews the victim about behaviors that might constitute stalking, asking:
- (1) Has the assailant been following you?
  - (2) Has the assailant been showing up at your place of work?
  - (3) Has the assailant been coming to or watching your home?
  - (4) Has the assailant been trying to contact you by telephone or mail?
  - (5) Has the assailant threatened you, your family or anyone who lives with you?
  - (6) Has the assailant left you anything (e.g., flowers, letters, packages, etc.)?
  - (7) Has the assailant damaged any of your property?
- f. Asks historical questions:
- (1) When was the first time the assailant hit you?
  - (2) When was the first time you had to go to the doctor or hospital?
  - (3) When was the first time the assailant broke a bone?
  - (4) When was the first time the assailant used an object to hit you?
  - (5) When was the first time the assailant used a weapon?
  - (6) What incident was the most serious?
  - (7) Has the assailant ever been arrested for assaulting you or your family or friends? Where? When?
  - (8) Has the assailant ever forced you or threatened you to have sex when you did not want to?
  - (9) Is the assailant on probation or parole?
  - (10) Is the assailant out on bond?
  - (11) Are there any Personal Protection Orders (PPOs) or other court orders in effect against the assailant?
  - (12) Has the assailant ever stalked you in the past?
- g. Interviews children away from the parents, in the home.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** The officer often needs information from the victim in order to determine the extent of the violence and what crimes were committed and to conduct further investigation. Injuries may be internal or otherwise not readily visible, perhaps hidden under hair or clothing, so the officer needs to carefully question the victim. Stress to the student that what initially appears to be a misdemeanor domestic assault may turn out to be a felony, such as felonious assault or criminal sexual conduct.

**Note:** Some medical facilities have photographic equipment available that allows for photographs to be taken of bruising injuries before they are visible to the naked eye.

**Exercise:**



Refer to portions of **“The Pro-Arrest Response to Domestic Violence”** and The Michigan State Police / Michigan Law Enforcement Officers Training Council videotape, **“The Law Enforcement Response to Domestic Violence”** which were shown in previous modules. Discuss how the scenarios relate to the information in this module.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**a. EMPHASIZE the necessity of interviewing the victim separately.**

Separating the victim and the assailant before beginning the interview will:

- help the victim feel less intimidated by the assailant;
- prevent the assailant from listening to the victim's statements;
- minimize the assailant's ability to intimidate the victim;
- minimize the assailant's ability to interfere with the victim's interview;
- help minimize the assailant's ability to retaliate later; and
- help prevent the assailant from changing stories to counter the victim's statements.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Explain to the student that in order to gain cooperation and trust, the officer must appear to be aware of and responsive to the victim's feelings. By this type of reassurance, the officer may increase the willingness of the victim to reveal the specifics of the crime.

**Question for Students:** What interviewing techniques can you use to gather information from a fearful or traumatized victim?

**Note:** In section I.H.1.5. students were taught some of the common ways a victim may react and appear at the scene.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**b. EXPLAIN interviewing techniques which the officer may use to help the victim overcome any reluctance to talk.**



1. The victim may be reacting to trauma and fear or may be embarrassed and confused.

- Exercise patience.
- Avoid acting rushed, bored, or unconcerned.
- Avoid showing frustration.
- Avoid lecturing the victim.
- Avoid being judgmental.
- Ask questions in a calm, reassuring way.
- Be persistent in questioning by rephrasing questions.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

2. Often victims only want the violence stopped and may appear unwilling to participate with further investigation.

- Emphasize to victims that they have suffered *criminal* assault, which is not permitted regardless of the relationship between the individuals.
- Advise victims that everyone has a right to be free from physical assault and abuse.

3. Questions that appear to blame the victim, such as, "Why haven't you left?" may cause further intimidation and obscure important evidence.

Officers should:

- Assure the victim that the violence of the assailant is not the victim's fault.
- Emphasize *what* happened and not *why*—the criminal act is the issue.

4. An individual may feel alone in being the victim of domestic abuse. Assure the victim that this is not so.

### INSTRUCTOR NOTES

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Objectives I.H.3.12. and I.H.3.13. will discuss victim assistance and give specific information which must be distributed to the victim.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



5. Victims have no way of knowing about services available unless someone familiar with these services provides them with this information.

- Advise victims that there are support services available through the local domestic violence shelter program and that information on these services will be made available.

6. Victims want the violence to be stopped and may not understand the need for further action.

- Advise victims that domestic violence usually happens again and often gets worse unless there is intervention with consequences for the violent behavior.
- Advise victims that it is the officer's responsibility to investigate and make arrest decisions.

7. There are court mandated counseling and other programs that may help assailants change their violent behavior. Explain to victims that an arrest does not necessarily mean a prison term for the offender.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Emphasize to the students that questions should be direct and specific rather than general. For example, asking the victim "How are you?" may result in an answer that the victim is "fine" rather than information about specific injuries. The officer can use the following types of questions and approaches to solicit the necessary information.

You can inform the students of another tactic for helping the victim feel at ease—often phrasing the questions (as those listed in C) so that the victim feels the officer understands and can see what is happening will help in obtaining a response.

**Note:**

Emphasize that the victim may be reluctant to talk about sexual assault. The officer must follow up on any information the victim provides. Emphasize that the officer must be sensitive to the emotional state of the victim.

## RESPONSE PROCEDURES

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p data-bbox="217 401 266 443">←</p> <p data-bbox="305 401 1057 558"><b>c. DISCUSS the interview of the victim as part of the complete criminal investigation at a domestic violence scene.</b></p> <ul data-bbox="354 617 1057 1923" style="list-style-type: none"><li>• Where do you hurt?</li><li>• How did you get hurt?</li><li>• Who hurt you?</li><li>• What is your relationship to the assailant?</li><li>• How were you hit? With a closed or open fist?</li><li>• Where on your body were you hit?</li><li>• What weapons or objects were used to strike you?</li><li>• What threats were made against you or others?</li><li data-bbox="217 1108 266 1150">←</li><li>• Were you forced to have sex when you did not want to?</li><li>• Were you threatened with harm if you did not have sex?</li><li>• Did the assailant hurt any pets?</li><li>• Did the assailant break or damage anything?</li><li>• Does the assailant have any reason to believe you might want to leave the relationship?</li><li>• Has the assailant been arrested before?</li><li>• Are there any court cases pending against the assailant?</li><li>• Is the assailant out on bond?</li><li>• Are there any Personal Protection Orders (PPOs) in effect?</li><li>• Is the assailant on probation or parole? (Confirm with the dispatcher.)</li><li>• Are there any firearms in the house?</li></ul>	

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

**d. EMPHASIZE that officers need to question any statement by the victim that injuries were caused by an accident.**

Officers should question the victim about statements like:

- I fell down the stairs.
- I ran into a door.
- I'm accident prone.
- I'm clumsy.

Officers should question the victim to obtain specifics about how the injuries occurred.

### INSTRUCTOR NOTES

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

The stalking legislation was discussed in Objectives I.H.2.4. and I.H.2.5. of the legal section. A copy of the statute is included in the legal appendix.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**e. DISCUSS the type of questions the officer will ask the victim in order to determine if the assailant is stalking the victim.**

- Has the assailant been following you?
- Has the assailant been showing up at your place of work?
- Has the assailant been coming to or watching your home?
- Has the assailant been trying to contact you by telephone or mail?
- Has the assailant threatened you, your family or anyone who lives with you?
- Has the assailant left you anything (for example, packages, letters, presents, flowers, etc.)?
- Has the assailant damaged any of your property?

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p data-bbox="300 399 1063 630"><b>f. STRESS the importance of the historical questions the officer needs to ask the victim in order to determine if this assault is part of a pattern of domestic violence.</b></p> <p data-bbox="349 714 1063 1134">Having some information on the history of the relationship may assist you in determining how dangerous the situation is or might become to both the officer and the victim. It can also help the prosecutor who will be trying the case. Some questions that are helpful in determining relevant historical information are:</p> <ul data-bbox="397 1176 1063 1890" style="list-style-type: none"><li>• When was the first time this ever happened?</li><li>• How long ago was the last incident?</li><li>• What was the most serious incident?</li><li>• When was the first time the assailant broke a bone?</li><li>• When was the first time the assailant used an object to hit you?</li><li>• When was the first time the assailant used a knife or gun?</li><li>• Has the assailant ever been arrested for assaulting you or another member of the household before?</li><li>• Has the assailant ever threatened to kill you or another member of your family or household?</li></ul>	

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Again, the victim may be reluctant to talk about sexual assault. The officer must follow up on any information the victim provides.

## RESPONSE PROCEDURES

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p>←</p> <ul style="list-style-type: none"><li>• Has the assailant ever forced you to have sex when you did not want to?</li><li>• Has the assailant ever threatened you or others with harm for refusing sex?</li><li>• When was the first time you were treated by a doctor or hospitalized for injuries inflicted by the assailant?</li><li>• Has the assailant ever threatened or harmed a pet?</li><li>• Has the assailant ever prevented you from leaving?</li><li>• Has the assailant ever disabled your car?</li><li>• Has the assailant ever disconnected the phone?</li><li>• Has the assailant ever closed out a joint bank account?</li><li>• Has the assailant ever kept the children at the end of a visitation period?</li><li>• Has the assailant ever followed or harassed you in the past?</li><li>• Is the assailant out on bond?</li><li>• Are there any Personal Protection Orders (PPOs) in effect against the assailant?</li><li>• Is the assailant on probation or parole?</li><li>• Does the assailant possess any firearms?</li></ul>	

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p data-bbox="310 401 1057 506"><b>g. EMPHASIZE that it is important to interview children away from the parents, in the home.</b></p> <p data-bbox="358 594 1057 758">Phrase questions similarly to those listed previously, using words that are understandable to the child.</p>	

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.7. OVERVIEW

---

### DETERMINE PROBABLE CAUSE

#### Teaching Goal:

The goal of this objective is to provide the student with specific examples to help them learn how to ascertain whether or not probable cause that a crime was committed exists to make an arrest when responding to domestic violence.

#### Learning Focus:

- ① What are some of the factors to consider in determining if probable cause exists to arrest a domestic violence assailant?
- ② What are some of the factors an officer should *not* consider in determining if probable cause exists to arrest a domestic violence assailant?
- ③ What should officers do to determine the aggressor and avoid making a dual arrest?

#### Materials Needed for Suggested Exercises:



The videotape, "The Pro-Arrest Response to Domestic Violence"



VCR and monitor

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.7. OVERVIEW

---

### Objective I.H.3.7.:

At the end of this objective the student will be able to:

**Determine Whether Probable Cause Exists to Make an Arrest When Responding to Domestic Violence.**

#### Performance/Testing Criteria:

- a. Attempts to establish probable cause by considering all relevant factors, including:
  - (1) statements by the victim, children or other witnesses;
  - (2) the dispatcher's and other officers' information;
  - (3) physical evidence that a crime occurred;
  - (4) aggressive or threatening behavior by the assailant;
  - (5) information gathered by investigating wounds to determine:
    - (a) offensive wounds, and
    - (b) defensive wounds;
  - (6) property in the house damaged or broken;
  - (7) brandishing of weapons; or
  - (8) the existence of a Personal Protection Order (PPO).
  
- b. Does *not* consider the following factors in determining probable cause:
  - (1) the lack of a PPO;
  - (2) the fact that no arrests were made previously;
  - (3) the victim's unwillingness to prosecute;
  - (4) the officer's belief that there will be no prosecution;
  - (5) verbal assurances by either party that the violence will stop;
  - (6) the possibility of reprisals against the victim;
  - (7) the race, ethnicity, sexual preference, social class and/or occupation of the victim or the assailant;
  - (8) threats by the assailant to sue the police; and
  - (9) negative consequences to the assailant's status in the community.
  
- c. Does *not* preclude a finding of probable cause based upon:
  - (1) denial by either party that violence occurred; or
  - (2) a lack of visible bruises or injuries.

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.7. OVERVIEW

---

- d. Does not make a dual arrest to avoid determining the assailant, rather, conducts a complete investigation considering:
- (1) the intent of the law to protect victims of domestic violence;
  - (2) the intent of the law that officers should not make dual arrests to avoid conducting a thorough criminal investigation;
  - (3) the degree of injury inflicted on the individuals involved;
  - (4) the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household;
  - (5) any history of domestic violence between the individuals;
  - (6) offensive and defensive wounds;
  - (7) the size, strength, and bulk of the parties;
  - (8) the possibility that one of the parties acted in self-defense;
  - (9) the apparent ability of each party to do what was alleged;
  - (10) witness statements (including children); and
  - (11) other evidence (e.g., physical and circumstantial).

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

---

**Exercise:**



Actual cases can be used as scenarios in order to provide an exercise for students to practice making the probable cause determination.

Or the instructor can replay portions of "**The Pro-Arrest Response to Domestic Violence**" and use scenarios from the tape for this exercise. A good exercise would be to show the clip from inside the house and allow students to list what they saw and heard that could contribute to a finding of probable cause.

**Note:**

Students received legal instruction on probable cause in I.H.2.12.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**a. REVIEW the factors used to establish probable cause that a crime has been committed by considering all relevant factors, including:**

- statements by the victim, children or other witnesses;
- the dispatcher's and other officers' information;
- physical evidence;
- aggressive or threatening behavior by the assailant;
- wounds that can be examined to determine:
  - offensive wounds,
  - defensive wounds;
- damaged or broken property;
- weapons being brandished; and
- the existence of a Personal Protection Order (PPO).

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Question for  
Students:**

What factors do not impact the probable cause determination?

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**b. EMPHASIZE what factors should *not* be considered in determining probable cause:**

- the lack of a Personal Protection Order (PPO);
- the fact that no arrests were made previously;
- the victim's unwillingness to participate in prosecution;
- the officer's belief that the victim does not want prosecution;
- verbal assurance by either party that the violence will stop;
- claims that there was no violence when evidence of physical abuse exists;
- the race, ethnicity, sexual preference, social class and/or occupation of the victim or the assailant;
- the possibility of reprisals against the victim;
- threats by the assailant to sue the police;
- possible negative consequences to the assailant's status in the community;
- claims of negative economic impact.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

c. **EMPHASIZE** that a finding of probable cause is *not* precluded by:

- denial by either party that the violence occurred;
- a lack of visible bruises or injuries; or
- lack of desire of the victim for the arrest or prosecution of the assailant.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

Emphasize that an officer should not avoid conducting a thorough criminal investigation by simply arresting both parties where there are allegations of mutual battering.

MCL 776.22(3)(b)(ii) explicitly provides that it is the intent of the law to protect victims of domestic violence and directs officers to consider a number of factors when faced with allegations of mutual battering to determine who the assailant is.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← d. **DISCUSS** the necessity for a thorough investigation as a means of determining the assailant and preventing dual arrests. Officers should understand that Michigan law specifically states that the intent of the law is to protect victims of domestic violence and that officers should not make dual arrests in order to avoid determining the assailant. Officers should conduct a complete investigation, considering what they know about the nature and prevalence of domestic violence and:

1. knowledge that Michigan law specifically states that the intent of the law is to protect victims of domestic violence;
2. knowledge that it is the intent of the law that officers should not make dual arrests to avoid conducting a thorough criminal investigation;
3. the degree of injury inflicted on the individuals involved;
4. the extent to which the individuals have been put in fear of physical injury to themselves or other members of the household;

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Explain "defensive wounds."

