

Case Processing of Misdemeanor Domestic Violence Cases: Initial Police Response to Arraignment

A Report from the Safety and Accountability Audit

**Battered Women's Justice Project
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I. Introduction

One mission of the Fourth Judicial District Family Violence Coordinating Council has been to improve the coordination and communication among the agencies involved in the criminal justice response to domestic violence cases, with the goal of promoting victim safety throughout the process. In early 1999, state funds were made available to local criminal justice agencies for technical assistance projects that would assess problems and recommend solutions to improve the handling of domestic violence cases. Staff from the Battered Women's Justice Project (BWJP) met with Referee Margaret Daly to discuss the possibility of applying for a grant to conduct a *Domestic Violence Safety and Accountability Audit (Safety Audit)* in Hennepin County.

Under grants from the U.S. Department of Health and Human Services and the U.S. Department of Justice, BWJP provides training and technical assistance to advocates, law enforcement, probation staff, prosecutors, judges and other criminal justice system personnel, on all aspects of the criminal justice response to crimes of domestic violence. The Safety Audit, a methodology of assessing case processing, was developed by Ellen Pence, Ph.D., and has been used to improve law enforcement and court procedures in several communities around the country since 1995. BWJP was convinced that this methodology would be extremely helpful in FVCC's efforts.

In further discussions with other FVCC members, the decision was made to support BWJP's application to conduct a Safety Audit and the misdemeanor process in Minneapolis was identified as the priority for this grant. Letters of support indicating their willingness to participate in the Safety Audit were submitted by the Minneapolis Police Department, the Minneapolis City Attorney's Office, the Hennepin County Department of Community Corrections-Adult Field Services Division, and the Hennepin County Attorney's Office. The application was successful and funds were awarded in July, 1999. This report is the primary result of BWJP's initial twelve-month safety audit.

How a Safety Audit Works

The Safety Audit is rooted in the work of sociologist Dorothy Smith who developed a research process called an "institutional ethnography," which is a way of analyzing people's everyday working lives within an institution. The way they are organized to work produces the reality of that institution, which in turn

shapes the everyday world of citizens whose lives are managed by that institution. An ethnomethodological investigation challenges the “naturalness” of these structures and exposes them as individual interactions and experiences. This analysis can provide direction on how to change the interactions, and thus result in a change of the institution itself.

The Safety Audit is an application of this theory to the processing of domestic violence cases by the criminal justice system, involving a systematic observation and analysis of intra- and interagency routines and paper trails. Those of us working within these systems know that too often our agencies respond to reports of domestic violence in ways that are fragmented, incident-based, cumbersome, slow, and often escalate the danger to victims by placing them in an adversarial relationship to the perpetrator. Too often, our systems leave victims unprotected by the very agencies designed to protect them.

The 911 call is the first of literally dozens of steps taken by practitioners in the legal system. Scores of system workers, representing agencies from Federal, state, county or city government, will act on one woman’s case before it is closed. Each action taken, beginning with that call to the police, is an opportunity to centralize or marginalize women’s safety. Each time a court worker does something concerning a woman’s case, s/he contributes to the production of the “case.” This case stands in for the experiences of real peoples lives: the battered woman who hit him back; the children who hid under their beds; the man who hit her, kicked her, and called her fat and worthless; and the neighbors who heard her screams and called the police. The job of the Safety Audit is to make the case processing reflect the experience of the woman and better protect her. The danger a battered woman faces is linked to what her abuser is willing to and capable of doing to her. Too often in the processing of criminal cases, there is no systematized method of gathering this information and making it evident to each intervenor in the case.

The purpose of the Safety Audit is to see how, where, and if existing practices – both those that are documented in forms or policies, or those that evolve within a work culture – ensure the safety of victims and the accountability of offenders. Where these practices fail to consider, or possibly exacerbate, these concerns, they can be redesigned. The Safety Audit is not an assessment of the work performance of individual staff members or administrators, but rather a holistic examination of the processes, practices, routines and functions that comprise the criminal justice response to domestic violence. What an audit examines is how the actions of offenders and the information gathered by staff are recorded, distributed, analyzed, and used by other people within the same or complementary systems. Individual staff members may be more or less effective in their own practices, but that is not the point of auditing their work: *it is to see how, where, and if their practices—both those in their job descriptions and those*

that evolve in their work culture—ensure the safety of victims and the accountability of offenders.

In a Safety Audit, interviews and observations are organized to collect data that address specific questions related to these issues:

- Technology and Resources
How does the worker's access to technology or lack of resources affect victim safety or promote offender accountability?
- Rules and Regulations
How do laws, rules, and policies require or prohibit staff from accounting for victim safety?
- Administrative Procedures
Do forms, reports and worksheets used in domestic violence cases capture not only the context of the incident, but also the more complete context of the violent relationship?
- System Linkages
Is each worker linked to other workers in the criminal justice system so that each has the information required to make decisions that promote victim safety and offender accountability?
- Education and Training
What relevant training has this staff person received? What additional training would be helpful?
- Management, Office Culture
What priority is given to domestic violence by the leadership in this agency? How is this demonstrated?

The Safety Audit combines several research modalities. The audit uses both qualitative and quantitative research in collecting data. Experiential interviews with and observations of staff involve subjective perspectives on how processes do or do not work to the benefit of victims of domestic violence. However, the interviews and observations also allow the auditors to objectively map certain processes in great detail. Mapping involves the identification of the exact chronology of “steps” that occur as a case is processed through the system.

Text analysis is a close examination of paper trails that is used to identify the frequency with which certain categories of information are included in institutional documents. This analysis allows auditors to see how information relevant to victim safety is included or excluded in the official record of the case, which forms the basis for all institutional response.

The Safety Audit also involves participatory action research, whereby the audit teams themselves become catalysts for system-change. As the audit teams identify, map and discuss various processes, team members and their agencies may initiate or participate in system reforms that fall within their authority to change.

The Minneapolis Safety Audit

A Safety Audit of all the procedures involved in the processing of a misdemeanor case in Minneapolis would have required a huge investment of time and resources. The relatively small, one-year grant awarded to BWJP allowed for an in-depth analysis of only a few agency interactions. Therefore, BWJP decided to focus its initial examination on two specific interactions, based on the chronology of case processing and in response to concerns raised by the FVCC. BWJP audited the initial police response to domestic violence calls, and the post-arrest process of releasing defendants from custody up to the arraignment.

The initial step was the organization of two multidisciplinary audit teams of staff from the Minneapolis Police Department, the Minneapolis City Attorney's Office, Hennepin County Probation, the Hennepin County Office of Planning and Development, the Domestic Abuse Service Center, the Domestic Abuse Project and the Battered Women's Legal Advocacy Project, as well as several law students. Team members participated in one-day audit training conducted by Dr. Ellen Pence, as well as several preparatory meetings. BWJP then assigned team members to conduct interviews and observations of staff in the Minneapolis Police Department, City Attorney's Office, Pre-Trial Release, Council on Crime and Justice (crime victim liaisons), Domestic Abuse Service Center, and the Domestic Abuse Project. A copy of the standard worksheet used during all of the interviews and observations is included in Appendix A.

After the completion of approximately fifteen ride-a-longs with police officers and twenty interviews/observations with pretrial release officers, Domestic Abuse Team Attorneys, and staff from the Council on Crime and Justice, team members met to discuss their observations. During audit team meetings, process and system issues arising from the interviews and observations were discussed and analyzed. Over the course of six months, the teams developed recommended procedures and processes to better enable the criminal justice system to respond to the safety needs of victims of domestic violence.

Simultaneous to these interviews and observations, BWJP staff and text data analysts (consultants from Praxis, International) conducted in-depth analyses of incident reports produced by the Minneapolis Police Department during the summer of 1998. The Department provided all incident reports generated during a ninety-six hour period. Work process concerns evolved from this analysis, and were discussed during the audit team meetings.

