



Family Violence **A protocol for law enforcement**

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The following excerpt is taken from Chapter 1 of the 2000 edition of the TDCAA INVESTIGATOR DESK REFERENCE MANUAL. This sample protocol is part of the "Domestic Violence" section of the "Specific Investigative Techniques" subchapter. To order this helpful \$55 book, please see the order form on page 26 or contact Ben Moore at 888/577-9600 or <moore@tdcaa.com>.

Domestic violence is a crime that not only affects the victims but also the community as a whole. In light of this fact, the following "Domestic Violence Protocol" was developed to assist all local law enforcement officers in the proper handling of a domestic violence incident from the initial call through prosecution. This protocol will also provide a uniform approach to domestic violence offenses by every law enforcement agency within Grayson County. All law enforcement agencies in Grayson County should adhere to the following principles:

- 1 All law enforcement agencies will respond to acts of domestic violence as a crime.
- 2 Victims of domestic violence will be treated with respect and dignity and will be given appropriate assistance by law enforcement personnel responding to an incident of domestic violence.
- 3 The decision to prosecute a batterer lies within the discretion of the County Attorney. Victims do not "press charges," "drop charges" or "prosecute" their batterers.
- 4 Law enforcement officers shall ar-

rest batterers in all situations where an arrest is legally permissible for felony or misdemeanor acts of domestic violence.

- 5 Training will be provided regularly to enhance law enforcement's response to domestic violence incidents.

Preliminary Investigation

A. DETERMINE PRIMARY AGGRESSOR

The "primary aggressor" is the person determined to be the most significant, rather than the first aggressor. In identifying the primary aggressor, the officer shall consider:

- 1 the intent of the law to protect victims of domestic violence from continuing abuse;
- 2 the threats creating fear of physical injury;
- 3 the history of domestic violence between the persons involved; and
- 5 whether either person acted in self defense.



B. INTERVIEW VICTIM & WITNESSES SEPARATELY

Include any children who may have witnessed the incident or any prior incidents. **Do not ask the victim whether he/she wishes to press charges.**

1 Victim:

Note and document the following:

- a. Note the victim's physical condition, including:
 - ✓ any injuries — describe in detail (*determine if medical treatment is necessary and seek appropriate care*),
 - ✓ torn clothing, and
 - ✓ smeared makeup.
- b. Note the victim's emotional condition (*describe in detail, i.e. crying, visibly shaking, etc.*)
- c. Inquire as to whether or not the injury caused the victim pain and document.
- d. Document any evidence of substance/chemical abuse by victim.
- e. Determine victim's relationship to suspect.
- f. Record any family violence statements of the victim on tape.
- g. Obtain written statements from the victim.
- h. Obtain emergency contacts telephone numbers (including work number), address, and pager number for the victim.
- i. Note any statements made by suspect to victim during incident (*Put in quotation marks when necessary*).
- j. Have victim identify the suspect as spouse or member of household in front of officer.

- k. Ask if there have been any prior acts or threats of violence.

② Witnesses:

- Interview all witnesses separately and record names, addresses, phone numbers and emergency contacts.
- Record names and addresses of emergency personnel.
- Interview neighbors (*ear-witnesses*).
- Determine from witnesses if they are aware of a history of abuse.

③ Children:

- List name and age of all children present.
- Interview all children present (*even if victim or defendant say the children didn't see or hear anything*).
- Take a picture of all children.

④ Suspect:

- Describe suspect's location on arrival.
- Describe suspect's physical condition.
- Describe suspect's emotional condition.
- Document evidence of substance/chemical abuse by suspect, conduct examination and add charge if appropriate.
- Record spontaneous statements.
- Document, describe and photograph any injuries.
- Admonish suspect and obtain waiver.
- Interview suspect. If the suspect is not at the scene, attempt to contact him/her immediately to obtain a statement. Describe and photograph any injuries on the suspect. If suspect refuses to give statement or return phone calls, document attempts and include this information in the final report. Defense attorneys very often attack the fairness of an investigation if only one side of the story is the basis of a probable cause arrest.

⑤ Evidence:

- Describe crime scene. Note signs indicating struggle such as overturned furniture, hair that has been pulled out, blood, broken finger-



nails, holes in walls, damaged telephones, etc.

- Impound all evidence, such as torn clothing, broken lamps, etc.
- Photograph crime scene.
- Ensure that victim's and suspect's injuries are photographed clearly.
- Impound all evidence and photograph all weapons and other evidence including all instrumentalities of the crime (*i.e. belts, phone cords, hangers, gas cans, lighters, broken lamps, etc.*).