**Example:** While the assailant has the victim in a choke-hold from behind—arm around the neck of the victim—the victim bites the assailant on the inner, upper arm to get the assailant to release the victim.

**Note:** Emphasize to the students that they must investigate the nature and circumstances surrounding an injury. They should compare the nature and severity of the injury with the information on the incident provided by the assailant, victim and witnesses to determine if it is an offensive or defensive wound.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- 5. any history of domestic violence between the individuals;
- ← 6. offensive and defensive wounds;
- 7. the size, strength, and bulk of the parties (Who would be most likely to initiate and rely on physical violence?);
- ← 8. the possibility that one of the parties acted in self-defense;
- 9. the apparent ability of each party to do what was alleged;
- 10. witness statements (including children); and
- 11. other evidence (e.g., physical and circumstantial).

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.8. OVERVIEW

---

### ARREST THE DOMESTIC VIOLENCE ASSAILANT ON PROBABLE CAUSE

#### Teaching Goal:

The goal of this objective is to demonstrate the manner in which a domestic violence assailant should be arrested after the officer has determined there is probable cause that the assailant committed a crime.

#### Learning Focus:

- ① How does the officer proceed to arrest an assailant who is present at the domestic violence scene?
- ② How does the officer proceed when the assailant is no longer present at the domestic violence scene?

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.8. OVERVIEW

---

### Objective I.H.3.8.:

At the end of this objective the student will be able to:

#### Arrest a Domestic Violence Assailant After Establishing Probable Cause That a Crime Has Been Committed.

#### Performance/Testing Criteria:

- a. Affects an arrest when the assailant is present by:
  - (1) arresting and handcuffing the assailant;
  - (2) informing the assailant that the decision to arrest and prosecute is being made by the officer, not the victim;
  - (3) informing the assailant of release procedures:
    - (a) there will be no interim bond; and
    - (b) the assailant will be brought before a magistrate for arraignment as soon as possible; or
    - (c) if an arraignment cannot take place within 24 hours, release will occur after 20 hours; and
  - (4) securing the arrested assailant in the patrol car.
  
- b. Responds proactively when the assailant is not present:
  - (1) determines if it is safe for the victim to remain on the premises;
  - (2) provides assistance to the victim in relocating, if necessary;
  - (3) attempts to locate and arrest the assailant and issues a bulletin to attempt to locate the assailant; and
  - (4) seeks a warrant when unable to locate.

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.8. OVERVIEW

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## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Students should be reminded that *Miranda* is not required for transport and processing, only for interrogation.

**Note:** Stress to students that when there is evidence of a domestic assault do not lodge under a related misdemeanor—lodge the assailant for domestic assault in order to bring the exception to the interim bond statute into play.

**Note:** Stress to the students that they should use state statutes (not local ordinances) for assault, assault and battery, and aggravated assault in order to get enhanced penalties for repeat offenses (see the legal objective I.H.2.2.).

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**a. DISCUSS the steps to take to make an arrest after establishing probable cause when the assailant is present.**

- Arrest and handcuff the assailant.
- Arrest outside the presence of the victim to avoid forcing the victim to feel compelled to intervene and defend the assailant.
- Attempt to have the victim remain in a separate room.
- Tell the assailant that the decision to arrest and prosecute is made by the officer.
- Tell the assailant that the victim's possible opposition to the arrest does not affect the decision to arrest.
- Tell the assailant that the victim is not responsible for having the assailant arrested.
- Give the assailant *Miranda* warnings if custodial interrogation is going to be conducted.
- Inform the assailant that there will be no interim bond and there will be incarceration until arraignment or, if the assailant cannot be arraigned within 24 hours, for 20 hours.
- Tell the assailant that the victim can do nothing to speed up the bonding process.
- Secure the arrested assailant in the patrol car.



## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Instructors should advise students to check with their department for the county's procedures for obtaining a warrant.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**b. DISCUSS the steps to take to make an arrest when the assailant is not present.**

In a case where the assailant has fled the scene of domestic violence, the risk is high that the assailant will return. Steps need to be taken to make an arrest and ensure the safety of the victim.

- Attempt to determine if it is safe for the victim to remain on the premises.
- Attempt to provide assistance to the victim in relocating if necessary.
- Attempt to locate and arrest the assailant.
- Issue a "be on the lookout" for the assailant.
- Attempt to gather information on places the assailant is likely to go.
- Attempt to obtain a picture of the assailant—distribute it to other officers.
- Pass information on to other officers and shifts.
- Seek a warrant for the assailant's arrest when he cannot be located.



**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.9. OVERVIEW

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### ARREST THE ASSAILANT FOR VIOLATION OF A PERSONAL PROTECTION ORDER (PPO)

#### Teaching Goal:

The goal of this objective is to demonstrate the arrest procedure in cases where the assailant has violated a Personal Protection Order (PPO).

#### Learning Focus:

- ① How does the officer verify the validity of a PPO?
- ② When does the officer ask the victim about the existence of a PPO?
- ③ How does the officer determine if there is probable cause to believe that a violation of a PPO occurred?
- ④ Under what circumstance does the officer arrest the assailant for violating a PPO?

#### Materials Needed for Suggested Exercises:



The Michigan State Police / Michigan Law Enforcement Officers Training Council videotape, "The Law Enforcement Response to Domestic Violence"



VCR and monitor

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.9. OVERVIEW

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### Objective I.H.3.9.:

At the end of this objective the student will be able to:

#### Arrest an Assailant After Establishing That a Personal Protection Order (PPO) Has Been Violated.

#### Performance/Testing Criteria:

- a. Asks the victim if a Personal Protection Order (PPO) (either a domestic relationship or non-domestic stalking) has been issued against the assailant.
- b. Verifies the validity of the PPO by:
  - (1) verifying it through LEIN; or
  - (2) seeing a true copy of the PPO.
- c. Determines if the assailant has been served by:
  - (1) verifying service via LEIN; or
  - (2) seeing a copy of the proof of service.
- d. Identifies that if the assailant has been served, a police officer shall arrest if probable cause exists to believe:
  - (1) a domestic relationship PPO or non-domestic stalking PPO exists;
  - (2) the PPO states on its face that violation subjects the violator to immediate arrest and criminal contempt punishable by not more than 93 days and/or a fine of not more than \$500; and
  - (3) the assailant is in violation of the PPO by engaging in or having engaged in the conduct restrained or enjoined by the PPO (MCL 764.15b(1)).
- e. Identifies that if the assailant has not been served, the law enforcement agency or officer responding to a call alleging a violation of a PPO shall:
  - (1) serve the assailant with a true copy of the PPO; or
  - (2) provide the assailant actual notice of the:
    - (a) existence of the PPO;
    - (b) specific conduct enjoined;
    - (c) penalties for violating the PPO; and
    - (d) location where the assailant may obtain a copy of the order; and

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.9. OVERVIEW

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- (3) complete a proof of service form and provide a copy to:
  - (a) the victim;
  - (b) the law enforcement agency that entered the PPO into the LEIN;  
and
  - (c) the circuit court that issued the PPO.
  
- f. Identifies that after being served or provided notice of the PPO at the scene, the assailant shall be given an opportunity to immediately comply with the PPO.
  
- g. Identifies that the failure to immediately comply with the PPO shall be grounds for an immediate custodial arrest.
  
- h. Conducts a thorough criminal investigation whenever there is an alleged violation of a PPO to determine if there also was a violation of any criminal law.
  
- i. Recognizes that arrest for a violation of a PPO does not preclude arrest for the violation of any criminal law.
  
- j. Responds proactively when the assailant is not present:
  - (1) determines if it is safe for the victim to remain on the premises;
  - (2) provides assistance to the victim in relocating, if necessary;
  - (3) attempts to locate and arrest the assailant and issues a bulletin to attempt to locate the assailant; and
  - (4) seeks a warrant for any crime committed when unable to locate.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Exercise:**



Portions of the video, "**The Law Enforcement Response to Domestic Violence**," address specific legal and procedural requirements for enforcement of PPOs and can be used to highlight this module.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**a. ADVISE the students to ask the victim if a PPO has been issued against the assailant.**

- Ask the victim for a copy of the PPO if possible.
- Verify the existence of the PPO via the LEIN if the victim does not have a copy.
- Review conduct restrained or enjoined to help in the probable cause determination.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

CONTENT TO BE LEARNED BY STUDENT	INSTRUCTOR NOTES
<p><b>b. DISCUSS the steps an officer takes to verify the validity of the PPO:</b></p> <ul style="list-style-type: none"><li>• verify the PPO through LEIN; or</li><li>• see a true copy of the PPO provided by the victim.</li></ul> <p><b>c. DISCUSS how to determine if the assailant has been served by:</b></p> <ul style="list-style-type: none"><li>• verifying service via LEIN; or</li><li>• seeing a copy of the proof of service.</li></ul>	

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**d. IDENTIFY the conditions under which an officer must arrest the assailant. The officer *must* arrest if the individual has been served and if the officer has probable cause to believe:**

- a domestic relationship PPO or non-domestic stalking PPO exists;
- the PPO states on its face that violation subjects the violator to immediate arrest and criminal contempt punishable by not more than 93 days and/or a fine of not more than \$500; and
- the assailant is in violation of the PPO by engaging in or having engaged in the conduct restrained or enjoined by the PPO (MCL 764.15b(1)).

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**e. IDENTIFY the actions the officer should take when responding to a call alleging a violation of a PPO when the assailant has not been served:**

- serve the assailant with a true copy of the PPO;  
or
- provide the assailant actual notice of the:
  - existence of the PPO;
  - specific conduct enjoined;
  - penalties for violating the PPO; and
  - location where the assailant may obtain a copy of the order; and
- complete a proof of service form and provide a copy to:
  - the victim;
  - the law enforcement agency that entered the PPO into the LEIN; and
  - the circuit court that issued the PPO.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- f. **IDENTIFY** that after being served or provided notice of the PPO at the scene, the assailant shall be given an opportunity to comply with the PPO before the law enforcement officer makes a custodial arrest for violation of the PPO.
  
- g. **IDENTIFY** that the failure to immediately comply with the PPO shall be grounds for an immediate custodial arrest.
  
- h. **EMPHASIZE** that the officer must conduct a thorough criminal investigation whenever there is an alleged violation of a PPO to determine if there also was a violation of any criminal law.
  
- i. **EMPHASIZE** to the students that arrest for a violation of a PPO does not preclude arrest for the violation of any criminal law.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**j. DISCUSS how the officer proceeds when the assailant is not present.**

- Determines if it is safe for the victim to remain on the premises.
- Provides assistance to the victim in relocating, if necessary.
- Attempts to locate the assailant.
- Issues a bulletin to attempt to locate the assailant.
- Advises the victim to go to court and file a motion for a show cause hearing.
- Seeks a warrant for the assailant's arrest if the officer determines that there is probable cause to believe that the assailant has committed a crime in addition to violating the PPO.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.10. OVERVIEW

---

### **ARREST THE ASSAILANT FOR VIOLATION OF A CONDITIONAL RELEASE ORDER (CONDITIONAL BOND)**

#### **Teaching Goal:**

The goal of this objective is to provide information that will enable the student to arrest the assailant for violation of a conditional release order (conditional bond).

#### **Learning Focus:**

- ① Under what conditions does the officer arrest an assailant for violating a provision of a conditional release order?
- ② What are the officer's responsibilities after an arrest has been made for violation of a provision of a conditional release order?

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.10. OVERVIEW

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### Objective I.H.3.10.:

At the end of this objective the student will be able to:

#### Arrest an Assailant After Establishing That a Conditional Release Order (Conditional Bond) Has Been Violated.

#### Performance/Testing Criteria:

- a. Determines that the assailant has been released on conditional bond via the LEIN.
- b. Arrests the assailant when there is probable cause to believe the assailant is violating or has violated a provision of a conditional release order (conditional bond).
- c. Prepares a "complaint of violation of conditional release" pursuant to MCL 764.15e, containing:
  - (1) officer's name and badge number;
  - (2) statement of verification;
  - (3) statement of conditions; and
  - (4) statement of probable cause that assailant violated the conditions.
- d. Determines the court that imposed the conditions of release.
- e. Takes appropriate action, including:
  - (1) if the arrest occurred within the jurisdiction of the court that imposed the conditions of release, the officer shall:
    - (a) immediately provide the original and one copy of the complaint to that court;
    - (b) immediately provide one copy of the complaint to:
      - (i.) the assailant; and
      - (ii.) the prosecuting attorney for the case in which the conditional release was granted;
    - (c) retain one copy of the complaint; and
    - (d) bring the assailant before that court within one business day following the arrest; or
  - (2) if the arrest occurred outside the jurisdiction of the court that imposed the conditions of release, the officer shall:

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.10. OVERVIEW

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- (a) immediately provide the original and one copy of the complaint to the district or municipal court where the violation occurred;
  - (b) immediately provide one copy of the complaint to the assailant;
  - (c) retain one copy of the complaint; and
  - (d) bring the assailant before the district or municipal court where the violation occurred within one business day following the arrest.
- f. Recognizes the importance of the arresting officer's written report since it will be used by the arresting police agency or officer in charge of the jail to determine whether it is safe to release the assailant before the assailant is brought before the court.

# RESPONSE PROCEDURES

## STRATEGIES FOR TEACHING THIS OBJECTIVE

STATE OF MICHIGAN 6TH CIRCUIT COURT	DOMESTIC VIOLENCE BAIL BOND CONDITIONS	CASE NO _____ P.O. No. _____
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**THE PEOPLE  
OF THE  
STATE OF MICHIGAN**

VS

Defendant's Name, Address and Telephone Number \_\_\_\_\_

Sex:  Male  Female

Height \_\_\_\_\_ Eye-Color \_\_\_\_\_  
Weight \_\_\_\_\_ Hair-Color \_\_\_\_\_  
Race \_\_\_\_\_ Date-of-Birth \_\_\_\_\_

### CONDITIONAL BOND

Bond Amount: \$ \_\_\_\_\_ Bond Type:  Cash or Surety  10%  PR  
Offense(s): \_\_\_\_\_ Next Court Dates: \_\_\_\_\_

**BY SIGNING THIS BOND, THE DEFENDANT STATES THAT HE/SHE HAS READ THE SAME AND AGREES TO ABIDE BY ALL OF THE TERMS AND CONDITIONS CONTAINED HEREIN.**

- \_\_\_ 1. Not have direct or indirect contact with \_\_\_\_\_ until further order of the court.
- \_\_\_ 2. Not enter or return to the premises known as \_\_\_\_\_ until further notice.
- \_\_\_ 3. Not assault, beat, molest or otherwise verbally harass, intimidate or threaten anyone or be involved in any crime.
- \_\_\_ 4. Not consume alcohol or use other controlled substances.
- \_\_\_ 5. Submit to PBT or urine testing at the request of any police or court officer.
- \_\_\_ 6. Not possess a firearm or other dangerous weapon.
- \_\_\_ 7. Appear for any arraignment, pre-trial, trial or sentencing, and appear at such times and places as may be directed by the Court. If I am represented by an attorney, any notice to appear may be given to my attorney in place of personal notice to me.
- \_\_\_ 8. Not leave the state of Michigan without the permission of the Court.
- \_\_\_ 9. Notify the Court immediately by certified mail of any change of address or phone number.
- \_\_\_ 10. Other \_\_\_\_\_

Pursuant to MCLA 764.15e and 765.6b  
***VIOLATION OF ANY OF THE ABOVE CONDITIONS WILL RESULT IN A WARRANTLESS ARREST***

Effective Date Of Order: \_\_\_\_\_ Defendant \_\_\_\_\_

**IT IS SO ORDERED** \_\_\_\_\_  
Judge/Magistrate Bar No.

This Order to be entered in Law Enforcement Info Network.