Finally, BWJP convened an Advisory Committee of battered women and battered women's advocates from the community advocacy programs in Hennepin County. This group met monthly to discuss and provide feedback on the audit as it progressed. The Advisory Committee provided the teams with significant guidance on the impact of existing practices on the lives of battered women and their children. The Advisory Committee also served as an organizing body for several systems-change efforts that occurred simultaneous to the audit process. For example, the first discussion with local advocates identified safety concerns that arise when just coming to court for OFP or civil proceedings, such as the lack of separate waiting areas for victims and respondents/defendants, lack of access to security personnel, lack of process to report OFP violations outside the courtroom, a perceived failure of the court to remedy these historical courtroom safety issues, and the fact that no agency appeared responsible to maintain the safety of victims and advocates in the courthouse. As a result of this discussion BWJP staff presented the concerns to the FVCC, and advocates became involved in the planning process for the new Family Justice Center and were also asked to participate in the Court Safety Work Group led by Judge Leung.

Understanding the Report

The Safety Audit resulted in a wide range of observations and recommendations for change. In order to organize this information into a useful format, BWJP has juxtaposed the findings of the Safety Audit with a list of "Promising Practices," drawn from articles by experts in the field and the report on state-of-the-art practice compiled by the STOP Technical Assistance Project for the Violence Against Women Office of the U.S. Department of Justice.¹ This format allows us to contextualize the findings of the Safety Audit in a way that recognizes the systemic processes currently in place for the benefit of victims of domestic violence, and to address those institutionalized processes that fail to address the reality of victim's lives or hold offenders accountable.

¹ See the report: *Assessing Justice System Response to Violence Against Women: A Tool for Law Enforcement, Prosecution and the Courts to Use in Developing Effective Responses*, a publication of the Promising Practices Initiative of the STOP Violence Against Women Grants Technical Assistance Project, PCADV, February 1998.

Trends in the findings, and subsequent recommendations, follow each section. The recommendations were developed in large part by the respective audit team; however, some recommendations were based on practice in other model jurisdictions. Similarly, some products offered in Appendix B were produced by the audit teams, while others were borrowed from other jurisdictions.

II. Safety Audit Findings and Recommendations

The Minneapolis Law Enforcement Response to Misdemeanor Domestic Violence: Findings

Law enforcement represents the entry point to the criminal justice system for a substantial number of victims and perpetrators. Agency training, policies and protocols can support consistent and effective police intervention in misdemeanor domestic violence-related offenses, while connecting victims with community services and support. Proactive police response can deter further violence and ultimately save lives. Increasingly, law enforcement agencies are promoting early intervention in domestic violence and stalking cases to protect victims before more injuries occur. Officers are being trained to thoroughly investigate cases, while being sensitive to the vulnerabilities of victims. Timely and responsive law enforcement intervention can increase victim safety, enhance investigations and facilitate successful prosecution.

One of the primary frustrations for law enforcement officers responding to domestic violence cases is the perception that their intervention is reactive versus proactive. Victims are not always supportive of officers' decision to arrest, and frequently recant their allegations at a later date. Officers feel frustration when intervening with the same parties time and time again. The reasons and explanations for victims' behavior are many and complex. Most victims hit some kind of barrier in their attempt to separate from their batterer. Regardless of day-to-day frustrations, law enforcement should take heart in the knowledge that their strong initial intervention, such as good information gathering at the scene and good victim rapport, does reduce domestic violence.

Many communities throughout the United States have experienced marked drops in the numbers of domestic violence-related crimes, especially homicides, since initiating strong police responses to domestic violence. These initiatives involve not only instituting strong arrest policies, but heightening the quality of information-gathering at the scene, the reports written, and contacts

with the victims. For example, since initiating stronger investigatory and supervisory oversight procedures, Montgomery County, Maryland, with a population of 850,000 and 1100 sworn officers, has seen its domestic violence-related homicide rate drop from 15 in 1997 to 3 in 1999. Also, the prosecutors' dismissal rate has dropped from 56% in 1993 to 5%. San Diego, California, with a population of 1.3 million and 1900 sworn officers, has had its domestic violence homicide rate drop every year since 1993 when they instituted new procedures (excepting 1997). Similarly, the Minneapolis Police Department might also see a decrease in the number of domestic violence-related homicides, and a marked increase in prosecution rates, if they enhance the immediate patrol response to domestic violence.

The following table outlines practices currently recognized as model responses to domestic violence, as well as the Safety Audit findings on the corresponding efforts of the Minneapolis Police Department to match these responses. The table shows that the department has initiated efforts to better respond to these cases, and more recent procedural changes are possibly not noted, as they were implemented after the data collection period of the Safety Audit.

“Promising Practice”

**Practice of the Minneapolis
Police Department**

Initial Officer Response

Securing the Crime Scene

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| <ul style="list-style-type: none">▪ Respond to the dispatch call in a timely manner, whether it is an immediate or a delayed report.▪ Evaluate the potential for violence and secure backup, if possible.▪ Examine the area (e.g., listen for whether noises can be heard from within the residence and if statements can be overheard, observe if lights are on in the residence or if windows are open, and look for evidence of children and the location of car)▪ Enter the premises in compliance with the laws of the state.▪ Immediately stop the violence and separate parties▪ Determine if children are present. Assess and respond to their immediate needs.▪ Evaluate the scene (e.g., damage, alcohol/drug use, emergency mental health | <ul style="list-style-type: none">▪ Emergency Communications routinely assigns these calls highest priority, and officers routinely respond to domestic violence-related calls immediately. The average response time is 4.36 minutes.▪ Officers typically respond in teams of two to domestic assault calls. Back up is available if officers determine need.▪ Auditors did not observe this particular practice used as an investigation technique. As a result, officers may have missed opportunities for additional evidence gathering or to overhear statements that enhance their value as witnesses in these cases.▪ Officers entered premises with permission of owner unless exigency required otherwise in accordance with the law.▪ While officers routinely interrupt any crime in progress, officers did not separate parties as a matter of routine▪ Through observations, auditors noted that officers checked on children if they were obviously present; however, this is not documented in the reports. Only 34% (27 of 79 total) of reports noted the presence or absence of children. Only 2 of the 79 reports contain officers' observations as to the status of the children. Also, no routine checks were conducted for non-obvious children▪ Clearly, officers assess scene upon arrival; however, this is inconsistently documented |
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<p>issues, or presence of other witnesses).</p> <ul style="list-style-type: none"> ▪ Record the victim and the suspect's locations upon arrival. This can be useful to the prosecutor in determining emotional state of victim at the time. 	<p>in reports. Officers do document drug/alcohol involvement, but rarely document damage, witness identification/description. Almost half of the reports (35 of 79) note the presence or absence of alcohol/drug use by either of the parties. A discussion of the frequency with which officers document damage to property and witness identification follows in next sections.</p> <ul style="list-style-type: none"> ▪ The exact location of the victim and suspect upon arrival were not recorded as a matter of routine, and were noted in less than 5% of the reports analyzed. The address responded to and the addresses of the victim and suspect were regularly included in reports. Importantly, if suspect is GOA (as was the cases in 48 of the 79 total reports, or 61%) the suspect's whereabouts were rarely pursued or ascertained. In the 48 GOA reports analyzed, only 4 reports contained information that officers attempted to ascertain suspect's whereabouts.
<p><i>Interviewing Parties, Witnesses</i></p> <ul style="list-style-type: none"> ▪ Conduct the victim interview in a private setting, away from the suspect and other family members, if present. Minimize suspect's ability to intimidate or influence the victim. ▪ In the case of a sexual assault, or if there is need for emergency medical attention, conduct the interview after the victim has been treated (most likely at the medical facility). ▪ Obtain preliminary information from the victim about the crime and specifics leading 	<ul style="list-style-type: none"> ▪ Based on observations, victims are not interviewed separately as a matter of routine; however, in some incidents, the victim was interviewed away from the suspect. While it is difficult to conduct separate interviews while still maintaining some contact with a partner, privacy is critical to an effective interview with the victim. ▪ Although auditors did not witness situation arising, officers report that this is standard procedure. ▪ Police consistently ask victims for their version of the events that transpired. While

<p>up to the abuse, whether there is a relationship between the victim and suspect, prior history of abuse, any court orders, use of weapons, or use of alcohol/drugs. Officers should inquire into domestic violence-related history and outstanding restraining orders in all cases, and note victims' responses in report</p> <ul style="list-style-type: none"> ▪ Record the victim's excited utterances and her emotional and physical condition. ▪ Note her demeanor, body language and other nonverbal communication. ▪ Obtain temporary addresses/phone information/3rd party contact information from the victim. ▪ Obtain rough preliminary information from the suspect (let him talk). ▪ Record the suspect's excited utterances, his emotional and physical condition, and demeanor. 	<p>police fairly routinely identify the type of relationship, there would be more consistency if this were required on the report (e.g. mandatory field), which would ensure complete compliance. Police also regularly note the presence of weapons, alcohol and drugs. The police are less consistent in ascertaining the prior history of violence used by the suspect or the existence of court orders. Officers noted victim's account of some history of abuse in 35 of the 79 reports (20 GOA, 15 Arrest). Officers also noted in 9 cases the presence or absence of a civil protection order (6 GOA, 3 Arrest).</p> <ul style="list-style-type: none"> ▪ None of the 48 GOA reports contained any quoted excited utterances. While some reports did contain quoted words and/or phrases, none correctly constituted this exception to the hearsay rule. Officers recorded excited utterances in only 3 of the 31 Arrest reports, ▪ 5 of the 48 GOA reports and 7 of the 31 Arrest reports noted the victim's nonverbal communication (e.g. "victim visibly upset and crying") in the narrative. ▪ As noted from reports and observations, officers are not obtaining 3rd party contact information (someone through whom the victim can always be reached) as a matter of routine. ▪ Officers regularly allow suspects to explain their account of events, as noted from observations; however, these accounts are rarely documented in reports. Only a couple of the reports documented any comments or statements by the suspect. ▪ Suspect's excited utterances are not recorded as a matter of routine. None of the 31 Arrest reports contained legally admissible excited utterances by suspect.
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- Note the suspect's injuries in detail.
- Note any evidence of substance/chemical abuse.

- Identify witnesses and their relationship to the victim or the suspect (e.g., children or neighbors). Note the witnesses' demeanor and collect written statements.

Gathering information at the crime scene:

- Document the victim's injuries and inquire about injuries that are not visible.

- Assess the crime scene for physical evidence (e.g., fingerprints, body fluids, footprints, and/ or disrupted objects); conduct nondestructive search for physical evidence; properly package and mark all evidence; and transport items requiring analysis to the proper crime lab or storage, maintaining chain of custody.

- Officers do describe suspects' injuries as a matter of routine, although the situation arose rarely.
- Officers consistently note and record information about parties' substance/chemical abuse (35 of the 79 reports note drug or alcohol use by either party). Officers should be encouraged to make a connection in their report between a party's level of intoxication and the reliability of party's statements (e.g. based on party's level of intoxication, how credible is statement; what likelihood is there that party will recall events, etc.).
- As a matter of routine, witness information is not consistently documented in reports. It is unclear from reports whether no witnesses were present, or whether they were but not noted. Through observations, auditors noted incidents where witnesses were present but not noted in the report or questioned at the scene.

- Victims' injuries (or lack thereof) noted fairly regularly in reports. Notably, 65 of the 79 reports studied involve allegations of physical assault. In 41 of those 65 reports (63%) officers noted whether injury visible and provided description of injury if visible. Officers should always record and describe presence or absence of victims' injuries.

- This is a critical area in which the department should institute improvements. In the 79 reports analyzed, physical evidence was only collected in 4 cases (4 Arrest, 0 GOA). In 2 of those 4 cases, evidence was drug-related. Auditors did observe this response at an alleged sexual assault, including photographs and

<ul style="list-style-type: none"> ▪ Photograph and/or videotape the crime scene prior to touching, moving or disrupting potential evidence. Provide an indication of size or scale. ▪ Diagram the crime scene and document findings. ▪ Photograph the victim's injuries and alert her that subsequent bruising should also be photographed. ▪ Request that the victim to sign a release of medical information form. ▪ Photograph the suspect's injuries and take full body photographs ▪ Photograph children's injuries and demeanor. ▪ Seize and impound all weapons used and those within officers' legal and discretionary authority to seize, especially when risk and common sense dictate doing so 	<p>gathering of possible evidence (sheets, clothes etc.)</p> <ul style="list-style-type: none"> ▪ Most squads do not have cameras, so photographs are rarely taken. The department has made recent efforts to secure more cameras for more officers. ▪ The crime scene is rarely documented in reports. Independent officer corroboration would be helpful in cases where documented crime scene evidence could support the case, e.g. "he broke the window and pulled the phone from the wall." 33 of 79 reports contained officer's independent observations (20 Arrest, 13 GOA). Observations included everything from parties' state of intoxication, to description of physical injury, to parties' behavior, to physical evidence at scene. ▪ As stated earlier, victims' injuries are rarely photographed. Unclear from reports whether victim is alerted that physical symptoms might manifest later. ▪ This has not yet been a practice requested of MPD officers. There was interest by the city attorneys on the audit team to discuss possible procedures to enable this to occur with the department. ▪ This is not done as a matter of routine due to lack of cameras. ▪ This is not done as a matter of routine due to lack of cameras. ▪ Officers typically seize and impound weapons used during the commission of the crime being investigated. The department should consider other circumstances when searching for and seizing other weapons are appropriate, and standardize this operation by policy and training.
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- Seize and ensure the 911 tape is preserved.
- Via interviews or other agencies, ascertain criminal and civil history of offender and victim.

Providing Victim Aid/Information/ Resources

- Assure the victim that her safety is the priority.
- Inquire into the victim's need for emergency medical attention and provide first aid, if needed.
- Provide the victim with information on her rights, referrals to justice system agencies and community-based organizations, and assist with her immediate needs.
- Let the victim know what her involvement in the investigative and court process entails.
- Notify the local domestic violence or sexual assault program to provide the victim with immediate assistance at the crime scene or elsewhere.
- Arrange transportation to the designated medical facility for medical care, if necessary.

- Currently this is not a routine or requested practice. Again, there is interest by the city attorneys in discussing procedures to allow use of 911 tapes in these cases.
- Currently, patrol officers can access only limited history information from their squads. Most patrol officers use Mobile Data Terminals in their squads, which allows them access to address-driven information on the CAD (911) system. They can also access such information as outstanding warrants and driving records. Recently, they have been able to access civil protection order information as well.

- Auditors observed that officers showed respect and concern for victims
- Officers inquire into victims' emergency needs when injury is visible.
- Officers regularly distribute "blue cards" to victims of domestic violence, with few exceptions. "Blue card" could be re-done to provide better information and be more reader-friendly.
- Generally this is not perceived as the role of the responding officers, but as the function of the Council on Crime and Justice.
- Currently, officers are contacting or attempting to contact Council on Crime and Justice regularly.
- Officers ensure victim has necessary transportation to medical facilities when needed.