Order expires on \_\_\_\_/\_\_\_\_/\_\_\_\_.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



a. **TELL** students that they must determine if the assailant has been released on conditional bond via the LEIN. (A sample conditional bond form is available on page 176.)

b. **STRESS** that the officer must arrest the assailant when there is probable cause to believe the assailant is violating or has violated a provision of a conditional release order.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PEOPLE OF THE STATE OF MICHIGAN

Plaintiff,

v

No.  
HON.

\_\_\_\_\_

Defendant,

\_\_\_\_\_ /

COMPLAINT OF VIOLATION OF CONDITIONAL RELEASE

I, \_\_\_\_\_, am a peace officer. I have determined by:  
[print or type name & badge no.]

- L.E.I.N. and verification with the police agency holding the order
- Certified or true copy of order
- Other [Describe] \_\_\_\_\_

That \_\_\_\_\_ released \_\_\_\_\_  
[court] [name of defendant]  
subject to the following conditions [state or attach a statement of relevant conditions]

\_\_\_\_\_  
\_\_\_\_\_

I have reasonable cause to believe that on \_\_\_\_\_ at \_\_\_\_\_ the defendant  
[date] [time]  
violated those conditions as follows: [state violations]

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
[signature]

\_\_\_\_\_  
[law enforcement agency]

\_\_\_\_\_  
[date]

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**c. DISCUSS** the officer's obligation to prepare a complaint of violation of conditional release in compliance with the requirements of MCL 764.15e. (A sample complaint of violation of conditional release is available on page 178.)

Prepare a complaint of violation of conditional release pursuant to MCL 764.15e containing:

- officer's name and badge number,
- statement of verification,
- statement of conditions,
- statement of probable cause that assailant violated the conditions.

**d. DISCUSS** the officer's obligation to determine which court imposed the conditions of release.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**e. DISCUSS the appropriate response once the officer has determined which court imposed the conditions of release:**

1. If the arrest occurred within the jurisdiction of the court that imposed the conditions of release, the officer shall:
  - immediately provide the original and one copy of the complaint to that court;
  - immediately provide one copy of the complaint to the assailant and one copy to the prosecuting attorney for the case in which the conditional release was granted;
  - retain one copy of the complaint;
  - bring the assailant before that court within one business day following the arrest to answer the charge of violating the conditions of release.
  
2. If the arrest occurred outside the jurisdiction of the court that imposed the conditions of release, the officer shall:
  - immediately provide the original and one copy of the complaint to the district or municipal court where the violation occurred;
  - immediately provide one copy of the complaint to the assailant;
  - retain one copy of the complaint; and
  - bring the assailant before the district or municipal court where the violation occurred within one business day following the arrest.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

- f. **RECOGNIZE** that the arresting officer's written report will be used by the arresting police agency or officer in charge of the jail to determine whether it is safe to release the assailant before the assailant is brought before the court.

Officers must fully document the results of their investigation to ensure an appropriate and safe decision is made about the release of the assailant.

### INSTRUCTOR NOTES

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.11. OVERVIEW

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### COLLECT EVIDENCE AND COMPLETE THE CRIMINAL INVESTIGATION

#### Teaching Goal:

The goal of this objective is to provide the student with an understanding of what information and physical evidence to collect and how to do so—in addition to the interviews with the victim and assailant—as part of the complete criminal investigation at a domestic violence scene.

#### Learning Focus:

- ① What other interviews should officers conduct in addition to interviews with the victim and the assailant?
- ② What physical evidence from the domestic violence scene should be collected by officers?
- ③ What are some of the common indicators of lethality?

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.11. OVERVIEW

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### Objective I.H.3.11.:

At the end of this objective the student will be able to:

#### Complete the Criminal Investigation at the Domestic Violence Scene.

#### Performance/Testing Criteria:

- a. Collects any other additional information:
  - (1) interviews other witnesses (e.g., other adults in the residence, neighbors, complainant, etc.); and
  - (2) prepares to write a complete report by documenting in the field notes:
    - (a) the victim's condition and demeanor;
    - (b) the assailant's condition and demeanor;
    - (c) spontaneous statements;
    - (d) any torn clothing;
    - (e) smeared makeup;
    - (f) any evidence of injuries, with a diagram; and
    - (g) referral(s) to victim services agencies.
  
- b. Collects and documents evidence of a crime:
  - (1) notes (sketches) the condition of the crime scene (e.g., disarray of/ damage to the physical surroundings);
  - (2) photographs and/or documents the crime scene;
  - (3) collects and tags as evidence firearms, other weapons and/or other objects used as weapons;
  - (4) photographs the victim's, assailant's and/or children's injuries;
  - (5) seizes and/or photographs other evidence of violence (e.g. broken dishes and furniture, damage to walls, doors, windows, etc.);
  - (6) requests 911 or dispatch audio tapes be held as evidence; and
  - (7) requests hospital/medical reports when applicable.
  
- c. Conducts a lethality assessment considering the following indicators (also see I.H.1.8.):
  - (1) the victim has left or the assailant has discovered the victim is about to leave or file for a divorce;
  - (2) weapons are present;

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.11. OVERVIEW

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- (3) the assailant has threatened to kill the victim;
- (4) the assailant has ease of access to the victim and/or the victim's family;
- (5) the assailant has a history of prior calls to the police;
- (6) the assailant has engaged in stalking behavior;
- (7) the assailant has threatened the children;
- (8) the assailant has threatened to take the victim hostage;
- (9) the assailant has killed or mutilated a pet;
- (10) the assailant has a history of assaultive behavior;
- (11) the assailant has a history of weapons use;
- (12) the assailant has threatened suicide; or
- (13) the assailant has an alcohol and/or drug addiction.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Question for  
Students:**

Who else would you interview to complete your investigation?

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**a. STRESS the importance of interviewing all witnesses and documenting the scene.**

**1. Interview other witnesses** (e.g., other adults in the residence, neighbors, complainant, etc.).

- Interview other witnesses outside the immediate presence of the victim and assailant.
- Establish the physical location of witnesses during the incident.
- Ask witnesses specifically what they observed.
- Ask witnesses if they know of a history of violence between the victim and assailant.
- Ask witnesses if they know of the presence of any weapons in the household.
- Interview children gently, with the nature and length of the interview depending on the child's age and development.
- Document all statements made by a child—even a short statement like "Daddy hit Mommy" should be recorded.
- Document the location, demeanor and emotional state of the children.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:**

Also see I.H.3.4. and I.H.3.14. for information on documenting injuries.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

2. **Prepare to write a complete report by noting information in field notes that document conditions at the scene, taking special notice of certain items such as:**

- the victim's condition, demeanor, and emotional state;
- the assailant's condition and demeanor;
- spontaneous statements (excited utterances);
- any torn clothing;
- smeared makeup;
- any evidence of injuries (with a diagram where possible);
- the location, demeanor and emotional state of the children; and
- contacts made by the officer with other referral agencies.



## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

A photograph of children and the victim at the scene can serve as strong evidence at trial even if the victim is unavailable or unwilling to participate in prosecution.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

**b. DETAIL the physical evidence of a crime that the officer should look for, collect and document.**

Officers should proceed with the crime scene investigation just as they would for any other crime.

- Note (sketch) the condition of the crime scene (e.g., disarray or damage to the physical surroundings).
- Photograph (or videotape if available) to document the crime scene.
- Collect and tag as evidence firearms and other weapons and objects used as weapons.
- Photograph the victim's, assailant's, and/or children's injuries.
- Arrange for additional photographs to be taken two to three days later when bruises will be more developed. Bruises can appear up to 20 days after the trauma.
- Seize and/or photograph other evidence of violence, such as broken dishes and furniture, damage to walls, doors, windows, etc.
- Request 911 or dispatch audio tapes be held as evidence.
- Request hospital/medical records—officers may need to obtain a release from the victim to obtain these.
- Photograph children and the victim at the scene.



**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

- c. **EMPHASIZE the need for the officer to conduct a lethality assessment.**

Officers must conduct a lethality assessment and note findings to ensure that all relevant information will be available to those who will need to determine if it is safe to release the assailant and to set conditions of release (conditional bond).

An assessment of potential lethality must be conducted for each domestic violence response, **even when the officer has returned to the same household more than once.** Circumstances change—officers must realize that an assailant who stopped short of trying to kill a partner in the past may escalate the violence to the point of lethality over time or in certain situations.

An assessment of potential lethality must be conducted **even when the assailant has already left the scene.** The assailant knows the victim and can predict the victim's whereabouts and the whereabouts of the victim's family. Therefore, the assailant can easily stalk the victim and wait for an opportunity to strike.

### INSTRUCTOR NOTES

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

Although there is no unfailing method for determining if a particular assailant will try to kill a particular victim in a given situation, there are a number of indicators to help in the assessment. Officers may gauge the degree of lethality by being conscious of multiple indicators present in a particular situation and/or the level of intensity of the indicators. A list of indicators of a potential life-threatening attack by the assailant include:

1. **The victim has left** or the assailant has discovered the victim wants to leave or file for separation or divorce.
2. **Weapons are present.** If assailants possess weapons, especially guns, and have used or have threatened to use them against victims, other family members or themselves, this is a strong indication that they will attempt to do so.
3. The assailant has **threatened to kill.** Assailants' threats to kill their victims, other family members or themselves must be taken very seriously.
4. The assailant has easy **access to the victim** and/or the victim's family.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

5. A **history of prior calls** to police can help determine lethality. A prior history can give officers information as to the previous severity of violence shown by a particular assailant. A history of prior calls may also be an indicator of the potential severity of violence in and of itself—assailants often escalate the level of violence with repeated occurrences over time.
6. If the assailant and victim are separated, **stalking behavior** may be an indication that the assailant is willing to engage in life-threatening behavior. This is especially true if the assailant has made threats or has expressed the sentiment, "If I can't have you, no one will."
7. The assailant has **hurt or threatened the children.**
8. The assailant has **threatened to take the victim hostage.**
9. The assailant has **killed or mutilated a pet.** Pets are often killed by domestic violence assailants in order to make themselves appear capable of killing and to back up their death threats against people.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

10. The assailant has a **history of assaultive behavior** against others.
11. The assailant has a **history of weapons use**.
12. The assailant has **threatened suicide**.
13. The assailant has an **alcohol and/or drug addiction**.

Officers need to be sure that all parties are safe. In keeping with this responsibility, officers need to assess the lethality of the scene by using the information provided here and by asking questions such as:

- Has the assailant threatened to kill:
  - the victim?
  - the children?
  - family?
  - self?

If the victim says that the assailant has threatened to kill, the victim's word **must** be taken seriously.

- Does the assailant know the victim wants to leave or file for divorce?

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

- How easy is the assailant's access to the victim? the victim's family? the victim's friends?
- Are weapons present?
- Is there a history of prior calls?
- Has the assailant stalked the victim?
- Has the assailant threatened to kidnap or take the victim hostage?
- Has the assailant threatened to mutilate or kill pets?
- Does the assailant have a history of violence?
- Does the assailant have a history of weapons usage?
- Does the assailant have a drug or alcohol addiction.
- Is the assailant currently under the influence of drugs or alcohol?

### INSTRUCTOR NOTES

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.12. OVERVIEW

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### PROVIDE ASSISTANCE TO THE DOMESTIC VIOLENCE VICTIM

#### Teaching Goal:

The goal of this objective is to provide information that will enable officers to provide the appropriate assistance to the domestic violence victim when the assailant has been arrested.

#### Learning Focus:

- ① What assistance are officers required by statute to provide to the victim?
- ② What additional information should officers provide the victim when an arrest has been made?
- ③ What are some of the ways officers can encourage a victim to seek medical attention?
- ④ In what ways can officers assist the victim in leaving the domestic violence scene?

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.12. OVERVIEW

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### Objective I.H.3.12.:

At the end of this objective the student will be able to:

#### **Provide Appropriate Assistance to the Domestic Violence Victim When an Arrest Has Been Made.**

#### **Performance/Testing Criteria:**

- a. Provides victims the written notice required by MCL 764.15c which must include the following:
  - (1) name and telephone number of the responding police agency;
  - (2) name and badge number of the responding officer; and
  - (3) a prescribed statement informing the victim of the:
    - (a) right to obtain a copy of the police incident report;
    - (b) right to go to court and file a petition requesting a Personal Protection Order (PPO); and
    - (c) local domestic violence shelter program and other resources that provide victims information about services and legal rights.
- b. Assists the victim in obtaining medical assistance consistent with departmental policy by:
  - (1) encouraging the victim, if reluctant, to obtain medical assistance, noting that:
    - (a) injuries are often not readily visible, and
    - (b) injuries can be documented that are not visible to the officer; and
  - (2) consulting with community shelters, which may provide or arrange for emergency medical assistance to victims.
- c. Assists the victim and the children with transportation (e.g., to a shelter or friend's home), in a manner that is consistent with departmental policy.
- d. Provides the victim within 24 hours of the initial contact with the information required by the Crime Victim's Rights Act (MCL 780.753), including:
  - (1) availability of emergency and medical services, if applicable;
  - (2) availability of victim's compensation benefits and the address of the crime victim's compensation board;

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.12. OVERVIEW

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- (3) address and phone number of the prosecuting attorney; and
- (4) required statement regarding information on the status of the case.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

The text of statute MCL 764.15c (MSA 28.874(3)) is provided here for your convenience:

After investigating or intervening in a domestic dispute as described in section 15a or 15b of this chapter, a peace officer shall provide the victim with a copy of the notice in this section. The notice shall be written and shall include all of the following:

- (a) the name and telephone number of the responding police agency;
- (b) the name and badge number of the responding officer;
- (c) the following statement (see page 206):

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**a. DISCUSS the necessity for officers to provide victims the written notice required by MCL 764.15c which must include the following:**

1. name and telephone number of the responding police agency;
2. name and badge number of the responding officer; and
3. a prescribed statement informing the victim of the:
  - right to obtain a copy of the police incident report;
  - right to go to court and file a petition requesting a Personal Protection Order (PPO); and
  - local domestic violence service program and other resources that provide victims information about services and legal rights.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

- You may obtain a copy of the police incident report for your case by contacting this law enforcement agency at the telephone number provided.
- The domestic violence shelter program and other resources in your area are (include local information).
- Information about emergency shelter, counseling services, and the legal rights of domestic violence victims is available from these resources.
- Your legal rights include the right to go to court and file a petition requesting a personal protection order to protect you or other members of your household from domestic abuse which could include the following:
  - (a) An order restraining or enjoining an abuser from entering onto premises.
  - (b) An order restraining or enjoining the abuser from assaulting, attacking, beating, molesting, or wounding you.
  - (c) An order restraining or enjoining the abuser from threatening to kill or physically injure you or another person.
  - (d) An order restraining or enjoining the abuser from removing minor children from you, except as otherwise authorized by a custody or parenting time order issued by a court of competent jurisdiction.
  - (e) An order restraining or enjoining the abuser from engaging in stalking behavior.
  - (f) Beginning April 1, 1996, an order restraining or enjoining the abuser from purchasing or possessing a firearm.
  - (g) An order restraining or enjoining the abuser from interfering with your efforts to remove your children or personal property from premises that are solely owned or leased by the abuser.
  - (h) An order restraining or enjoining the abuser from interfering with you at your place of employment or engaging in conduct that impairs your employment relationship or environment.
  - (i) An order restraining or enjoining the abuser from engaging in any other specific act or conduct that imposes upon or interferes with your personal liberty or that causes a reasonable apprehension of violence.

# RESPONSE PROCEDURES

**CONTENT TO BE LEARNED BY STUDENT**

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**INSTRUCTOR NOTES**

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## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:**

Advise students to ask about these information sheets at their departments. Most departments or counties provide officers with preprinted information.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**b. DISCUSS** the requirement to provide or arrange for emergency medical assistance to the victim (MCL 776.22(3)(f)). Stress that it is important for the officer to recommend medical treatment even if the victim does not feel that emergency medical assistance is necessary.

1. The officer should assist the victim in obtaining medical assistance in accordance with departmental policy.

- Advise the victim that a medical facility is better able to document injuries that are not visible to the officer.
- Advise the victim that medical records can become an important source document.
- Remind the victim that injuries are often not readily apparent right after physical trauma.

2. The officer should be aware that shelters may provide or arrange for emergency medical assistance to the victims. Advise the victim of this resource when it is appropriate and available.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

**Note:** Emphasize to the students that, if the assailant was not at the scene and could not be arrested, officers should remain at the scene while the victim collects essential property such as clothes and medicine in preparation for leaving. However, even when the assailant has been arrested, it may be in the victim's best interest to leave, and officers may be able to assist.

**Note:** Suggest to students that they pick up the phone, dial the local domestic violence service program and hand the phone to the victim. Many departments have adopted this procedure, and officers routinely call the local domestic violence service program, give their names and then hand the telephone to the victim.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← c. **DISCUSS** the officers' role in helping the victim leave.

- Tell the victim that the assailant will be held until arraignment, or, if the assailant cannot be arraigned within 24 hours, the assailant will be held for 20 hours.
- Offer to assist the victim and the children with transportation to a safe place (perhaps a shelter or friend's home) in a manner that is consistent with departmental policy.
- ← • Put the victim in contact with the local domestic violence service program where a safety plan can be discussed.
- Encourage the victim to call the police again if the need arises.

If the victim decides to stay, the officer should not become judgmental or discount the violence. There are many reasons the victim may choose to stay (see I.H.1.6.), and only the victim can make this decision.

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** This act is also covered in I.H.2.13.c.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



**d. DISCUSS the necessity of the officer providing the victim within 24 hours of the initial contact with the information required by the Crime Victim's Rights Act (MCL 780.753), including:**

1. availability of emergency and medical services, if applicable;
2. availability of victim's compensation benefits and the address of the crime victim's compensation board;
3. address and phone number of the prosecuting attorney; and
4. required statement regarding information on the status of the case.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.13. OVERVIEW

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### SECURE THE SCENE WHEN AN ARREST CANNOT BE MADE

#### Teaching Goal:

The goal of this objective is to provide strategies that will enable officers to effectively secure a domestic violence scene when an arrest cannot be made.

#### Learning Focus:

- ① What actions must officers take to ensure that a domestic violence scene is secure before leaving when an arrest cannot be made?
- ② What information should officers provide the victim even when an arrest cannot be made?
- ③ How do officers document cases when no arrest could be made?
- ④ What assistance should officers provide the victim who decides to leave the domestic violence scene?
- ⑤ What additional assistance should officers provide when the assailant has no interests in the property at the scene?

#### Resources Cited:

"Assessing Whether Batterers Will Kill." From *General Information About Domestic Violence*. Compiled by The Domestic Violence Project, Inc./SAFEHOUSE, Ann Arbor, 1992.

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.13. OVERVIEW

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### Objective I.H.3.13.:

At the end of this objective the student will be able to:

#### Secure a Domestic Violence Scene When an Arrest Cannot Be Made.

#### Performance/Testing Criteria:

- a. Creates a calm atmosphere at the scene before leaving.
- b. Assesses the lethality of the scene (See Objectives I.H.1.8. and I.H.3.11.).
- c. Ensures the safety of all parties.
- d. Provides victims the written notice required by MCL 764.15c which must include the following:
  - (1) name and telephone number of the responding police agency;
  - (2) name and badge number of the responding officer; and
  - (3) a prescribed statement informing the victim of the:
    - (a) right to obtain a copy of the police incident report;
    - (b) right to go to court and file a petition requesting a Personal Protection Order (PPO); and
    - (c) local domestic violence shelter program and other resources that provide victims information about services and legal rights.
- e. Documents in the report the reasons why an arrest was not made.
- f. Provides protection to the victim while essential property is collected (e.g., clothes, medicine, etc.) in preparation for leaving.
- g. Assists the victim and children with transportation (e.g., to a shelter or friend's home, etc.) when it is consistent with departmental policy.
- h. Advises the victim of the process for seeking a warrant if a misdemeanor assault took place prior to the arrival of officers, but the relationship between the assailant and the victim is not:
  - (1) spouse or former spouse;
  - (2) resides or resided together in the same household; or

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.13. OVERVIEW

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(3) has had a child in common.

- i. Remains at the scene while the suspect leaves when the suspect has no property interest (e.g., dating relationship, suspect over stays parenting time, etc.).

## RESPONSE PROCEDURES

### STRATEGY FOR TEACHING THIS OBJECTIVE

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**Note:** Stress to the class that their responsibility to the victim is often the same *even when no arrest can be made*. In fact, officers must often help the victim to exercise additional caution because the violence of the situation may escalate once the police have left the scene.

**Note:** This objective assumes no arrest can be made either because the assailant was not present or no probable cause of a crime, violation of a PPO, or violation of a condition of release could be established.

**Note:** Suggest to students that they pick up the phone, dial the local domestic violence service program and hand the phone to the victim. Many departments have adopted this procedure, and officers routinely call the local service program, give their names and then hand the telephone to the victim.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- ← a. **DISCUSS** what actions officers should take to attempt to secure the scene when no arrest can be made.
- Attempt to ensure that the potential for violence has been de-escalated.
  - Suggest that one party leave for a period of time (if both are present).
  - ← • Put the victim in contact with the local domestic violence service program.
  - Remain at the scene until the situation is under control.

## RESPONSE PROCEDURES

### STRATEGY FOR TEACHING THIS OBJECTIVE

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**Note:**

Stress that extraordinary measures should be taken to protect the victim and children if officers determine that an assailant is likely to kill or commit life-endangering violence. Such measures might include providing transportation and conducting meticulous follow-up. Officers should warn the victim of indicators that may mean the assailant is contemplating homicide. The victim should be advised to immediately take self-protective action and to contact the local domestic violence service program to obtain assistance in further assessing lethality and developing a safety plan. ("Assessing Whether Batterers Will Kill")

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

- b. **STRESS** the criticality of assessing for indicators of lethality at the scene.

Officers need to be sure that all parties are safe. In keeping with this responsibility, officers need to assess the lethality at the scene by using the information provided in Objective I.H.3.11.



### INSTRUCTOR NOTES

## RESPONSE PROCEDURES

### STRATEGY FOR TEACHING THIS OBJECTIVE

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**Note:**

This statute requires officers to distribute the domestic violence victim's rights information whenever responding to a domestic violence call.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

c. **EMPHASIZE** that officers must attempt to ensure the safety of all parties.

← d. **REPEAT** the officers' responsibility to provide victims the written notice required by MCL 764.15c, which must include the following (see I.H.3.12.):

- name and telephone number of the responding police agency;
- name and badge number of the responding officer; and
- a prescribed statement informing the victim of the:
  - right to obtain a copy of the police incident report;
  - right to go to court and file a petition requesting a Personal Protection Order (PPO); and
  - local domestic violence service program and other resources that provide victims information about services and legal rights.

## RESPONSE PROCEDURES

### STRATEGY FOR TEACHING THIS OBJECTIVE

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**Note:** Detailed information about documenting the domestic violence scene is provided in the next objective (I.H.3.14.).

**Note:** Stress to the students that since domestic violence is not a single, isolated incident, but a pattern of behavior, documentation of all responses can be helpful to those responding and investigating in the future.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

← e. **STRESS** the importance of documenting *all* domestic violence responses even when an arrest cannot be made. Also stress that the officer should document the reasons why an arrest was not made.

Importance of documenting all responses:

- provides information to the next officer who responds;
- increases safety for officers by providing information;
- provides necessary documentation to other components of the criminal justice system; and
- ← • may later result in additional information that will help in establishing probable cause that a crime was committed.

**RESPONSE PROCEDURES**

**STRATEGY FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

f. **EMPHASIZE** that the officer should provide protection while the victim prepares to leave.

If the victim desires to leave:

- Remain at the scene to provide protection while the victim collects essential property in preparation for leaving.
- Put the victim in contact with the local domestic violence service program.
- Encourage the victim to call the police again if needed—especially if the assailant follows (possibility of stalking) or tries to contact the victim.

### INSTRUCTOR NOTES

**RESPONSE PROCEDURES**

**STRATEGY FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

**g. EMPHASIZE that officers should assist the victim and children with transportation so they can leave the situation.**

- Assist the victim and children with transportation to a safe place such as a shelter or friend's home, when it is consistent with departmental policy.
- Document who was transported.
- Document the transportation destination, but this information **must remain confidential**. The location of the victim must not be given out by the desk officer or dispatcher.

### INSTRUCTOR NOTES

**RESPONSE PROCEDURES**

**STRATEGY FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

h. **DISCUSS** the process for seeking a warrant for a *misdemeanor assault* that occurred outside the officer's presence when the officer does not have statutory authority to arrest on probable cause (where the relationship between the assailant and the victim is not spouse or former spouse, reside or resided together in the same household, or has had a child in common).

- Inform the victim that a report will be written documenting the investigation.
- Inform the victim of who to contact and when.
- Seek a warrant and sign on information and belief as authorized.

**RESPONSE PROCEDURES**

**STRATEGY FOR TEACHING THIS OBJECTIVE**

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## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

- i. **EMPHASIZE that officers should remain at the scene to provide protection while a suspect who has no property interest leaves.**

When the suspected assailant does not have a property interest at stake, and probable cause for arrest could not be established, the victim can make the suspect leave.

This might be the case, for example, in a dating relationship, a divorce, or when the victim has moved to a separate residence not jointly held with the suspect.

Officers should remain at the scene while the suspect leaves.

### INSTRUCTOR NOTES

**RESPONSE PROCEDURES**

**STRATEGY FOR TEACHING THIS OBJECTIVE**

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.14. OVERVIEW

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### DOCUMENT THE DOMESTIC VIOLENCE INVESTIGATION

#### Teaching Goal:

The goal of this objective is to enable the student to complete an accurate, useful report of the domestic violence incident.

#### Learning Focus:

- ① What information needs to be included in a narrative report documenting the domestic violence response?
- ② Under what conditions would officers write a supplement to the original narrative report?
- ③ When child abuse is in evidence, what additional reporting is required?

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.14. OVERVIEW

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### Chapter Objective I.H.3.14.:

At the end of this objective the student will be able to:

#### Write a Domestic Violence Report Documenting the Domestic Violence Investigation.

#### Performance/Testing Criteria:

- a. Writes a report consistent with Michigan law documenting the domestic violence response (MCL 764.15c).
- b. Reviews field notes taken at the domestic violence scene.
- c. Documents in the domestic violence written report all facts of the investigation, including:
  - (1) address, date, and time of the incident;
  - (2) name, address, home and work telephone numbers, race, sex, and date of birth of:
    - (a) victim;
    - (b) assailant; and
    - (c) witnesses, including children;
  - (3) information describing the assailant and whether there is a Personal Protection Order (PPO) issued against the assailant;
  - (4) relationship of any witness to victim or assailant;
  - (5) name of the person who called the law enforcement agency;
  - (6) relationship of the victim and assailant;
  - (7) whether drug or alcohol use was involved and by whom;
  - (8) narrative about the incident and the scene, describing:
    - (a) the incident and what led up to it;
    - (b) whether and how many times the assailant physically assaulted the victim;
    - (c) any weapon or object used;
    - (d) injuries sustained by the victim and how injuries were sustained;
    - (e) property damage;
    - (f) if the victim sought medical attention, information about transportation of the victim, admittance to the hospital or clinic for treatment, and name and telephone number of the attending physician;

# RESPONSE PROCEDURES

## OBJECTIVE I.H.3.14. OVERVIEW

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- (g) facts to support all elements of any offenses committed;
  - (h) all spontaneous statements (excited utterances) made at the scene;
  - (i) a description of the demeanor and emotional state of the person making spontaneous statements;
  - (j) documentation of evidence that was collected at the scene;
  - (k) the rationale for the arrest or no arrest decision;
  - (l) documentation that the victim was provided the written notice required;
  - (m) documentation of referrals made; and
  - (n) a second address and phone number for the victim which *must* remain confidential;
  - (9) description of previous domestic violence incidents between assailant and victim; and
  - (10) date and time of the report, and name, badge number, and signature of the officer completing the report.
- d. Documents any lethality factors identified that should be considered for purposes of conditional release (conditional bond).
- e. Writes a supplement to the report, if new information becomes available.
- f. Notifies Family Independence Agency's (FIA) Children's Protective Services when there is evidence of child abuse and completes an FIA form 3200 and attaches the domestic violence police report to it.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

- a. **EMPHASIZE** that a written report documenting the response is required by Michigan law (MCL 746.15c) where factors of domestic violence are indicated or found.

### INSTRUCTOR NOTES

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

- b. EMPHASIZE to students that field notes taken at the domestic violence scene should be used in preparation for writing the report.**

Officers should prepare to write the domestic violence report by reviewing:

- field notes,
- witness statements, and

### INSTRUCTOR NOTES

## RESPONSE PROCEDURES

### STRATEGIES FOR TEACHING THIS OBJECTIVE

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**Note:** Please note that this objective is not intended to teach report writing. It is intended to stress the proper documentation of the information and evidence important to domestic violence cases and required by MCL 746.15c.

**Note:** Report writing is covered in the mandated basic training curriculum in patrol procedures, Module II.D.1.

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES



- sketches and diagrams.

**c. DISCUSS how the facts that were established by the investigation should be documented in the written report:**

- address, date, and time of the incident;
- name, address, home and work telephone numbers, race, sex, and date of birth of:
  - victim;
  - assailant; and
  - witnesses, including children;
- information describing the assailant and whether there is a PPO issued against the assailant;
- relationship of any witness to the victim or assailant;
- name of person who called the law enforcement agency;
- relationship of the victim and assailant;
- whether drug or alcohol use was involved and by whom;
- narrative about the incident and the scene, describing:
  - the incident and what led up to it;
  - whether and how many times the assailant physically assaulted the victim;
  - any weapon or object used;
  - injuries sustained by the victim and how the injuries were sustained;
  - property damage;
  - if the victim sought medical attention, information about transportation of the victim, admittance to a hospital or clinic for treatment, and the name and telephone number of the attending physician;

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

- facts to support all the elements of any offenses committed;
- statements or threats made that officers heard on approach or at the door prior to contact at the scene;
- all spontaneous statements made at the scene;
- a description of the demeanor and emotional state of the person making spontaneous statements;
- how long after the event that the statement was made;
- documentation of evidence that was collected at the scene;
- the rationale for the arrest or no arrest decision;
- documentation that the victim was provided the written notice required;
- documentation of referrals made;
- a second address and phone number for the victim which *must* remain confidential;
- a description of previous domestic violence incidents between the assailant and victim; and
- date and time of the report, and the name, badge number and signature of the officer completing the report.