Make an arrest decision

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| <ul style="list-style-type: none">▪ Know and understand state law and department policy regarding arrests in domestic violence cases
▪ Arrest the suspect if probable cause exists.
▪ Ascertain validity of either party's self defense claim
▪ Where necessary, make a determination of who is the predominant aggressor, considering a number of factors (e.g., relative size of the parties, history of abuse, likelihood of future injuries to either party, and actions taken in self-defense).
▪ Charge the suspect with all crimes arising from the incident
▪ If the suspect is not present, obtain descriptive information (e.g., his possible whereabouts, the time he left, his vehicle color, type, and license). Broadcast the information to locate and apprehend the | <ul style="list-style-type: none">▪ Many of the officers interviewed were unclear or incorrect as to actual state law and departmental policy on arrest in domestic violence cases. Many officers thought that both MN law and departmental policy mandate arrest. There was also a lack of clarity around the meaning and purpose of the primary aggressor language in the departmental policy.
▪ Officers routinely made arrests when responding to domestic violence-related calls, where the suspect was present (100% of the non-GOA). However, only 2% of GOAs cases resulted in an arrest. It appeared from the text analysis that officers base probable cause determination primarily on victims' statements and the presence of visible injuries.
▪ Not clear from text analysis whether officers are consistently conducting self-defense analyses. From interviews and observations, auditors noted that this area should be the subject of further training.
▪ Not clear from text analysis or from observations whether officers are applying primary aggressor policy. Auditors did note from discussions with staff, that this concept is not wholly understood or accepted by officers, and should be the subject of further training.
▪ This was not observed as a routine practice of officers. Additional charges are usually added by the prosecutor.
▪ This is not a routine practice. From text analysis, it was noted that officers made some preliminary attempt to locate suspect (e.g. asking victim for description of suspect/auto or possible location) in only |
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<p>suspect. Attempt to locate suspect when reasonable time and information available.</p> <ul style="list-style-type: none"> ▪ If the suspect is found, attempt to interview. If he cannot be found, apply for a warrant. ▪ File a full report even in the case of no arrest, explaining the circumstances, information collected. 	<p>8% of the GOA cases. Officers also do not routinely ask for a detailed physical description of the suspect, including description of clothing.</p> <ul style="list-style-type: none"> ▪ Auditors were unable to ascertain the department's procedure, because the suspects were never located insofar as the cases studied. Warrants were not applied for routinely. Notably, the warrant process is cumbersome, and used only as a last resort. ▪ Reports were routinely filed on GOA cases, but these reports are considerably briefer than arrest reports. Specifically, GOA reports have substantially less information regarding available evidence and parties' statements (as noted earlier) than Arrest reports.
<p><i>Write an incident report</i></p> <ul style="list-style-type: none"> ▪ Complete a written report, whether or not an arrest is made. If an arrest was not made, explain why. ▪ Report on previous incidents known to the officer or reported by the victim or other witnesses. ▪ Provide the follow-up investigator with all related reports and documentation, access to stored crime scene evidence, and lab findings from the forensic evidence. 	<ul style="list-style-type: none"> ▪ Pursuant to state law, observations and text analysis found that officers made reports for every domestic assault call to which they responded. Because officers so routinely made arrests when the suspect was present, the text analysis did not identify any cases in which both parties were present and no arrest was made. When suspect is GOA, and no arrest is made, there is no explanation of why there was no attempt to locate. ▪ Officers frequently note in their reports whether they have personal knowledge of previous incidents, and whether the victim or witnesses notes previous incidents. ▪ Follow-up investigation is not a matter of routine in domestic violence-related misdemeanors.

Supervisor Response

- Oversee officer compliance with agency policies and procedures related to the patrol response to domestic violence
- Regularly review domestic violence-related incident reports to determine whether reports contain all required information, or explanations of delinquencies
- Create supervisory oversight worksheet to facilitate monitoring of compliance with agency policies.
- Determine the need for additional officer training or supervision.

Management Response

- Set tone through the development of protocols, practices, training and other mechanisms:
- Develop police procedures for handling violence against women committed by law enforcement and other department personnel.
- Allocate funds, resources and personnel to domestic violence cases.

- Interviews with officers indicated that some are confused about departmental policy and MN law.
 - As the text analysis demonstrates, current review procedures are not ensuring that reports include all the information that would improve the handling of these cases. The Department does not have an adequate procedure for reviewing Arrest reports.
 - Currently, one does not exist. See Appendix B for suggested worksheet.
 - No standardized process is in existence yet.
 - Management has incorporated a strong pro-arrest tone through its departmental policy. Department has recently committed to domestic violence training for all of its officers.
 - Policy or procedure for this specific issue is not yet in existence. See Appendix B for sample policy.
 - The department currently has a domestic violence unit for responding to felony-level, and some misdemeanor-level, domestic assault cases. Recently, more resources have been allocated for misdemeanor-level cases through the "Buy Back" program. In 1999, 189 additional misdemeanor cases were investigated as a result. More
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- Support ongoing violence against women training for all new and veteran staff.

 - Revise policies and practices, as necessary.

funding, resources and personnel are still needed to improve the department's response to misdemeanor cases.

- As noted above, the department has recently committed to training all patrol officers on domestic violence this year. All patrol staff should be trained routinely.

 - Procedures for regular review are not standardized.
-

The Minneapolis Law Enforcement Response to Misdemeanor Domestic Violence: Recommendations

The Minneapolis Police Department has instituted several strong practices in responding to domestic violence. As described in the above table the department could develop some areas of its response in light of the audit findings. While resource and technology issues pervade aspects of the patrol response, the department can look to many communities that have devised creative approaches to dealing with domestic violence. Further, with the support of other criminal justice agencies, the department can also enhance several aspects of its patrol response.

The audit teams identified the following procedural trends in the Minneapolis Police Department's response to domestic violence-related crimes and prepared the accompanying list of recommendations. Importantly, some of the recommendations listed below cannot be accomplished immediately. However, the department can successfully implement many of them, such as new report writing, evidence gathering and supervisory oversight procedures, within a six to twelve month time period.

1. Procedures at the Scene

- A. *Evidence gathering/photographing the scene* As noted in the findings, the department could improve the gathering of evidence at the scene. Attention to observations upon arrival before the parties are cognizant of the officers' presence could enhance the value of the officers as witnesses in these cases. There is a consensus in the field that photographs of injuries and the scene are especially effective evidence in these cases. The department should continue to pursue funding to provide cameras to all responding officers. In lieu of photographs, a complete and accurate depiction or diagram of injuries and the scene should be included in a comprehensive written report.
- B. *Interviewing parties separately* There is consensus in the field that officers should always separate the parties when obtaining their explanations of the incident to diminish the ability of suspects to intimidate victims. Additional training should emphasize this procedure.
- C. *Impounding weapons* The department should determine when it is appropriate to search for and seize weapons at the scene of a domestic and standardize this operation by policy and training.

D. *Obtaining criminal and OFP history* It is important for officers to have access to criminal history at the scene for several reasons: it assists in predominate aggressor determinations; it places crime in larger context; and allows officers to better gauge the dangerousness posed by a suspect. To obtain more complete domestic violence-related criminal history, officers need the information available on SIP, and information being held by other agencies. The department should consider how and when officers should be accessing this information. The audit team suggested using SIP at the precincts more frequently and making better use of the services available through pretrial release.

E. *Providing information to the victim* The current procedure directs officers to provide “blue cards” to victims and tell victims that the Council of Crime and Justice will contact them about the case. The “blue cards” should be revised to be more user-friendly and understandable, and translated into the currently needed languages. Officers should provide information to victims at the scene: an explanation of the general categories of assistance included on the card, a brief explanation of Orders for Protection and how to obtain one, and that CCJ Liaisons will be calling to explain what will happen in the court process.

A related problem is the difficulty in contacting victims without phones or those who leave the home after the incident. As a result, the CCJ Liaisons often fail to reach victims before the arraignment, and often victims aren’t contacted until the pre-trial hearing. If the incident report required that officers routinely ask for and document a third party contact who could always reach the victim, this problem would be alleviated.

F. *Documenting injuries* When a victim has injuries or alleges injuries that aren’t visible, officers should explain what she should do to have photographs taken when the marks are visible or more graphic.

G. *Charging* Cases would be strengthened if officers more routinely included all possible charges arising from the incident.

H. *Obtaining releases of medical information* According to city attorneys, current procedures for obtaining a release for the victim’s medical records are cumbersome. They are interested in discussing ways to resolve this issue with MPD to ascertain if responding officers could play a role in this procedure.

I. *Preserving 911 tapes* City attorneys are also interested in discussing procedures and determining criteria for routinely flagging and obtaining 911 tapes.

2. Report Writing

Overall, officers are documenting too little of the information that is available at the scene of domestic assaults. For example, officers infrequently provide independent corroboration of the parties' accounts of events. This results in placing too much burden on victim participation in the subsequent proceedings, which is contrary both to victim safety and to recognized best practice in prosecution of domestic violence cases. While officers consistently produce reports in accordance with state law, the reports often contain too little information for other agencies to successfully move ahead on a case.

- A. *Guidelines for report writing* As noted in the audit findings, misdemeanor incident reports could be strengthened in many areas:
- 1) proper excited utterance quotations;
 - 2) other possible charges in addition to assault;
 - 3) better injury descriptions;
 - 4) more witness statements;
 - 5) better notation of suspect's version of events, which can be helpful to the prosecutor;
 - 6) notation of 3rd party information through which victim can be contacted;
 - 7) better documentation of crime scene observations;
 - 8) inclusion of dangerousness assessment questions, as appropriate; and
 - 9) better documentation of officer's actions regarding children's presence.