### INSTRUCTOR NOTES

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

## RESPONSE PROCEDURES

### CONTENT TO BE LEARNED BY STUDENT

### INSTRUCTOR NOTES

- d. DISCUSS proper documentation of any lethality factors identified during the investigation for purposes of conditional release.**

An officer's report is the only means of communicating the dangerousness of an assailant to those who will decide if it is safe to release the assailant and with what conditions.

- e. DISCUSS the need for officers to write a supplemental report if new information becomes available.**

- f. DISCUSS the requirement to notify the Family Independence Agency (FIA) Children's Protective Services when there is evidence of child abuse.**

If evidence of child abuse exists, the officer must:

- report it to the Family Independence Agency immediately by phone; and
- follow up the verbal report with a FIA form 3200 to which a copy of the domestic violence police report has been attached.

**RESPONSE PROCEDURES**

**STRATEGIES FOR TEACHING THIS OBJECTIVE**

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# ● Instructions for PERSONAL PROTECTION ORDERS

## Instructions for the legal process when using Forms:

1. CC 375 - Petition for Personal Protection Order (Domestic Relationship)  
and  
CC 376 - Personal Protection Order (Domestic Relationship)
2. CC 377 - Petition for Personal Protection Order Against Stalking (Non Domestic)  
and  
CC 380 - Personal Protection Order Against Stalking (Non Domestic)
3. CC 381 - Notice of Hearing on Petition for Personal Protection Order

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# IMPORTANT NOTICE

By using this forms packet you are representing yourself in a court action to get a personal protection order. In order to receive the protection or action you seek, you must follow the instructions in this booklet and on the forms. If you fail to do even one of the required steps, the order you get from the court could be ineffective and you could remain unprotected.

**The three most important things you will have to do are:**

- 1) get the order signed by the judge.
- 2) provide legal notice of the court's order on the person to be restrained.
- 3) follow up with the law enforcement agency to make sure they entered the order on LEIN.

This booklet will help you with these duties.

**Here are some things you may need before you fill out the forms.**

- Forms and instructions.
- Money to pay the costs of serving papers on the restrained person. Service may cost between \$10.00 and \$100.00.
- Information about the person to be restrained such as name, date of birth, age, address, place of employment, physical description, etc.
- Copies of divorce, annulment, separate maintenance, paternity, support, custody or any other judgments or orders involving you and the person you want restrained.
- Notarized, written statements from witnesses if there are any.
- **Copies of supporting documents or materials (reports from police, social agencies, doctors, or hospitals) if there are any. This information is important for the judge in making a decision, but is not necessary for the judge to enter an order.**

**Now complete the forms that fit your situation.** If you don't understand something on the forms, ask the circuit court clerk to explain the terms or process to you.

**After you have filled out the forms, go to the Table of Contents on the front of this booklet and find out which pages you need to read for directions on how to get your personal protection order. Read these instructions carefully. You are acting as your own attorney and these instructions will help you with the legal process. The laws of Michigan do not allow the employees of the court or the judge to give you legal advice.**

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

**Follow these steps if you have requested an ex parte order (order without a hearing) on Form CC 375 or Form CC 377.**

1. **Fill out the forms that apply to your situation using the instructions on the forms.**
2. **File the Petition and Order form with the county clerk.**

Take the forms to the circuit court clerk in the county where you live. Bring 3 sets of statements from witnesses and supporting documents if you have any.

The circuit court clerk will finish filling out the form, will attach your written statements and supporting documents to the proper copies, and will return copies of both forms to you. **Do not lose these copies.**

What you should have when you leave the clerk's office:

Green, Blue, Pink, and Yellow copies of CC 375 or CC 377  
All 6 copies of CC 376 or CC 380

3. **Get the order signed.**

Ask the circuit court clerk for instructions to the judge's office. Go to the judge's office as soon as possible. Leave the green copy of the petition form (with attachments) and all copies of the order form with the judge's staff. Ask when to come back for the signed order.

What you should have when you leave the judge's office:

Blue, Pink, and Yellow copies of CC 375 or CC 377 and 1 set of attachments for yourself.

**Do not lose these copies and the attached materials; you will need them later.**

4. **Pick up the signed order from the judge.**

If the judge's office does not send the order to the circuit court clerk, go back to the judge's office on the day and time you were told to pick up the signed order.

What you should have when you leave the judge's office:

White, Green, Blue, Pink, Yellow, and Goldenrod copies of CC 376 or CC 380

If the judge will not sign the order without a hearing, he or she must state the reasons in writing at that time. Ask for a copy of these written reasons. If you are told you can request a hearing and want to schedule one, return to the circuit court clerk to do so (see page 5).

5. **Return to the circuit court clerk.**

Unless the order form was already sent to the clerk by the judge's office, return to the clerk's office with:

White, Green, Blue, Pink, Yellow, and Goldenrod copies of CC 376 or CC 380  
Blue and Yellow copies of CC 375 or CC 377

The circuit court clerk will stamp the order, keep the original and green copy and return 4 copies to you. The clerk will send a true copy of the order to the law enforcement agency. **If you want to take the order to the law enforcement agency also, the clerk will make a true copy for you.**

**6. Serve the petition and signed order on the respondent.**

What you need for service:

Blue copies of CC 375 **and** CC 376 or CC 377 **and** CC 380 - for respondent  
Yellow copies of CC 375 **and** CC 376 or CC 377 **and** CC 380 - for proof of service  
Goldenrod copy of CC 376 or CC 380 - for proof of service

The respondent must be served (notified) as soon as possible: 1) by registered mail return receipt requested, with restricted delivery to the respondent; or 2) in person. You may serve the respondent by first class mail only if you get permission from the judge. See page 7 for details on service.

After the respondent has been served, fill out the Proofs of Service on the back of the yellow copies of both the petition and order forms and on the back of the goldenrod copy of the order form and attach the receipt of service to the yellow copies, if one. **All copies must be notarized.**

Return to the county clerk with the yellow copies of CC 375 **and** CC 376 or CC 377 **and** CC 380 and the goldenrod copy of CC 376 or CC 380.

**7. Call the police or sheriff to be sure they received the order and entered it onto LEIN.**

The circuit court clerk will send the green copy of your order to the law enforcement agency stated in the order even if you take a copy to them yourself. A few days after the order was signed, call the police or sheriff department named in the order to be sure they have a record of the order and that it has been entered onto LEIN. If they don't have the order, call the circuit court clerk and ask where it is. **The order is enforceable as soon as it is signed by the judge.**

**What to do if you change your mind about the personal protection order.**

- If the personal protection order has not been signed by the judge yet and you don't want to get a personal protection order, fill out form CC 378, Motion and Order to Dismiss Action for Personal Protection Order. Ask the circuit court clerk for a copy of the form.
- If the personal protection order has already been signed by the judge and you want to cancel the order or get it changed, fill out form CC 379, Motion to Modify, Extend or Terminate Personal Protection Order. Ask the circuit court clerk for a copy of the form.

**Follow these steps if you have NOT requested an ex parte order on Form CC 375 or CC 377. If you already filled out the petition and the judge refused to issue an ex parte order, go to step 3.**

1. **Fill out the forms that apply to your situation using the instructions on the forms.**
2. **File the Petition forms with the circuit court clerk.**

Take the forms to the circuit court clerk in the county where you live. Bring 3 sets of statements from witnesses and supporting documents if you have any. The circuit court clerk will finish filling out the form, will attach your written statements and supporting documents to the proper copies, and will return copies of the form to you. **Do not lose these copies.**

3. **Ask for a hearing.**

Ask the clerk to schedule a hearing. The clerk will give you a Notice of Hearing (Form CC 381) to fill out. The clerk will tell you if there are any other things you must do to schedule the hearing. The clerk will give you copies of this form and a blank Form CC 376 or CC 380.

What you should have when you leave the clerk's office:

Blue, Pink, and Yellow copies of both CC 375 or CC 377, 1 set of attachments for yourself, and CC 381  
Blank Form CC 376 or CC 380 for filling out at or before your hearing

4. **Serve the petition and the notice of hearing on the respondent.**

What you need for service:

Blue copies of CC 375 or CC 377 and CC 381 - for respondent  
Yellow copies of CC 375 or CC 377 and CC 381 - for proof of service

The respondent must be served (notified) at least 1 day before the hearing date: 1) by registered mail return receipt requested, with restricted delivery to the respondent; or 2) in person. You may serve the respondent by first class mail only if you get permission from the judge. See page 7 for details on service.

After the respondent has been served, fill out the Proofs of Service on the back of the yellow copies of both the petition and notice of hearing forms and attach the receipt of service, if one. **Both copies must be notarized.**

5. **Return to the circuit court clerk.**

Return to the clerk's office with the yellow copies of CC 375 or CC 377 and CC 381.

6. **Fill out Form CC 376 or CC 380 and attend a hearing.**

Fill out the order form before the date of the hearing. Instructions are included with the form.

**You must attend the hearing.** Bring all 6 copies of the order form with you to the hearing. If the respondent attends the hearing, ask the court to make arrangements to serve him or her right after the hearing. See page 8 for details on the hearing.

After the hearing, return to the circuit court clerk with:

White, Green, Blue, Pink, Yellow, and Goldenrod copies of CC 376 or CC 380

The circuit court clerk will stamp the order, keep the original and green copy and return 4 copies to you. The clerk will serve the order on the law enforcement agency. **If you want to take the order to the law enforcement agency also, the clerk will make a true copy for you.**

**7. Serve the signed order on the respondent.**

What you need for service:

Blue copy of CC 376 or CC 380 - for respondent  
Yellow copy of CC 376 or CC 380 - for proof of service  
Goldenrod copy of CC 376 or CC 380 - for proof of service

The respondent must be served (notified) with the blue copy of the signed order as soon as possible. If the respondent is not served after the hearing or did not attend the hearing, serve the order by registered mail return receipt requested or in person. You need permission from the judge to serve the order by first class mail. See page 7 for details on service.

After the respondent has been served with the order, fill out the Proofs of Service on the back of both the yellow copy and the goldenrod copy of the order form and attach the receipt of service to the yellow copy, if one. **Both copies must be notarized.**

Return to the circuit court clerk with:

Yellow copy of 376 or CC 380 and the Goldenrod copy of CC 376 or CC 380

**8. Call the police or sheriff to be sure they received the order and entered it onto LEIN.**

The circuit court clerk will send the green copy of your order to the law enforcement agency stated in the order even if you take a copy to them yourself. A few days after the order was signed, call the police or sheriff department named in the order to be sure they have a record of the order and that it has been entered onto LEIN. If they don't have the order, call the circuit court clerk and ask where it is. **The order is enforceable as soon as it is signed by the judge.**

**What to do if you change your mind about the personal protection order.**

- If the personal protection order has not been signed by the judge yet and you don't want to get a personal protection order, fill out form CC 378, Motion and Order to Dismiss Action for Personal Protection Order. Ask the circuit court clerk for a copy of the form.
- If the personal protection order has already been signed by the judge and you want to cancel the order or get it changed, fill out form CC 379, Motion to Modify, Extend or Terminate Personal Protection Order. Ask the circuit court clerk for a copy of the form.

## How to Serve Copies of Forms

- **To serve the respondent in person**, you can either pay a process server or sheriff or have a willing friend or relative do it for you. **You cannot serve the respondent yourself.** If you can't pay the service fee for a process server, have a friend or relative do it. If you choose a friend or relative to serve the papers, they must be over 18 years old. Pick a friend who will not be a witness in the case. **If a friend or relative serves the papers, proof of service must be notarized.** Personal service takes from several days to several weeks.

Give the process server or your friend:

Blue copies - for respondent  
Goldenrod copy - for law enforcement  
Yellow copies - for proof of service

Once the blue copies of the forms are delivered to the respondent, the person who did the serving must fill out the Proofs of Service and return them to the county clerk as explained on pages 4 through 6. **If a friend or relative served the forms, get the forms notarized.** If these copies come back to you instead, take them to the circuit court clerk as soon as possible.

- **To serve the respondent by registered mail with delivery restricted to the respondent**, go to the post office and pay to have the blue copies of the forms mailed to the respondent. Service by mail is cheaper than hiring a process server. It takes from several days to a week.

Once the forms have been delivered, you will receive a green card (the return receipt) in the mail. Make sure the respondent signed the green card. Make a copy of the return receipt. Attach the original return receipt to the yellow copies of the petition and order form. Attach the copied return receipt to the goldenrod copy of the order. Fill out proofs of service as explained on pages 4 through 6.

- **If you are unable to serve the respondent as indicated above, you may ask the court for permission to serve by first class mail or another method.** Ask the circuit court clerk for form MC 303, Motion and Verification for Alternate Service. Fill out the form and file it with the circuit court clerk. If the judge permits alternate service, Form MC 304 (Order for Alternate Service) will be prepared by the court and you can then serve the petition and/or other forms in the manner the court approves.

If service by first class mail was approved by the court, place the blue copy of the form in an envelope. Then go to the post office to get it mailed. Ask for a postal receipt. Service by first class mail is cheaper than registered mail or personal service and takes from several days to a week. Fill out proofs of service as explained on pages 4 through 6.

## Information About the Hearing

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

1. If the circuit court clerk tells you a hearing is required, go to the judge's court room on the scheduled day and time. Dress neatly. Get there 10 or 15 minutes early. Be prepared to spend most of the morning or afternoon in court.
2. Bring all copies of your papers with you including the personal protection order form. Bring paper and a pencil so you can make notes. Bring witnesses willing to testify if you have any.
3. Go into the courtroom and tell the clerk (sitting near the judge's bench) your name, that you are there for a hearing, and you are representing yourself. Hand the personal protection order form to the clerk and then take a seat in the back of the courtroom and wait for your case to be called.
4. When your case is called, go to the podium and clearly tell the judge:
  - 1) your name
  - 2) that you are representing yourself
  - 3) that you need a personal protection order or that you are asking that a personal protection order be modified or terminated and the reasons why
  - 4) whether you have witnesses in court who are willing to testify

Answer the judge's questions clearly and directly. If the judge wants to hear from other witnesses, ask them to tell the court what they saw or know regarding your situation.

5. If the other party is in court, he or she will have a chance to speak also. When the other party talks, take notes. Do not try to interrupt the other party. After the other party speaks, you will have another chance to talk. Taking notes will help you with this.
6. If the judge says that the order is granted, he or she will complete the order and sign it and return it to you. After the order is signed, go to the clerk and ask for true copies of the order. Then serve the order.
7. If the judge does not grant the order, he or she will state the reasons on the record and complete an Order Denying or Dismissing Petition for Personal Protection Order (form CC 383). You will be given a copy of the signed order.





**Form CC 375**

**PETITION FOR  
PERSONAL PROTECTION ORDER  
(DOMESTIC RELATIONSHIP)**

**Use this form:**

1) if you are married to the person you want restrained;

**or**

2) if you are not married to the person you want restrained but you live with or have lived with him or her;

**or**

3) if you and the person you want restrained have a child in common even if you were never married to one another or never lived together;

**or**

4) if you and the person you want restrained have or had a dating relationship.

## INSTRUCTIONS FOR COMPLETING "PETITION FOR PERSONAL PROTECTION ORDER"

Please print neatly. Press firmly since you are printing on 5 copies.

By filling in this form, you are asking for a personal protection order which tells the respondent not to do certain things you don't want him or her to do. If you are in immediate danger, you should ask the judge for an "ex parte" order which can be issued without waiting for a hearing.

Items A through I must be completed before your petition can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- A** Write your name, address, and telephone number in the "Petitioner" box. If you are under 18 years of age, check the box. Write the name, address, and telephone number of the person you want restrained in the "Respondent" box; if he or she is under 18 years of age, check the box. If you want your address and telephone number to be kept from the other party, do not write your address here. Put in the address of a relative or friend or a post office box where the court can contact you.
- B** Check the boxes that best describe your relationship with the respondent.
- C** Check the box if the respondent is required to carry a firearm while at work. If you aren't sure, check the box "unknown".
- D** Check whether there is a pending case between you and the respondent. Examples of a case are: divorce, separate maintenance, support, paternity, child support, other personal protection actions, etc. If there is a pending case, fill in the case number, the name of the court and county where the action was filed, and the name of the judge.
- Check whether there are any court orders or judgments between you and the respondent. Examples of orders are divorce judgments, parenting time (visitation) orders, custody orders, other personal protection orders. If there are other court orders or judgments, fill in the case number, the name of the court and county where the order or judgment was entered, and the name of the judge that signed the order.
- E** Explain in as much detail as possible why you are asking for a personal protection order. Describe what has happened or what has been threatened so the judge has enough facts to decide if a personal protection order should be signed. Include dates and places. Write on a separate sheet of paper and attach it to this form.
- F** Check only those boxes you need since you must be able to convince the judge you need all the protection you are requesting. On the lines after each item you check, fill in the requested information such as names, addresses, or specific types of activity you do not want allowed. Check item (b.) only if you want to keep the other party from entering onto property other than your home (for example, school, work, etc.). Check item e. only if there have been 2 or more acts of harassment. If you want the court to order that any records that exist which contain information about yourself or your minor children be kept confidential, state that in box j. Examples of such records are school reports which the respondent would normally have access to.
- G** An "ex parte order" means you do not have to let the respondent know in advance that you are asking the court for an order and you do not have to wait for a court hearing to get the order. Check the box for an "ex parte order" if you believe the other party might hurt you or threaten you if he or she found out you were getting a personal protection order.
- If you do not need to check the "ex parte" box, you must have a court hearing. Fill out form CC 381.
- H** If you are under 18 years old, you may need an adult (called a "next friend") to petition for you. Check this box if you have a next friend helping you file this form.
- I** Write in today's date and sign the form. Hand the form to the county clerk. The clerk will fill in the rest of the information and will give you your copies.

You must read the booklet "Instructions for Personal Protection Orders" for directions on the legal process.

Approved, SCAO

STATE OF MICHIGAN  
JUDICIAL CIRCUIT  
COUNTY

PETITION FOR  
PERSONAL PROTECTION ORDER  
(DOMESTIC RELATIONSHIP)

CASE NO.

Court address

Court telephone no.

<b>(A)</b> Petitioner's name <input type="checkbox"/> under 18 years old Address and telephone no. where court can reach petitioner	v	Respondent's name, address, and telephone no. <input type="checkbox"/> under 18 years old

**(B)** 1. The petitioner and respondent:  are husband and wife.  were husband and wife.  have a child in common.  
 have or had a dating relationship.  reside or resided in the same household.

**(C)** 2.  The respondent is required to carry a firearm in the course of his/her employment.  Unknown.

**(D)** 3. a. There  are  are not other pending actions in this or any other court regarding the parties.

Case number	Name of court and county	Name of judge

b. There  are  are not orders/judgments entered by this or any other court, regarding the parties.

Case number	Name of court and county	Name of judge

**(E)** 4. I need a personal protection order because: Explain what has happened (attach additional sheets)

- (F)** 5. I ask the court to grant a personal protection order prohibiting the respondent from:
- a. entering onto the property where I live. I state that either I have a property interest in the premises, I am married to the respondent, or the respondent has no property interest in the premises.
  - b. entering onto the property at \_\_\_\_\_ address
  - c. assaulting, attacking, beating, molesting, or wounding \_\_\_\_\_ name(s)
  - d. removing the minor children from the petitioner who has court ordered custody, except as allowed by a custody or parenting time order as long as removal of the children does not violate other conditions of the personal protection order.
  - e. stalking as defined under MCL 750.411h and MCL 750.411i which includes but is not limited to:
    - following me or appearing within my sight.
    - appearing at my workplace or residence.
    - approaching or confronting me in a public place or on private property.
    - entering onto or remaining on property owned, leased, or occupied by me.
    - contacting me by telephone.
    - sending mail or other communications to me.
    - placing an object on or delivering an object to property owned, leased, or occupied by me.
  - f. interfering with efforts to remove my children/ personal property from premises solely owned/leased by the respondent.
  - g. threatening to kill or physically injure \_\_\_\_\_ name(s)
  - h. interfering with me at my place of employment or engaging in conduct that impairs my employment relationship.
  - i. purchasing or possessing a firearm.
  - j. other: \_\_\_\_\_

**(G)** 6. I make this petition under authority of MCL 600.2950/MCL 600.2950a and ask the court to grant a personal protection order.  
 I request an ex parte order because immediate and irreparable injury, loss, or damage will occur between now and a hearing or because notice itself will cause irreparable injury, loss, or damage before the order can be entered.

**(H)**  7. I have a next friend petitioning for me. I certify that the next friend is not disqualified by statute and is an adult.

I declare that the statements above are true to the best of my information, knowledge, and belief.

**(I)** \_\_\_\_\_  
Date

\_\_\_\_\_  
Petitioner's signature  
MCL 600.2950; MSA 27A.2950, MCL 600.2950a; MSA 27A.2950a, MCR 3.703

**PROOF OF SERVICE**

**Petition for  
Personal Protection Order**  
Case No. \_\_\_\_\_

**TO PROCESS SERVER:** You must serve the copies of the petition for personal protection order and file proof of service with the court clerk. If you are unable to complete service, you must return this original and all copies to the court clerk.

**CERTIFICATE / AFFIDAVIT OF SERVICE / NON-SERVICE**

<input type="checkbox"/> <b>OFFICER CERTIFICATE</b> I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notary not required)	OR	<input type="checkbox"/> <b>AFFIDAVIT OF PROCESS SERVER</b> Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notary required)
--	----	---

I served a copy of the petition for personal protection order by:

personal service     registered mail, delivery restricted to the respondent (return receipt attached)

on:

Respondent's name	Complete address of service	Day, date, time

After diligent search and inquiry, I have been unable to find and serve the respondent. I have made the following efforts in attempting to serve process: \_\_\_\_\_

\_\_\_\_\_

I have personally attempted to serve a copy of the petition for personal protection order on

\_\_\_\_\_

Name

at \_\_\_\_\_

Address

and have been unable to complete service because the address was incorrect at the time of filing.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.

Date

My commission expires: \_\_\_\_\_ Date      Signature: \_\_\_\_\_

Deputy court clerk/Notary public

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received a copy of the petition for personal protection order on \_\_\_\_\_

Day, date, time

\_\_\_\_\_  
Signature of respondent





**Form CC 376**

**PERSONAL PROTECTION ORDER  
(DOMESTIC RELATIONSHIP)**

**Use this form if you filled out Form CC 375, Petition for Personal Protection Order**

## INSTRUCTIONS FOR COMPLETING "PERSONAL PROTECTION ORDER"

**Please print neatly. Press firmly since you are printing on 6 copies.**

Items A through D must be completed before you give this form to the court clerk. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- (A)** If you checked box **(G)** on Form CC 375, check the box for "Ex Parte".
- (B)** Fill in the "Case No." from Form CC 375.
- (C)** Fill in the "petitioner" and "respondent" the same way you did on Form CC 375. **If you want your address and telephone number to be kept from the respondent, do not write your address here. Put in the address of a relative or friend or a post office box where the court can contact you.**
- (D)** Write in the respondent's name and as much of the other information as you know. This information will help the police to identify the respondent if he or she disobeys the restraining order. Be sure to identify the respondent accurately.

The court will complete the rest of this form.

**You must read the booklet "Instructions for Personal Protection Orders" for directions on the legal procedure.**

- If you asked for an ex parte order (order without a hearing), read pages 3 and 4 of the booklet.
- If you did not ask for an ex parte order or the judge refuses to sign an ex parte order, read pages 5 and 6 of the booklet.

### **Important:**

If the respondent violates this personal protection order and is arrested, the court will set a date, time, and place for a hearing on the charges against the respondent to be held within 72 hours after arrest. The court or prosecutor is responsible for giving you notice of this hearing. If you are not notified within 24 hours of the arrest, contact the judge who signed this order. If a hearing is not held within 72 hours, the respondent may be released from jail after posting bond pending the hearing.

If the respondent violates this personal protection order and there is no arrest, use form CC 382, Motion and Order to Show Cause for Violating Personal Protection Order. This form is available from the circuit court clerk.

STATE OF MICHIGAN  
JUDICIAL CIRCUIT  
COUNTY

A

PERSONAL PROTECTION ORDER  
 EX PARTE  
(DOMESTIC RELATIONSHIP)

B

CASE NO.

Court address  
ORI  
MI-

Court telephone no

C

Petitioner's name  
Address and telephone no. where court can reach petitioner

v

Respondent's name, address, and telephone no.

D

Full name of respondent (type or print) \* Social security no. (if known) Driver's license number (if known)

Height Weight Race \* Sex \* Date of birth or Age\* Hair color Eye color Other identifying information

\*these items must be filled in for the police/sheriff to enter on LEIN; the other items are not required but are helpful

Date: \_\_\_\_\_ Judge: \_\_\_\_\_ Bar no

1. This order is entered  without a hearing.  after hearing.

THE COURT FINDS:

- 2. A petition requested respondent be prohibited from entry onto the premises, and either the parties are married, petitioner has property interest in the premises, or respondent does not have a property interest in the premises.
- 3. Petitioner requested an ex parte order which should be entered without notice because irreparable injury, loss, or damage will result from the delay required to give notice or notice itself will precipitate adverse action before the order can be issued

IT IS ORDERED:

- 4. \_\_\_\_\_ is prohibited from:
  - a. entering onto property where petitioner lives.
  - b. entering onto property at \_\_\_\_\_
  - c. assaulting, attacking, beating, molesting, or wounding \_\_\_\_\_
  - d. removing minor children from petitioner who has court ordered custody, except as allowed by custody or parenting time order provided removal of the children does not violate other conditions of this order. Existing custody order dated \_\_\_\_\_ Existing parenting time order dated \_\_\_\_\_
  - e. stalking as defined under MCL 750.411h and MCL 750.411i which includes but is not limited to:
    - following or appearing within sight of the petitioner.
    - appearing at workplace/residence of the petitioner.
    - approaching or confronting the petitioner in a public place or on private property.
    - entering onto or remaining on property owned, leased, or occupied by the petitioner.
    - sending mail/other communications to the petitioner.
    - contacting the petitioner by telephone.
    - placing an object on or delivering an object to property owned, leased, or occupied by the petitioner.
  - f. interfering with petitioner's efforts to remove his/her children or personal property from premises solely owned or leased by respondent.
  - g. threatening to kill or physically injure \_\_\_\_\_
  - h. interfering with petitioner at his/her place of employment or engaging in conduct that impairs his/her employment relationship or environment.
  - i. purchasing or possessing a firearm.
  - j. other: \_\_\_\_\_
- 5. Violation of this order subjects respondent to immediate arrest and to the civil and criminal contempt powers of the court. If found guilty, respondent shall be imprisoned for not more than 93 days and may be fined not more than \$500.00.
- 6. This order is effective when signed, enforceable immediately, and remains in effect until \_\_\_\_\_ This order is enforceable anywhere in the United States by any law enforcement agency under the Full Faith and Credit provisions of the Violence Against Women's Act.
- 7. The court clerk shall file this order with \_\_\_\_\_ who shall enter it in the LEIN system. Name of law enforcement agency
- 8. Respondent may file a motion to modify or rescind this order. Forms and instructions are available from the clerk of the court.
- 9. Other: \_\_\_\_\_

Date and time issued \_\_\_\_\_

Judge \_\_\_\_\_







**Form CC 377**

**PETITION FOR  
PERSONAL PROTECTION ORDER  
AGAINST STALKING  
(NON DOMESTIC RELATIONSHIP)**

**Use this form if you want an order to restrain another person from stalking you and you do not have a domestic relationship to this person.**

## INSTRUCTIONS FOR COMPLETING "PETITION FOR PERSONAL PROTECTION ORDER AGAINST STALKING"

Please print neatly. Press firmly since you are printing on 5 copies.

By filling in this form, you are asking for a personal protection order which tells the respondent not to do certain things you don't want him or her to do. If you are in immediate danger, you should ask the judge for an "ex parte" order which will be issued without waiting for a hearing.

Items A through H must be completed before your petition can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

**A** Write your name, address, and telephone number in the "Petitioner" box. If you are under 18 years of age, check the box. Write the name, address, and telephone number of the person you want restrained in the "Respondent" box; if he or she is under 18 years of age, check the box. If you want your address and telephone number to be kept from the respondent, do not write your address here. Put in the address of a relative or friend or a post office box where the court can contact you.

**B** Check the box if the respondent is required to carry a firearm while at work. If you aren't sure, check the box "unknown".

**C** Check whether there is a pending action between you and the respondent. If there is, fill in the case number, the name of the court and county where the action was filed, and the name of the judge.

Check whether there are any court orders or judgments between you and the respondent. If there is, fill in the case number, the name of the court and county where the order or judgment was entered, and the name of the judge that signed the order.

**D** Explain in as much detail as possible why you are asking for a personal protection order. Describe what has happened or what has been threatened so the judge has enough facts to decide if a personal protection order should be signed. You must detail 2 or more separate instances of harassment (unconsented contact) that caused you to feel terrorized, frightened, intimidated, threatened, harassed, or molested. Include dates and places. Write on a separate sheet of paper and attach it to this form.

**E** Check only those boxes you need since you must be able to convince the judge you need all the protection you are requesting.

**F** An "ex parte order" means you do not have to let the other party know in advance that you are asking the court for an order and you do not have to wait for a court hearing to get the order. Check the box for an "ex parte order" if you believe the other party might hurt you or threaten you if he or she found out you were getting an ex parte personal protection order.

If you do not check the box for an ex parte order, you must have a court hearing. Fill out form CC 381.

**G** If you are under 18 years old, you may need an adult (called a "next friend") to petition for you. Check this box if you have a next friend helping you file this form.

**H** Write in today's date and sign the form. Hand the form to the county clerk. The clerk will fill in the rest of the information and will give you your copies.

You must read the booklet "Instructions for Personal Protection Orders" for directions on the legal process.

Approved, SCAO

<b>STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY</b>	<b>PETITION FOR PERSONAL PROTECTION ORDER AGAINST STALKING (NON DOMESTIC)</b>	<b>CASE NO.</b>
Court address		Court telephone no.