Departmental policy could mandate that certain threshold features be included in every domestic violence-related report. The department could require that officers use the checklist to assist them in information gathering at the scene and in developing their reports. Given the current report process, whereby officers dictate their reports to transcribers from memory or from notes taken at the scene, sometimes hours after an incident, the checklist might be particularly helpful. The department should also consider adding additional mandatory fields to their report format to ensure consistent compliance with departmental policy, e.g., a field requiring officers to ascertain the existence of an OFP. The Domestic Violence Checklist in Appendix B, developed in conjunction with county and city attorneys, offers suggestions that prosecutors feel would improve their effectiveness in these cases. The department should plan for the consistent implementation of the report writing checklist.

- B. *Comments on drug/alcohol use* To improve the usefulness of observations about alcohol/drug use, officers should be encouraged to make a connection in their reports between a party's level of intoxication and the reliability of party's statements, e.g., based on party's level of intoxication, how credible is statement; what is the likelihood that party will recall events, etc.

3. Supervisory Oversight

As the audit findings have shown, current supervisory procedures to review incident reports are not producing consistent and comprehensive information that is the most useful for other subsequent intervenors in the court system. For example, supervisors must routinely review Arrest, as well as GOA, reports. Additional supervisory procedures should also be considered in conjunction with training efforts. Officers who consistently submit incomplete reports should be directed to remedial training. A sample worksheet that supervisors could use in reviewing patrol reports, as well as a sample policy directing this process, can also be found in Appendix B.

4. Responding to Gone on Arrivals

The Department should institute a stronger response to misdemeanor domestic assault Gone-On-Arrivals. The current practice of not regularly pursuing GOA's may result in further endangering victims. According to a recent study, GOA's often involve the most dangerous domestic violence offenders.² Repeat offenders may have learned to avoid criminal accountability by fleeing the scene. GOA's constitute a large percentage of the domestic violence-related calls, and as a matter of process, receive inconsistent follow-up. The department should encourage by policy and training the importance of pursuing many GOA's, and protocols should be established to identify which GOA's must be pursued immediately. At a minimum, officers should ascertain a detailed physical description of the suspect, including the suspect's clothing. Whenever possible, officers should collect a photograph of the suspect, to enhance likely identification. Finally, when officers do locate and apprehend a suspect, they should have the victim and any witnesses confirm the suspect's identity.

5. Dangerousness Assessment

Currently, patrol officers are not making any type of formal assessment of the level of danger and violence involved in a domestic assault case. This information is important in gauging whether a case may warrant a heightened level of police pursuit or court control of the suspect due to the danger posed to the victim, especially when setting conditions of release and at arraignment. Often patrol officers are in a good position to ascertain the dangerousness a suspect poses. A sample dangerousness assessment checklist is located in

² . "Our research did demonstrate that as a group, those offenders who left the scene had twice the number of past criminal charges and twice the recidivism rate of those present when police arrived. Therefore, these findings strongly suggest that high priority should be given to offenders who left the scene before police arrival, and even more significantly, to those fleeing offenders with lengthy criminal records (who may know they would be likely to be arrested again)." *Response to Domestic Violence in a Pro-Active Court Setting: Executive Summary*; Byrne, James, Buzawa, Eve, Hotaling, Gerald, Klein, Andrew; National Institute of Justice, July, 1999.

Appendix B. The department should consider adopting and implementing dangerousness assessment procedures.

6. Training Issues

The department has commendably demonstrated a commitment to domestic violence training of its staff this year. Department-wide training should be continued. Through the audit process, the audit team identified several areas that should be focussed on for further trainings:

- 1) all of the report writing improvements noted above;
- 2) review and clarification of MN laws and departmental policies regarding domestic violence;
- 3) how to conduct strong self-defense and predominant aggressor analyses at the scene;
- 4) how to identify non-obvious injuries (e.g. strangulation), as well as defense wounds;
- 5) how to identify dangerousness indicators (e.g. stalking, violation of existing no-contact orders, etc.);
- 6) how to effectively interview victims, suspects, and witnesses; and,
- 7) how to write effective reports.

Notably, training also offers patrol officers an opportunity to be recognized for efforts made in responding to domestic violence, and to be rejuvenated in responding to a difficult crime.

7. Technology and Resource Issues.

The city should provide funding for, and the department should prioritize, better equipping officers responding to these cases. As a matter of routine, officers should have cameras, cellular phones, and audio recorders. Further, officers need quick and easy access to criminal history information from their squads. Until this equipment is available, officers need to utilize the services of pretrial release, where agents are available 24 hours a day, 7 days a week.

8. Community Outreach.

When considering policy or procedural changes in the response to domestic violence, the department should collaborate with other governmental or advocacy agencies that subsequently intervene in these cases to enhance law enforcement's ability to better prepare the case for later action and to better anticipate possible impacts on victim safety, especially those victims in ethnic-minority, or immigrant/refugee communities.

9. Addressing Domestic Violence by Staff.

There is no policy currently in place to specifically address domestic violence committed by staff of the department. Increasingly, law enforcement departments throughout the country are identifying the need to institute a proactive deterrence to domestic violence in the workplace. Further, victims of officer-batterers are in a particularly vulnerable position, and the department should make efforts to alleviate that vulnerability. A model policy developed by the International Association of Chiefs of Police in 1998 is included in Appendix B.

Post-arrest to Arraignment Procedures: Findings

By behavioral definition, domestic violence perpetrators engage in patterns of coercive and manipulative tactics to control their victims. The use of these tactics often increases when actions, like arrest, limit their ability to control their partner. Consequently the post-arrest period can be a very dangerous time for victims of domestic violence. Perpetrators often attempt to poison the court process before it begins by tampering with the best, and often only, witness. Escalation in the severity of violence and controlling behaviors should be anticipated following arrest and through the pre-trial stage. This actual or threatened violence will inhibit victims from seeking aid or cooperating with criminal justice system personnel even when their partners are still in jail. The ability of perpetrators to threaten the victim from jail or return home and retaliate with violence within hours of being arrested underscores for victims that there is often little, if any, real safety to be obtained through the criminal justice system. This realization has a demoralizing effect on victims and affects their willingness to participate in subsequent court proceedings.

The best strategies available to the criminal justice system to counter this coercion are those which:

- identify the context in which this incident occurred and the victim's perspective on case outcomes that could promote her safety, and attempt to match those goals in its intervention;
- solicit information needed from the victim in ethical ways that respect her level of fear and hold her safety as a prime consideration, and that allow her to make informed decisions about the impact of her disclosures on her safety;
- limit or deny the defendant's contact with or access to the victim, as appropriate;

- craft release conditions that reflect the danger perpetrators pose to public safety – remembering that the victim is *part of the public* and deserves the same safety considerations, and
- **assist victims** in developing safety plans and connecting with advocacy services that can help them address other problems caused by the violence that the criminal justice system does not meet.

Depending on the jurisdiction, there are different agencies involved in the response to misdemeanor domestic violence cases. Each needs to incorporate these strategies into its procedures while coordinating its actions with other intervening agencies to ensure a comprehensive community response that consistently promotes victim safety and offender accountability.

The Safety Audit teams studied the processing of misdemeanor domestic assault cases immediately following the arrest up to arraignment. The agencies involved in cases during this period and their functions include:

- Pre-Trial Release/Bail Evaluation

Bail evaluators are available 24 hours a day to collect criminal history, gather information from the victim, interview the suspect and make bail recommendations for arraignment court or weekend Judicial Review Teams. Bail evaluations are not completed on suspects who post bail and are released prior to arraignment.

- Minneapolis City Attorney's Office

Staff prepares case files daily for suspects appearing in arraignment court including: police report, victim information, Corrections pre-trial evaluation, and criminal history. A pre-trial evaluation may not be available for arraignments of out-of-custody defendants. All cases are set for pre-trial at arraignment, except in the rare case when the defendant pleads guilty at arraignment.

- Council on Crime and Justice, Crime Victim Liaisons

Upon referral from arresting officers, CCJ liaisons attempt to contact the victim after the arrest and prior to arraignment to obtain specific information for the prosecutor. Often victim contact cannot be made before the arraignment of in-custody cases, or before the defendant can contact the victim in out-of-custody cases.