<b>(A)</b> Petitioner's name <input type="checkbox"/> under 18 years old Address and telephone no. where court can reach plaintiff	v	Respondent's name, address, and telephone no. <input type="checkbox"/> under 18 years old
---	---	---

1. The petitioner and respondent have never been husband and wife, resided in the same household together, had a child in common, or had a dating relationship with one another.
- (B)** 2.  The respondent is required to carry a firearm in the course of his/her employment.  Unknown.
- (C)** 3. a. There  are  are not other pending actions in this or any other court regarding the parties.
- |             |                          |               |
|-------------|--------------------------|---------------|
| Case number | Name of court and county | Name of judge |
|-------------|--------------------------|---------------|
- b. There  are  are not orders/judgments entered by this or any other court, regarding the parties.
- |             |                          |               |
|-------------|--------------------------|---------------|
| Case number | Name of court and county | Name of judge |
|-------------|--------------------------|---------------|
- (D)** 4. I need a personal protection order because: Explain what has happened (attach additional sheets)

- (E)** 5. I make this petition under the authority of MCL 600.2950a and ask the court to grant a personal protection order prohibiting the respondent from stalking me as defined under MCL 750.411h and MCL 750.411i which includes but is not limited to:
- following me or appearing within my sight.
  - appearing at my workplace or residence.
  - approaching or confronting me in a public place or on private property.
  - entering onto or remaining on property owned, leased, or occupied by me.
  - contacting me by telephone.
  - sending mail or other communications to me.
  - placing an object on or delivering an object to property owned, leased, or occupied by me.
  - threatening to kill or physically injury me.
  - purchasing or possessing a firearm.
  - other.
- (F)** 6. I ask the court to grant a personal protection order against stalking:
- I request an ex parte order because immediate and irreparable injury, loss, or damage will occur between now and a hearing or because notice itself will cause irreparable injury, loss, or damage before the order can be entered.

**(G)**  7. I have a next friend petitioning for me. I certify that the next friend is not disqualified by statute and is an adult.

I declare that the statements above are true to the best of my information, knowledge, and belief.

**(H)** \_\_\_\_\_ Date Petitioner's signature

**PROOF OF SERVICE**

**Petition for Personal Protection  
Order Against Stalking**  
Case No. \_\_\_\_\_

**TO PROCESS SERVER:** You must serve the copies of the petition for personal protection order and file proof of service with the court clerk. If you are unable to complete service, you must return this original and all copies to the court clerk.

**CERTIFICATE / AFFIDAVIT OF SERVICE / NON-SERVICE**

<input type="checkbox"/> <b>OFFICER CERTIFICATE</b> I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notary not required)	<b>OR</b>	<input type="checkbox"/> <b>AFFIDAVIT OF PROCESS SERVER</b> Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notary required)
--	-----------	---

- I served a copy of the petition for personal protection order against stalking by:  
 personal service     registered mail, delivery restricted to the respondent (return receipt attached)

on:

Respondent's name	Complete address of service	Day, date, time

- After diligent search and inquiry, I have been unable to find and serve the respondent. I have made the following efforts in attempting to serve process: \_\_\_\_\_

- I have personally attempted to serve a copy of the petition for personal protection order against stalking on

Name \_\_\_\_\_

at \_\_\_\_\_  
Address

and have been unable to complete service because the address was incorrect at the time of filing.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature \_\_\_\_\_

Title \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Signature: \_\_\_\_\_  
Date Deputy court clerk/Notary public

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received a copy of the petition for personal protection order against stalking on \_\_\_\_\_  
Day, date, time

Signature of respondent \_\_\_\_\_





**Form CC 378**

**MOTION AND ORDER TO DISMISS ACTION FOR  
PERSONAL PROTECTION ORDER**

**Use this form if you do not want to continue with your petition for a personal protection order and the order has not been signed yet.**

## INSTRUCTIONS FOR COMPLETING "MOTION TO DISMISS ACTION FOR PERSONAL PROTECTION ORDER"

Please print neatly. Press firmly since you are printing on 5 copies.

If you do not want to continue with your petition for a personal protection order and a personal protection order has not been signed by the judge yet, you can ask the court to dismiss your petition by filling out this form. Please follow the directions carefully.

Items A through F must be completed before your motion can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- A** Fill in the "Case No." the same way you did on Form CC 375 or Form CC 377.
- B** Fill in "petitioner" and "respondent" names and addresses in the same way you did on Form CC 375 or Form CC 377.
- C** Write in the same date you put in **I** on Form CC 375 or **F** on CC 377.
- D** Explain why you no longer want the court to enter a personal protection order.
- E** If you did not serve the respondent with a copy of the petition for personal protection order yet, check this box.
- F** Write in today's date and sign the form. Hand the form to the county clerk. The clerk will forward the order to the judge. Check back with the clerk to see if the order has been signed. If so, return to the clerk. The clerk will keep 2 copies and return the blue, pink, and yellow copies to you. Then complete either **G** or **H**.

Complete either **G** or **H**.

If you already served the respondent with a copy of the petition, you must serve the respondent with a copy of this form. Place the blue copy of this form in an envelope. Then go to the post office, ask the post office to mail it for you, and ask for a postal receipt. Then follow the instructions for **G** below.

- G** Write in the date that's on the postal receipt on both the pink and yellow copies and sign both copies. Attach the postal receipt to the yellow copy and return the yellow copy to the county clerk. You can either mail or take the yellow copy to the county clerk. Keep the pink copy for your records.

If you did not already serve the respondent with a copy of the petition, do not serve the respondent with a copy of this form. Follow the instructions for **H** below.

- H** Write in today's date and sign the form on both the pink and yellow copies. Hand the yellow copy to the county clerk. You may throw the blue copy away. Keep the pink copy for your records.

<b>STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY</b>	<b>MOTION AND ORDER TO DISMISS ACTION FOR PERSONAL PROTECTION ORDER</b>	<b>(A) CASE NO.</b>
--	---	---------------------

Court address \_\_\_\_\_ Court telephone no. \_\_\_\_\_

**(B)** Petitioner's name \_\_\_\_\_  
 Address and telephone no. where court can reach petitioner \_\_\_\_\_

Respondent's name, address, and telephone no. \_\_\_\_\_

**MOTION**

**(C)** 1. On \_\_\_\_\_ I filed a petition for a personal protection order.  
Date

**(D)** 2. I ask the court to dismiss the action without prejudice because:  
Explain why you want to dismiss your petition for personal protection order.

3. No order for personal protection has been entered.  
**(E)**  4. The respondent has not been served with a copy of the petition for personal protection order.

I declare that the statements above are true to the best of my information, knowledge, and belief.

**(F)** \_\_\_\_\_  
Date

\_\_\_\_\_  
Petitioner's signature

**ORDER**

**IT IS ORDERED** that the petition for personal protection order is dismissed without prejudice.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge Bar no

**CERTIFICATE OF MAILING**

I certify that on this date I mailed a copy of this motion and order to the respondent at the last known address.

**(G)** \_\_\_\_\_  
Date

\_\_\_\_\_  
Petitioner's signature

**CERTIFICATE OF NONSERVICE**

I certify that respondent was not served a copy of the petition for personal protection order and therefore I did not serve a copy of this motion and order on the respondent.

**(H)** \_\_\_\_\_  
Date

\_\_\_\_\_  
Petitioner's signature







**Form CC 379**

**MOTION TO MODIFY, EXTEND OR TERMINATE  
PERSONAL PROTECTION ORDER**

**Use this form if you want the court to modify, extend, or terminate the personal protection order.**

## INSTRUCTIONS FOR COMPLETING "MOTION TO MODIFY, EXTEND OR TERMINATE PERSONAL PROTECTION ORDER"

Please print neatly. Press firmly since you are printing on 5 copies.

By filling in this form, you are asking the court to modify, extend or terminate a personal protection order.

Items A through E must be completed before your motion can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- A** Fill in the "Case No." the same way it appears on Form CC 376 or CC 380.
- B** Fill in the "petitioner" and "respondent" and addresses the same way they appear on Form CC 376 or CC 380. You are the "moving party". Once you have written both names where they belong, you must check the box "moving party" in the same box as your name.

- C** Write in the same date that Form CC 376 or CC 380 was signed by the judge. That date is in the lower left hand corner of Form CC 376 or CC 380.

- D** If you are the person the protection order is against, check item 2.a. Also check either the box "modify" if you want the court to change something in the order or check the box "terminate" if you want the court to terminate the entire order. Then explain why you want the order changed or terminated.

If you are the person who is protected by the order, you can check either item 2.b. or item 2.c. Check item 2.b. if you want the court to change something in the order or you want to extend the expiration date of the order. Check item 2.c. if you want the court to terminate the entire order. Then explain why you want the order changed, extended, or terminated.

- E** Write in today's date and sign the form.

- F** If you checked box 2.a. or box 2.b. in **D** you must get a hearing date. Ask the clerk to schedule a hearing. The clerk will give you the information you need to fill out this part of the form. If you checked box 2.c. and the judge terminates the order without a hearing, skip the instructions below in **G**. If you checked box 2.c. and the judge will not terminate the order without a hearing, follow the instructions below in **G**.

- G** Write in today's date and sign the form. Hand the form to the county clerk. The clerk will keep 2 copies and return the blue, pink, and yellow copies to you.

**You must serve the other party with a copy of this form. If there is a hearing scheduled, you must serve this form at least 7 days before the hearing date unless the respondent is a law enforcement officer. If the respondent is a law enforcement officer, you must serve this form at least 5 days before the hearing date. For details about serving the form, read page 7 of the booklet "Instructions for Personal Protection Orders".**

If a hearing was scheduled, make sure you attend the hearing. Take a blank copy of Form CC 376 or CC 380 with you to the hearing. If a hearing was not scheduled, the court will notify the law enforcement agency to make changes to LEIN as stated in the order.

- For details about the hearing, read page 8 of the booklet "Instructions for Personal Protection Orders".
- If you asked for a modified order and it is granted by the judge, you will need to fill out Form CC 376 or CC 380, get it signed, and serve it on the other party. For details on how to do this, read pages 5 and 6 of the booklet "Instructions for Personal Protection Orders".

Approved, SCAO

STATE OF MICHIGAN  
JUDICIAL CIRCUIT  
COUNTY

MOTION TO  
MODIFY, EXTEND OR TERMINATE  
PERSONAL PROTECTION ORDER

(A)

CASE NO.

Court address

Court telephone no.

(B) Petitioner's name  moving party

---

Address and telephone no. where court can reach petitioner

v

Respondent's name, address, and telephone no.  moving party

**MOTION**

- (C) 1. On \_\_\_\_\_ a personal protection order was entered by this court.  
Date
- (D) 2.  a. I am the respondent. I ask the court to conduct a hearing to  modify  terminate the order because:  
 b. I am the petitioner. I ask the court to conduct a hearing to  modify  extend the order because:  
 c. I am the petitioner. I ask the court to terminate the order because:  
 Explain why you want the order modified, extended, or terminated.

I declare that the statements above are true to the best of my information, knowledge, and belief.

(E) \_\_\_\_\_  
Date Signature of moving party

Complete this Notice of Hearing only  
if you checked box 2.a. or 2.b. above.

**NOTICE OF HEARING**

(F) You are notified that a hearing has been scheduled to modify, extend or terminate the personal protection order issued in this case.

Judge: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Time: \_\_\_\_\_  
 Location: \_\_\_\_\_

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

The court can modify, extend, or terminate the order even if you do not attend the hearing. It is important for you to attend.

(G) \_\_\_\_\_  
Date Signature of moving party

**FOR COURT USE ONLY**

The motion to terminate by the petitioner is granted without hearing.  
 A Removal of Entry from LEIN (Form MC 239) shall be issued.

Date \_\_\_\_\_  
 Judge \_\_\_\_\_

**PROOF OF SERVICE**

**Motion to Modify/Extend/Terminate  
Personal Protection Order**  
Case No. \_\_\_\_\_

**TO PROCESS SERVER:** You must serve the copies of the motion to modify, extend or terminate personal protection order and file proof of service with the court clerk. If you are unable to complete service, you must return this original and all copies to the court clerk.

**CERTIFICATE / AFFIDAVIT OF SERVICE / NON-SERVICE**

**OFFICER CERTIFICATE**

**OR**

**AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notary not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notary required)

I served a copy of the motion to modify, extend or terminate personal protection order by registered mail, delivery restricted to the non-moving party (return receipt attached)

on:

Non moving party's name	Complete address of service	Day, date, time
-------------------------	-----------------------------	-----------------

After diligent search and inquiry, I have been unable to find and serve the non-moving party. I have made the following efforts in attempting to serve process: \_\_\_\_\_

I have personally attempted to serve a copy of the motion to modify, extend or terminate personal protection order on

Name \_\_\_\_\_

at \_\_\_\_\_  
Address

and have been unable to complete service because the address was incorrect at the time of filing.

Service fee \$	Miles traveled	Mileage fee \$	Total fee \$
-------------------	----------------	-------------------	-----------------

Signature \_\_\_\_\_

Title \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Signature: \_\_\_\_\_  
Date Deputy court clerk/Notary public

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received a copy of the motion to modify, extend or terminate personal protection order on

\_\_\_\_\_  
Day, date, time

\_\_\_\_\_  
Signature of non-moving party





**Form CC 380**

**PERSONAL PROTECTION ORDER  
AGAINST STALKING  
(NON DOMESTIC RELATIONSHIP)**

**Use this form if you filled out Form CC 377, Petition for Personal Protection Order Against Stalking**

## INSTRUCTIONS FOR COMPLETING "PERSONAL PROTECTION ORDER AGAINST STALKING"

Please print neatly. Press firmly since you are printing on 6 copies.

Items A through D must be completed before you give this form to the court clerk. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- A** If you checked box **F** on Form CC 377, check the box for "Ex Parte".
- B** Fill in the "Case No." from Form CC 377.
- C** Fill in the "petitioner" and "respondent" the same way you did on Form CC 377. **If you want your address and telephone number to be kept from the respondent, do not write your address here. Put in the address of a relative or friend or a post office box where the court can contact you.**
- D** Write in the respondent's name and as much of the other information as you know. This information will help the police to identify the respondent party if he or she disobeys the restraining order. Be sure to identify the respondent accurately.

The court will complete the rest of the form.

**You must read the booklet "Instructions for Personal Protection Orders" for directions on the legal process.**

- If you asked for an ex parte order (order without a hearing), read pages 3 and 4 of the booklet.
- If you did not ask for an ex parte order or the judge refuses to sign an ex parte order, read pages 5 and 6 of the booklet.

### **Important:**

If the respondent violates this personal protection order and is arrested, the court will set a date, time, and place for a hearing on the charges against the respondent to be held within 72 hours after arrest. The court or prosecutor is responsible for giving you notice of this hearing. If you are not notified within 24 hours of the arrest, contact the judge who signed this order. If a hearing is not held within 72 hours, the respondent may be released from jail after posting bond pending the hearing.

If the respondent violates this personal protection order and there is no arrest, use form CC 382, Motion and Order to Show Cause for Violating Personal Protection Order. This form is available from the circuit court clerk.

<b>STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY</b>	<b>(A) PERSONAL PROTECTION ORDER AGAINST STALKING (NON DOMESTIC)</b> <input type="checkbox"/> EX PARTE	<b>(B) CASE NO.</b>
--	---	---------------------

Court address \_\_\_\_\_ Court telephone no \_\_\_\_\_  
 ORI \_\_\_\_\_  
 MI- \_\_\_\_\_

<b>(C)</b> Petitioner's name _____ Address and telephone no. where court can reach plaintiff _____	V	Respondent's name _____ Address and telephone no. where court can reach defendant _____
---	---	--

<b>(D)</b> Full name of respondent (type or print) * _____		Social security no. (if known) _____	Driver's license number (if known) _____				
Height	Weight	Race *	Sex *	Date of birth or Age*	Hair color	Eye color	Other identifying information

\*these items must be filled in for the police/sheriff to enter on LEIN; the other items are not required but are helpful

Date: \_\_\_\_\_ Judge: \_\_\_\_\_ Bar no \_\_\_\_\_

1. This order is entered  without a hearing.  after hearing.

**THE COURT FINDS:**

2. A petition requesting an order to restrain conduct prohibited under MCL 750.411h and 750.411 i has been filed under the authority of MCL 600.2950a.
3. The petitioner requested an ex parte order. An ex parte order should be entered without notice because irreparable injury, loss, or damage will result from the delay required to give notice or the notice itself will precipitate adverse action before the order can be issued.

**IT IS ORDERED:**

4. \_\_\_\_\_ is prohibited from stalking as defined under  
 Full name of respondent

MCL 750.411h and MCL 750.411i which includes but is not limited to:

- following or appearing within sight of the petitioner.
- appearing at the workplace or residence of the petitioner.
- approaching or confronting the petitioner in a public place or on private property.
- entering onto or remaining on property owned, leased, or occupied by the petitioner.
- sending mail/other communications to the petitioner.
- contacting the petitioner by telephone.
- placing an object on or delivering an object to property owned, leased, or occupied by the petitioner.
- threatening to kill or physically injure the petitioner.
- purchasing or possessing a firearm.
- other: \_\_\_\_\_

5. Violation of this order subjects the respondent to immediate arrest and to the civil and criminal contempt powers of the court. If found guilty, respondent shall be imprisoned for not more than 93 days and may be fined not more than \$500.00

6. This order is effective when signed, enforceable immediately, and remains in effect until \_\_\_\_\_  
 This order is enforceable anywhere in the United States by any law enforcement agency under the Full Faith and Credit Act provisions of the Violence Against Women's Act.

7. The court clerk shall file this order with \_\_\_\_\_ Name of law enforcement agency  
 who shall enter it in the LEIN system.

8. Respondent may file a motion to modify or rescind this order. Forms and instructions are available from the clerk of the court

9. Other: \_\_\_\_\_







**Form CC 381**

**NOTICE OF HEARING ON PETITION FOR  
PERSONAL PROTECTION ORDER**

**Use this form if you did not request an "ex parte" order or the judge refuses to issue an order without a hearing.**

## **INSTRUCTIONS FOR COMPLETING "NOTICE OF HEARING ON PETITION FOR PERSONAL PROTECTION ORDER"**

Use this form if you did not request an "ex parte" order or the judge refused to sign an order without a hearing.

**Please print neatly. Press firmly since you are printing on 5 copies.**

Items A through D must be completed before you give this form to the court clerk. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- A** Fill in the "petitioner" and "respondent" the same way you did on Form CC 375 or CC 377.
- B** Write in the respondent's name and address.
- C** Write in the name of the judge, the date of the hearing, the time of the hearing, and the location of the hearing. The court clerk will tell you this information.
- D** Write in today's date and sign your name. Hand the form to the county clerk. The clerk will keep the white and green copies and return the blue, pink, and yellow copies to you.

**You must read the booklet "Instructions for Personal Protection Orders" for directions on the legal process.**

- The court clerk will make sure that the judge gets your petition (Form CC 375 or CC 377) and this form.
- Read page 8 of the booklet for details on the hearing.

Original - Court  
1st copy - Judge/Assignment clerk (green)  
2nd copy - Respondent (blue)  
3rd copy - Petitioner (pink)  
4th copy - Return (yellow)

Approved, SCAO

STATE OF MICHIGAN  
JUDICIAL CIRCUIT  
COUNTY

NOTICE OF HEARING ON PETITION FOR  
PERSONAL PROTECTION ORDER

CASE NO.

Court address

Court telephone no

(A)

Petitioner's name

v

Respondent's name

(B)

TO:

(C)

You are notified that the petitioner has requested a personal protection order be issued against you. A hearing has been scheduled to decide whether to issue the personal protection order for:

Judge: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Location: \_\_\_\_\_

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

If you do not attend this hearing, a personal protection order can still be entered against you.

(D)

Date

Signature

**TO THE PETITIONER:** You should serve this notice no later than 5 days before the date of the hearing stated above so that the respondent receives notice at least 1 day before the hearing. See other side for proof of service.

**PROOF OF SERVICE**

**Notice of Hearing on Petition for Personal Protection Order**  
Case No. \_\_\_\_\_

**TO PROCESS SERVER:** You must serve the copies of the notice of hearing on petition for personal protection order and file proof of service with the court clerk. If you are unable to complete service, you must return this original and all copies to the court clerk.

**CERTIFICATE / AFFIDAVIT OF SERVICE / NON-SERVICE**

**OFFICER CERTIFICATE**

**OR**

**AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notary not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notary required)

- I served a copy of the notice of hearing on petition for personal protection order by:
  - personal service
  - registered mail, delivery restricted to the respondent (return receipt attached)
 on:

Respondent's name	Complete address of service	Day, date, time
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- After diligent search and inquiry, I have been unable to find and serve the respondent. I have made the following efforts in attempting to serve process: \_\_\_\_\_

- I have personally attempted to serve a copy of the notice of hearing on petition for personal protection order on

\_\_\_\_\_ Name

at \_\_\_\_\_ Address

and have been unable to complete service because the address was incorrect at the time of filing.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

\_\_\_\_\_ Signature

\_\_\_\_\_ Title

Subscribed and sworn to before me on \_\_\_\_\_ Date \_\_\_\_\_ County, Michigan.

My commission expires: \_\_\_\_\_ Date \_\_\_\_\_ Signature: \_\_\_\_\_ Deputy court clerk/Notary public

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received a copy of the notice of hearing on petition for personal protection order on

\_\_\_\_\_ Day, date, time

\_\_\_\_\_ Signature of respondent





**Form CC 382**

**MOTION AND ORDER TO SHOW CAUSE  
FOR VIOLATING  
PERSONAL PROTECTION ORDER**

**Use this form** if the respondent has violated a personal protection order and has not been arrested and you want the court to order him/her into court to answer to a contempt charge.

## **INSTRUCTIONS FOR COMPLETING "MOTION AND ORDER TO SHOW CAUSE FOR VIOLATING PERSONAL PROTECTION ORDER"**

Use this form if the respondent has violated your personal protection order and you want the court to order him or her into court to answer a contempt charge.

**Please print neatly. Press firmly since you are printing on 5 copies.**

Items A through E must be completed before you give this form to the court clerk. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- A** Fill in the case number only if you are filing this form in the same court where you got your order. If you are filing this form in a court other than the one that gave you your personal protection order, the clerk will enter the name of the respondent in this space.
- B** Fill in the "petitioner" and "respondent" as it appears in your order (Form CC 376 or CC 380).
- C** Write in the date of your personal protection order, the name of the court that signed your order, and the name of the judge who signed the order. Get this information from your order (Form CC 376 or CC 380).
- D** Explain in as much detail as possible what the respondent has done to violate the personal protection order. You must attach any supporting documents. Make 4 copies of all supporting documents.
- E** Sign your name in front of a notary public. Take the form and the supporting documents to the county clerk. The clerk will keep one white copy and a set of the supporting documents and return the white, green, blue, pink, and yellow copies and remaining supporting documents to you.

### **What to do next.**

1. Ask the county clerk for instructions to the judge's office. Go to the judge's office as soon as possible. Leave the green, blue, pink, and yellow copies of the form and 1 set of supporting documents with the judge's staff. Keep the white copy and the remaining 2 sets of supporting documents for yourself until you get the pink copy back. Ask when to come back for the signed order. If the judge's office sends the order to the clerk, you won't have to come back to pick it up.
2. If the judge's office does not send the order to the county clerk, go back to the judge's office on the day and time you were told to pick up the order. When you leave the judge's office, you should have the blue, pink, and yellow copies.
3. Mail the blue copy with 1 set of supporting documents to the respondent at least 7 days before the hearing. Enter the date you mailed the blue copy to the respondent and sign your name on the yellow and pink copies where it says **F**.
4. Return to the county clerk's office with the yellow copy. Make sure you keep the pink copy and 1 set of supporting documents for yourself.
5. Attend the hearing.

Refer to the Instructions for Personal Protection Orders, page 8 for details on attending a hearing.

Original - Court  
1st copy - Judge/Assignment clerk (green)  
2nd copy - Respondent (blue)  
3rd copy - Petitioner (pink)  
4th copy - Return (yellow)

Approved, SCAO

STATE OF MICHIGAN  
JUDICIAL CIRCUIT  
COUNTY

MOTION AND ORDER TO SHOW CAUSE  
FOR VIOLATING  
PERSONAL PROTECTION ORDER

(A) CASE NO.  
In the matter of contempt of

Court address

Court telephone no.

(B)

Petitioner's name

Address and telephone no. where court can reach petitioner

v

Respondent's name, address, and telephone no.

AFFIDAVIT AND MOTION

(C)

1. I am the protected party in a personal protection order dated \_\_\_\_\_ and issued by the  
\_\_\_\_\_ Circuit Court of \_\_\_\_\_ County, Case number \_\_\_\_\_

(D)

2. The respondent has violated this order by doing the following:  
Explain what has happened and include dates, time and events (attach any supporting documents such as a complaint filed with the police)

3. I request the court to order the respondent to appear at a specified time to answer a contempt charge or to issue a bench warrant for the arrest of the respondent.

(E)

Signature \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Signature: \_\_\_\_\_

ORDER

IT IS ORDERED:

4. The respondent is ordered to appear before this court on \_\_\_\_\_ at \_\_\_\_\_ m.  
 the court address above  
at  courtroom number \_\_\_\_\_  
 \_\_\_\_\_

to show cause why the respondent should not be held in contempt for violating a personal protection order.  
Failure to appear for this contempt hearing may result in a bench warrant being issued for the respondent's arrest. The petitioner shall serve this motion and order on the respondent at least 7 days before the hearing date.

5. A bench warrant shall be issued for the respondent's arrest to answer a contempt charge for violating a personal protection order.

Date \_\_\_\_\_

Judge \_\_\_\_\_

Bar no \_\_\_\_\_

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangements.

CERTIFICATE OF MAILING

I certify that on this date I served a copy of this motion and order at least 7 days before the hearing by ordinary mail addressed to the respondent at his/her last known address.

Date \_\_\_\_\_

Signature of petitioner \_\_\_\_\_







Approved. SCAO

<b>STATE OF MICHIGAN JUDICIAL CIRCUIT COUNTY</b>	<b>ORDER DENYING OR DISMISSING PETITION FOR PERSONAL PROTECTION ORDER</b>	<b>CASE NO.</b>
--	---	-----------------

Court address Court telephone no.

Petitioner's name
Address and telephone no. where court can reach petitioner

v

Respondent's name, address, and telephone no.
---

Date: \_\_\_\_\_ Judge: \_\_\_\_\_ Bar no.

1. This order is entered  without a hearing.  after hearing.

**THE COURT FINDS:**

2.  a. A petition was filed for a personal protection order in a domestic relationship.  
 There is not reasonable cause to believe the respondent may commit 1 or more of the acts listed in MCL 600.2950(1).  
 b. A petition was filed for a personal protection order against stalking in a nondomestic relationship.
3. The petitioner requested an ex parte order.  
 a. The petitioner has been interviewed and it is found the petitioner's claims are sufficiently without merit that the action should be dismissed without a hearing.  
 b. An ex parte order should not be issued, but the petitioner has been advised of the right to request a hearing on the petition.

**IT IS ORDERED:**

4.  a. The petition for a personal protection order is denied for the following reasons:  
 b. The petition for an ex parte personal protection order is denied with notice of the right to request a hearing for the following reasons:  
 c. The petition for an ex parte personal protection order is dismissed without notice of the right to request a hearing because the petitioner's claims are sufficiently without merit for the following reasons:

\_\_\_\_\_  
Date Judge

**CERTIFICATE OF MAILING**

I certify that on this date I mailed a copy of this order to the petitioner at the last known address.  
 I certify that I mailed a copy of this order to the respondent at the last known address because the respondent was served with a copy of the petition for personal protection order.

\_\_\_\_\_  
Date Court clerk







Approved, SCAO

STATE OF MICHIGAN  
JUDICIAL CIRCUIT  
COUNTY

ORDER AFTER HEARING ON  
VIOLATION OF  
PERSONAL PROTECTION ORDER

CASE NO.

Court address

Court telephone no.

Petitioner's name
Address and telephone no. where court can reach petitioner

v

Respondent's name, address, and telephone no.
---

Date of hearing: \_\_\_\_\_ Judge: \_\_\_\_\_ Bar no

1. This order is entered  after show cause brought by petitioner.  after proceeding brought under MCL 764.15b.

THE COURT FINDS:

2. The respondent was present at the hearing on violation of a personal protection order and was advised of the right to present evidence and to examine and cross-examine witnesses.

3. Specific findings of fact are stated on the record.

4.  a. The respondent was found guilty of criminal contempt.  
 b. The respondent was found guilty of civil contempt.  
 c. The respondent is not in contempt.

5. The respondent failed to appear as ordered and a bench warrant should issue for his/her arrest.

IT IS ORDERED:

6. A bench warrant shall issue for respondent's arrest.

7. The hearing on the  bench warrant  show cause is adjourned to \_\_\_\_\_

Reason: \_\_\_\_\_

8. The prosecution/order to show cause is dismissed.

9. The  bench warrant is discharged.  authorization for bench warrant is set aside.

10. The respondent shall be committed to \_\_\_\_\_ days in the county jail.

11. The respondent shall pay a fine of \$ \_\_\_\_\_ to be paid as follows: \_\_\_\_\_

12. Other conditions: \_\_\_\_\_

Date \_\_\_\_\_

Judge \_\_\_\_\_







Approved. SCAO

STATE OF MICHIGAN  
JUDICIAL CIRCUIT  
COUNTY

ORDER ON MOTION TO EXTEND/TERMINATE  
PERSONAL PROTECTION ORDER

CASE NO.

Court address

Court telephone no

Petitioner's name

Respondent's name, address, and telephone no.

Address and telephone no. where court can reach petitioner

v

Date: \_\_\_\_\_ Judge: \_\_\_\_\_ Bar no \_\_\_\_\_

1. This order is entered after hearing.

THE COURT FINDS:

2. A motion was filed to extend the expiration date of the personal protection order dated \_\_\_\_\_

3.  a. Circumstances continue to exist which would require extension of the order.  
 b. Circumstances do not exist which would require extension of the order.  
 c. Circumstances do not exist which would require continuation of the term of the order.

IT IS ORDERED:

4. The personal protection order is extended from \_\_\_\_\_ to \_\_\_\_\_  
Current expiration date New expiration date

The court clerk shall file this order with \_\_\_\_\_  
Name of law enforcement agency

who shall enter the new expiration date in the LEIN system.

5. The motion to extend the personal protection order is denied and the order will expire on the date of the last order.

6. The motion to terminate the personal protection order is denied and the order will expire on the date of the last order.

7. The motion to terminate the personal protection order is granted. The court clerk shall complete and file the Removal of Entry from LEIN (form MC 239) with the law enforcement agency named in the last order.

8. This order is effective when signed.

Date \_\_\_\_\_

Judge \_\_\_\_\_

CERTIFICATE OF MAILING

I certify that on this date I mailed a copy of this order to the petitioner and respondent at their last known addresses and filed a copy with the law enforcement agency named in the last order for entry on LEIN.

Date \_\_\_\_\_

Court clerk \_\_\_\_\_