- Criminal Justice Staff housed in the Hennepin County Domestic Abuse Service Center

Police reports on GOA cases (gone-on-arrival) are reviewed daily by a County Attorney paralegal to identify if the defendant has prior convictions or pending domestic cases. A Corrections caseworker assistant then checks the probation status of the suspect and notifies the assigned probation officer of any violations. An MPD Sgt. investigator responds to all phone calls and walk-ins by GOA victims and investigates GOA cases referred from the prosecutor

(documents injury, obtains 911 tape, takes statements from victims and witnesses, writes supplements for police reports, etc.). The paralegal sends a letter to the victim asking her to contact DASC if she wishes to proceed with prosecution. Cross-deputized City and County attorneys rotate through DASC and can file complaints on GOA cases.

- Domestic Abuse Project

Advocates from DAP also attempt to make phone contact with GOA victims and send informational letters offering supportive advocacy services. Advocates try to make contact with victims prior to or at arraignment to offer confidential legal advocacy.

- Other independent advocates

Several non-profit community programs employ domestic abuse advocates. These advocates will provide legal advocacy to women who are using their services.

The Audit Team conducted observations and interviews with Pre-Trial/bail release evaluators, Crime Victim Liaisons, Domestic Abuse Team attorneys and paralegals, and Domestic Abuse Project advocates to identify the current post-arrest to arraignment practices in misdemeanor domestic assault cases. These practices were examined in relationship to their impact on victim safety and offender accountability.

Although being audited can be potentially intimidating, all the agencies and staff that we observed were candid, open to sharing any requested information, policies or forms and took time out of their heavy work schedules to talk with us. The following observations and recommendations are offered with respect and the recognition of our mutual interest in developing a more effective response to these cases.

Audit Team members observed arraignment and pre-trial procedures and conducted extensive interviews with Domestic Abuse Team Attorneys. Our initial plan was to audit arraignment and pre-trial practices. Once we collected our initial information it became evident that there were far too many intervenors, systems, and practices involved in the post-arrest through trial period to complete an adequate audit of prosecution practices in this initial time frame. The second year of the Audit will focus on analysis of case prosecution and disposition, and access to advocacy services during the court procedures. We will also be involved in assisting police and pre-trial release staff with the implementation of recommendations contained in this report.

Promising Practice

Bail Evaluation/Release from Custody

- Detain defendant until criminal history is obtained and assessment of dangerousness is completed.
- Obtain input from victim on past history and level of fear. Inform victim of your role and what will be done with information shared with you. Assist with initial safety planning.
- Recommend bail amounts and conditions of release (CR) that are tailored to fit the dangers that perpetrators pose to their victims, themselves and community.
- Notify victim of the defendant's CR prior to release. Provide a copy to victim and inform her/him of the process to report violations of CR.
- Review CR with the defendant and explain consequences of non-compliance prior to release.

Response to Minneapolis DV Cases

- Bail is generally set at \$1200 for 5th degree Domestic Assault. *If defendants can post bail they are often released before bail evaluators can complete any assessment.* Defendants who cannot post bail complete a bail assessment and decisions on their release are made at arraignment the following day, or by the Judicial Review Team which meets on weekends. Evaluators do not have access to current OFP information on CATS.
- Bail evaluators are often the first intervenors to speak with the victim. Space for victim comments on the evaluation form is often insufficient to collect needed information. It is not clear that victims have the best number at which to contact bail evaluators after hours. When asked, workers did not have immediate access to victim referral/resources at their workstations.
- Release from jail is not specifically related to level of dangerousness, only to the defendant's ability to pay the bail. Consequently poor men and men of color disproportionately remain incarcerated. There is currently no process or tool other than criminal history to assess dangerousness, and rarely is the criminal history reflected in the amount of bail required. There is no policy regarding NBR (no bail required) when staff are unable to contact the victim.
- An automated notification system informs a victim when the defendant has been/will be released and the CR. The victim copy of this document is not mailed to the victim until the defendant is released at arraignment. The CR issued when defendant bails out prior to arraignment is not entered into SIP.
- Defendant receives copy of CR ordering him to have no contact with the victim. Occasionally, defendant's address and telephone are listed as the same as the victim's on CR form. This indicates that either the corrections officer did not know the victims address or was not thoroughly explaining the CR to the defendant.

- Monitor defendant's compliance with Pre-trial Conditions. Designate responsible CJS personnel, determine monitoring practices, and initiate court proceedings for non-compliance.

Prosecutor Contacts with Victims: Post-arrest to Arraignment

When staff are hired by prosecutor's offices to assist the attorneys in contacting and maintaining relationships with victims in domestic violence cases, they should:

- Serve as a liaison between the criminal justice system agencies and the victim and gather relevant information from the victim for the prosecutor.
- Ensure that the victim:
 - ✓ understands the role of the liaison working for the prosecutor,
 - ✓ is always informed at the beginning of any conversation that shared information is not confidential,
 - ✓ is provided with information about legal remedies and victim rights, and
 - ✓ is referred to confidential advocacy services that can assist with other needs not addressed by the criminal justice response.

- Many victims do not know how or where to report CR violations that occur before arraignment. The supervisor in the jail stated that the initial CR copy is kept in a "release" file in the jail. Police officers we interviewed were not aware that there was a CR copy on file at the jail, or how to access such information.

The Minneapolis City Attorney's Office contracts with the Council on Crime and Justice (CCJ) for the services of Crime Victim Liaisons (CVL) who handle post-arrest contacts with all crime victims, not just domestic violence cases.

- Currently, a CCJ Liaison attempts to contact the victim following arrest and obtain certain information requested by the prosecutor:
 - ✓ Do you want the defendant released?
 - ✓ Is contact Ok?
 - ✓ Were there injuries?
 - ✓ Were there witnesses?
 Asking victims if they want the defendant released and if they will cooperate with the prosecution places responsibility for offender accountability on the victim rather than on the criminal justice system response.
- Victims are not consistently provided this information. The following issues were noted in observations and interviews with CCJ Liaisons:
 - ✓ Several police officers described difficulty in contacting CCJ after business hours, "the line is always busy," "I can never get through to talk with someone."
 - ✓ The timeliness of victim contact is often impeded by lack of consistent victim contact information supplied by the police.
 - ✓ The CCJ Liaison supervisor stated that there is no practice in place which would ensure that police are reporting to CCJ after every arrest.
 - ✓ Victims are not always informed at the beginning of each conversation that shared information is not confidential.
 - ✓ Victims are not always referred to confidential advocacy services.

<ul style="list-style-type: none"> • Assess the likelihood of continued violence by the suspect from the time of arrest through the conclusion of the trial. • Notify the victim of her rights to state and federal victim compensation and assist the victim with applications for crime victims' compensation and other financial aid. • Provide the victim with case information on court dates and the court process. • Work collaboratively with community-based advocates to address the full range of victim needs. <p>Legal Advocacy: Post- Arrest to Arraignment</p> <p>Victim liaisons sometimes assume functions related to victim services that were previously handled by community-based advocates. However, the role of liaisons employed by a prosecutor's office is typically limited to activities related to case preparation which end when the case is disposed of by the court.</p> <p>When victim liaisons are added to the prosecutor's office, independent advocacy organizations should:</p> <ul style="list-style-type: none"> • Work cooperatively with the prosecutor's office to clarify roles and functions of liaisons and advocates, avoid duplication of efforts, and design a comprehensive response to victims. This should ensure that a victim is provided with information about: criminal court proceedings, victim rights, legal options should the defendant violate CR, an OFP or reoffend, what happens to information she discloses, changes in status 	<ul style="list-style-type: none"> ✓ The victim could be contacted by a different CCJ Liaison prior to arraignment, at arraignment, at pre-trial and works with yet another victim specialist if the case goes to trial. • This practice has not been requested of CCJ. • CCJ liaisons are responsible for providing this information and service to victims of misdemeanor assault. Information is mailed to all victims. • Attempts are made to call victims after arraignment in addition to mailing the information. • There is no system in place to ensure that each victim is working with a community - based advocate. <ul style="list-style-type: none"> • Post-incident (GOA, or from arrest up to arraignment) victims may be contacted by a number of different people: a CCJ Liaison, a police investigator housed at DASC, and sometimes an independent DAP advocate. Each attempts to gather information and provide services, but these services and advocacy resources are not coordinated nor adequately staffed, resulting in: <ul style="list-style-type: none"> ✓ a lack of continuity of services to victims due to multiple contacts by various CJS victim specialists and independent advocates;
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<p>of the case, how to provide input on CR, how to obtain a victim advocate and advocacy services, and, assistance with safety planning throughout the entire court process</p> <ul style="list-style-type: none"> • Provide comprehensive advocacy services that assist victims in making informed decisions about their level of participation in the court process, and address other needs not met by the criminal justice system. • Initiate and maintain efforts that assess the criminal justice system's response to domestic violence cases and advocate for recommended improvements. 	<ul style="list-style-type: none"> ✓ victim confusion about who is contacting her, who has access to information that is shared and the potential consequences of disclosure; ✓ insufficient accountability to the victim; ✓ no guarantee that each victim has access to an independent advocate, accompaniment to court hearings, and comprehensive information about her legal and social service options; and ✓ lack of emphasis on safety planning throughout the court process. <ul style="list-style-type: none"> • Advocacy services are not well-coordinated as noted above. • In the past year, advocacy organizations have participated on the Audit Teams, the Advocacy Committee of the audit, and the Family Violence Coordinating Council.
<p>Pre-trial release procedures</p> <ul style="list-style-type: none"> • Carefully evaluate pre-trial release options. Seek the victim's input and determine her fear of future assaults. • Request an appropriate bail based on the nature of the crime, the danger to the victim, the potential for danger to the community, the perpetrator's criminal history, and his potential for maintaining contact with his attorney and the court. • Where a systematic risk-assessment shows that the danger posed by the defendant to the victim is significant, request holding the defendant in protective custody during court proceedings. 	<ul style="list-style-type: none"> • As noted above, victim input regarding her safety should be considered when releasing the defendant. • Currently, bail requests are based on criminal history and the perpetrators potential for maintaining contact with the court. • See aforementioned recommendations relative to development and application of risk assessment tool.
<p>Prosecution Oversight</p> <ul style="list-style-type: none"> • Establish protocols and practices grounded in an understanding of violence against women that embody values of victim safety, 	<ul style="list-style-type: none"> • The existing prosecution plan, written in 1994, is broadly worded, does not address the current practices of the City Attorney's office, is not familiar to the current staff,

<p>confidentiality, and respect for the autonomy of victims, and that hold offenders accountable. Revise protocols as needed.</p> <ul style="list-style-type: none"> • Develop a system to monitor prosecution compliance with protocols, and revise policies and practices as necessary. • Allocate funds, resources and personnel to violence against women cases. • Support institutionalized ongoing Domestic violence training for all staff. • Advise and train law enforcement investigators on evidentiary issues. • Develop strategies to remove barriers facing underserved/immigrant populations that prevent them from using the criminal justice system (e.g., translation of materials into relevant languages, 24-hour access to translation, and interpreter services). • Support coordination among all branches of the criminal justice system and with the community, particularly community-based advocates. Develop inter-agency agreements as appropriate. 	<p>and needs to be updated.</p> <ul style="list-style-type: none"> • No systematic procedure is in place. • The Domestic Abuse Team (DAT) is currently staffed by 6 attorneys and 2.5 paralegals, which represents a 20% increase in resources dedicated to DV cases since 1999. • DAT participated in 6 hours of DV training designed specifically for prosecutors in June 2000. There are no institutionalized training requirements, or available resources to ensure this training for Domestic Abuse Team attorneys. • Management has presented training on report writing to groups of police several times. In coordination with MPD, the City Attorney's office has initiated a police report feedback system which will identify reports that are deficient and recognize officers whose reports are exceptional. • Many barriers exist for non-English speaking victims throughout the justice system, especially for recent immigrant populations. It is the responsibility of the court to provide an interpreter for both victim and perpetrator, preferably not the same interpreter, but sometimes this is unavoidable and preferable to having no interpreter for the victim. Access to interpreter service and translated materials is a major issue throughout the intervention process for bail evaluators, CCJ Liaisons, and prosecutors. • There has been a serious lack of coordination and communication between community-based advocates and the city attorney's office in the past. Ms. Peterson and her staff have pursued re-building these relationships and have been meeting and working with advocates in the best interest of victim safety.
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- Use vertical prosecution whenever possible.
 - All cases should be processed as quickly as possible while balancing the need for timeliness and efficiency with quality case outcomes and victim safety.
 - Work with advocates to jointly develop a process to maintain the confidentiality of the victim's location when necessary.

Data Collection

- Create databases to expedite docketing, caseload management, and timely victim notification. Automate the office databases to include information on each case, the nature of the charges, and the ongoing status of the case up to and after sentencing.

- The use of vertical prosecution is currently the preferred procedure from pre-trial through trial, though a different attorney is likely to have handled the arraignment hearing. Trial representation may be provided by a different attorney.
 - The expectation of processing cases within 60 days must be balanced with achieving case outcomes that increase victim safety and offender accountability, in addition to discovering and addressing why some cases are not resolved for up to a year.
 - A procedure needs to be developed
 - Current PCMS data system is not capable of producing needed reports, and a plan is in place to replace the system. Domestic Abuse Team attorneys do not have access to CATS from their workstations, inhibiting their ability to collect accurate suspect background information. Case information is now being collected on an Excell data system to track status of case, disposition, and contributing factors.
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Post-arrest to Arraignment Procedures: Recommendations

Bail Evaluation/Release from Custody

1. Bail evaluators obtain criminal histories on defendants and add a summary sheet of the history to the case file. This information gathering process is repeated by City Attorneys or paralegals, but in some cases, due to lack of personnel, a full criminal history is not obtained and added to the file. This duplication wastes scarce resources and results in inconsistencies in the relevant criminal history gathered. Management from Corrections and the City Attorney's office should determine more efficient procedures for transferring pertinent information gathered by Bail Evaluators to the prosecutor.
2. The Sheriff's Department (Jail) and Corrections (Bail Evaluation) should create a process that will ensure that all defendants are evaluated prior to release from custody. This process would ensure that prosecutors have some basic background information for out-of-custody arraignments.
3. 24-hour access to CATS should be provided in both the offices of the bail evaluators and the City Attorney. Research has shown that the existence of an Order for Protection is one of the most significant predictors of risk for victims. Access to this information could aid the bail evaluators and judicial review members in making release determinations.
4. All bail evaluators should receive regular training on DV issues and interactions with DV victims. They should have immediate access to victim resource information at their work stations, and be familiar with information on the MPD blue card. BWJP would be willing to work with bail evaluation staff to develop and provide the needed training.
5. Corrections and the Bench should assess the feasibility of pro-active pre-trial monitoring of defendant's compliance with Conditions of Release (Pre-dispositional Reviews) as a component of the proposed dedicated DV court.
6. The Sheriff's Department, Bail Evaluation Unit, the City and County Attorney's offices need to determine who is responsible to create and implement institutional practices and data collection systems that respond to changes in legislation regarding violations of Conditions of Release (CR). Once determined, the responsible agency should:
 - a) ensure that victims will be notified of CR prior to defendant bailing out of jail;

- b) amend the current automated notification recording to include CR information needed by victims, i.e., CR violations are misdemeanors and how to report CR violations;
- c) amend the Order of Conditional Release form immediately to include information on criminal penalties for CR violations and provide contact information for victims;
- d) determine how Conditions of Release (prior to arraignment) can be available to police officers from their squad cars; and
- e) educate all CJS personnel on recent law changes and the corresponding institutional response.

Victim contacts by the Prosecutor's Office

1. A committee of representatives from the office of the City Attorney, DASC, corrections, crime victim liaisons, and community-based advocates should reassess current practice and develop coordinated post-arrest victim services that would support the prosecutor's efforts and increase victim safety. Steps should be taken to:
 - a) minimize and coordinate the number of different contacts made with victims by criminal justice staff and community advocates, eliminating duplication as appropriate, and clarifying who should be contacting the victim for what purpose. Examples:
 - The information currently sent to victims in GOA incidents by both DASC and the Domestic Abuse Project could be combined into one document.
 - The Bail Evaluator and CVL contact the victim after the incident requesting different information from the victim, neither having the role of inquiring about her safety needs or assessing the level of dangerousness, or of assisting her in safety planning.
 - Prior to arraignments, CVL staff and DAP advocates are both at the courtroom attempting to contact victims with no formal coordination to minimize duplication.
 - b) specify how, when and what relevant information will be obtained the victim at each stage of the case (such as history of violence, mental health/substance abuse issues, prior unreported violence), with whom and how this information will be shared, and how the victim will be informed about the confidentiality status of any information she discloses;
 - c) examine how written information is sent to victims, and the impact of the use of City Attorney letterhead on the victim's safety;
 - d) provide needed legal and social service information to the victim at each stage of the intervention process;
 - e) determine how victim safety will be assessed and addressed (including development and implementation of risk assessment procedures);
 - f) increase communications between victim liaisons and community advocates through regularly scheduled meetings; and,

- g) require consistent and regularly scheduled DV training (dynamics of domestic violence, victim safety, community resources, legal rights and remedies) for both day and night CVL staff.
2. The City Attorney should develop a written protocol for Victim Witness liaisons and prosecutors which addresses the safety and ethics issues of interactions with victims, particularly regarding protection of victim disclosures and avoidance of threatening statements or consequence-driven actions intended to compel disclosure or inferences that assistance is contingent upon her disclosure.

Victim Advocacy by Community-based Advocates

1. A multi-disciplinary committee comprised of criminal justice personnel and community-based advocates should develop recommendations and strategies to create and implement a community-wide response which will ensure that victims have immediate access/referral to independent advocates who can provide:
 - a) confidentiality,
 - b) safety planning and dangerousness assessment,
 - c) accompaniment and advocacy throughout the court process; and,
 - d) support and assistance with other issues, such as housing, relocation, financial aid, or child-care, which facilitate her ability to address the violence in her life, and
 - e) culturally-competent services.
2. A number of domestic violence agencies and other community agencies (often working in a particular neighborhood or ethnic population) employ advocates that provide legal advocacy to victims. Despite historical efforts at organizing, advocates working in Minneapolis have not built a network by which their shared experiences working with individual women are translated into effective system change efforts. As a result, there is currently no organized and consistent way to document and present a comprehensive view of system's problems to criminal justice agencies. Nor is there an identified means by which criminal justice personnel can communicate with advocates and obtain a unified and culturally-competent response to their issues or proposals. Staff time and leadership needs to be devoted to system's advocacy as well as individual advocacy. This process requires a concerted effort and intentional planning to network advocates, some of whom work in isolation, coordinate their activities, identify and prioritize system's issues and create a collaborative process for system's change efforts.

Determination of dangerousness

1. Corrections should adopt the use of dangerousness assessment procedures to assist bail evaluators in their work with victims and in recommendations on release from custody. A sample tool (DVSI) can be found in Appendix B.
2. The City Attorney, Corrections, and advocates should collaboratively develop and implement an enhanced process to assess level of risk and dangerousness in DV cases, to implement the use of this information in court proceedings, and to train criminal justice staff and the bench on its application in their decision-making.

Prosecution Oversight

1. City Attorney management should convene a multi-disciplinary committee comprised of representatives from the Domestic Abuse Team, probation, police, and community-based advocates to review model prosecution plans, revise the existing local plan, and implement it. To inform their decision-making about the new protocol, the Office of the City Attorney has agreed to participate in auditing of misdemeanor case processing and case disposition as correlated to victim safety, risk factors present, availability of evidence, and other factors yet to be identified.
2. Only 2 of 48 GOA's (which comprised 61% of our total incident sample) were later charged by the City Attorney. It could not be determined how many were presented for charging. Given the danger these suspects pose to their victims, this area requires attention to practice and protocol development.
3. The City Attorney and MPD should develop a memorandum of agreement to define and institutionalize cross-training procedures and a feedback process on police reports.
4. The City and County Attorney offices should determine how to implement a data flagging system to identify all misdemeanor charges that are committed within the context of an *intimate relationship*, i.e. disorderly conduct, property crimes, etc., so that recorded criminal history will more accurately capture the context of domestic violence committed by a perpetrator, and to more accurately track the number and disposition of domestic violence cases among adult intimate partners.
5. The City Attorney should ensure that all witnesses are informed of their right to receive witness fees for transportation, lost wages, childcare and other expenses incurred when subpoenaed to testify (MN statutes, Section 357.22).
6. Discussions with prosecutors have indicated that they and judges hold conflicting interpretations about factors that can be considered when setting

bail, which may prevent dangerousness assessment procedures from being introduced. The City Attorney's office should work cooperatively with other relevant agencies to explore statutory changes or other strategies that could allow victim safety to become a more important factor in setting bail.

Related Issues for the Family Violence Coordinating Council / DV Court Implementation Committee

1. At arraignment victim safety should be a prime consideration. Observations at these hearings found that victims were placed in the position of publicly responding to questions about what she wants done to the perpetrator, or if she wants him released. Training should be initiated to educate Prosecutors, Defense, CCJ Liaisons, and the Bench about inherent safety risks involved in this practice.
2. The City and County Attorney, advocates and the Bench should develop a judicial checklist to assist in determination of release conditions and bail in domestic cases. Model form is included in Appendix B.
3. A multi-disciplinary committee should develop strategies to remove barriers facing underserved and immigrant populations that prevent them from using the criminal justice system (e.g., translation of materials into relevant languages, 24-hour access to translation, and interpreter services). In particular, the certification process for interpreters should be reviewed to determine if educational requirements exclude women from certain cultures. Alternate strategies should be considered which could provide a core of interpreters for victims, e.g., the Multi-Language Access Model from San Francisco. Women from these communities should be involved in the planning and implementation of solutions.

III. Summary & Future Directions

The safety audit process involved many meetings with supervisors and criminal justice staff to obtain their perspectives on issues related to the history behind certain practices, the presence or absence of linkages among agencies, and existing problems. BWJP staff regularly attended meetings of the Family Violence Coordinating Council and several subcommittee meetings. Most procedures in the justice response depend on communication and interaction among the several agencies. While this audit focused on two initial steps in the case development process, it was impossible to gather the information needed for this study without obtaining a wide range of information on subsequent and parallel procedures. As a result, in addition to the findings and recommendations in this report, the audit teams have developed lists of other issues and possible directions for further study that will be incorporated in future safety audits.

During the audit, BWJP staff also became involved in resolving issues that could be addressed more immediately. For example, advocates identified a concern with court security during OFP hearings, and noted their lack of involvement in planning security for the proposed family court center. BWJP facilitated a meeting between advocates and the sheriff's department to resolve the current issues and secured the participation of advocates in the planning process. When the audit teams identified a need for additional domestic violence training for the city attorneys and probation officers, audit funds and staff time were dedicated to the organization of two trainings conducted by several nationally recognized experts in each field. BWJP assisted the city attorney's office in developing and printing a report writing checklist for police officers that communicates the elements needed in police reports to enable the prosecutor to obtain convictions based on the available evidence, which can decrease, and in some cases, eliminate the need to have victims testify in the presence of their abusers.

BWJP has been awarded a continuation grant to extend the safety audit for another year. After consulting with the audit teams, it was decided to focus next on the case development process from arraignment through trial. The relevant agencies have agreed to continue their participation on the audit teams and discussions are underway to identify which observations, interviews, and text analyses to include in this effort.

In addition, BWJP staff will promote the consideration of the current recommendations, which offer a blueprint for system change and broadly identify who is responsible for implementation. As an outside agency, it was not our role to offer a detailed operational plan with timelines and budget projections. However, initial discussions with the participating agencies about the audit findings have been fruitful, indicating that cooperative action to improve the response to these cases will be maintained. BWJP remains available to provide training resources and technical assistance to the implementation efforts.

IV. Appendices

Appendix A

- Audit Worksheets

Appendix B

- **Law enforcement report checklist**
- **Sample law enforcement supervisor's checklist**
- **Sample Policy- Responding to Officers Who Commit Domestic Violence**
- **IACP model policy – Officer Involved Domestic**
- **Sample judicial checklist on setting bond**
- **Sample Information summary for Ex Parte OFP**
- **Sample risk assessment, DVSI**
- **MN Witness Fee Request Reimbursement form**