⑥ Medical Treatment:

If medical treatment is necessary:

- Transport or have victim transported to hospital.
- Obtain names, addresses and telephone numbers of ambulance or paramedic personnel treating the victim.
- Document complaints of pain and injuries.
- Obtain signed medical release from victim.
- Obtain copy of medical treatment form including doctor's name, address and telephone number.
- Interview treating physician and confirm nature and severity of injuries.
- Determine if victim made statements to treating personnel regarding injury, incident or prior abuse.
- Document all information.

⑦ Completing Crime Report:

Maintain objectivity in reporting. Avoid personal opinions regarding comments from victim/suspect.

- Ensure that elements of all involved crimes are included in report.
- Make sure the victim was photographed. If a Polaroid camera was used, make sure the photographs clearly depict the injury or any object photographed. Photograph all children present regardless if they were injured, to document they were there. Also, photograph the crime scene, if appropriate.
- Document all evidence collected.
- Document, in detail, any past history of physical violence. Describe the nature of the violence and whether it was reported or unreported.

⑧ Victim's Rights/Officer's Duty to Advise:

- Give the victim appropriate referrals.
- Advise the victim of available shelter options. Assist in making arrangements to transport the victim to an alternate shelter if the victim expresses a concern for safety, a desire to relocate to a shelter, or the officer determines a need exists.
- Explain the options available to the victim including the EPO, and in cases of arrest, the follow-up procedures and ensuing criminal proceedings.
- Do not ask the victim whether he/she wishes to press charges.** The decision to prosecute is made by the County Attorney's Office. The victim **and** suspect should be advised that he/she has no control over the decision to prosecute.
- Advise the victim of available community resources and the state victim assistance program.
- Verify and enforce court issued protective orders.
- Exercise reasonable care for the safety of the officers and parties involved. No provision of this protocol shall supersede that responsibility.

⑨ Emergency Protective Orders:

- Pursuant to CCP Art. 17.292 Magistrate's Order for Emergency

DON'T FORGET!

Send TDCAA photos and flyers from your community's Crime Victims' Rights Week events for publication in the *PROSECUTOR*

TEXAS CRIME CLOCK 1998

One **property crime** every 35 seconds

One **larceny-theft** every 52 seconds

One **burglary** every 2½ minutes

One **violent crime** every 4½ minutes

One **motor vehicle theft** every 5 minutes

One **aggravated assault** every 7 minutes

One **robbery** every 18 minutes

One **sexual assault (of an adult woman)** every 1 hour and 6 minutes

One **murder** every 6 hours and 31 minutes¹

One person is injured in an **alcohol-related traffic crash** in the nation every 2 minutes²

Approximately six **children** are reported **abused and neglected** in America every minute³

Approximately two **employees** are **murdered** and three are **assaulted in the workplace** each day⁴

Every 15 seconds a **battering** occurs in this country⁵

SOURCES

¹ Texas Department of Public Safety, *Texas Crime Analysis*.

² National Traffic Highway Safety Administration, 1999.

³ Based on Prevent Child Abuse America data, 1998.

⁴ Based on National Census of Fatal Occupational Injuries, 1998 data.

⁵ National Coalition Against Domestic Violence.

Artwork and national research figures provided by the National Center for Victims of Crime.

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Protection, the Magistrate may issue an EPO on request of:

- ✓ the victim,
 - ✓ guardian of the victim,
 - ✓ peace officer, or
 - ✓ attorney representing the state.
- b. If the situation warrants, the police officer may request the EPO despite the victim's preferences. Also, if bond conditions are appropriate, the police should contact the assistant county attorney as soon as possible so that the defendant can be served the bond conditions prior to being released from custody.
- c. EPO's are effective up to the 61st day, but not less than 31 days after the date of issuance.
- d. If the defendant caused serious bodily injury or used or exhibited a deadly weapon during the commission of an assault, the magistrate shall issue an Order for Emergency Protection.

- 6 Obtain a copy of the 911 tape and the printout involving the original call for assistance.
- 7 Locate and interview other corroborating witnesses (such as neighbors) who may have heard the incident, yet had not become involved. These "ear-witnesses" can be invaluable during prosecution.
- 8 Inform the victim and witnesses of the status of the case and the intended referral to the County Attorney.
- 9 Record the names, addresses and telephone numbers of two close friends or relatives of the victim who will know of her/his whereabouts at all times during and after the investigation.
- 10 Conduct a complete in-house history of the suspect and the victim and attach it to the investigator's report.
- 11 Obtain copies of prior police reports, prior 911 printouts, and tapes if they exist.
- 12 Interview the suspect unless he has invoked his right to remain silent.

Follow-up Investigations

A. REVIEW PATROL REPORTS

Determine whether all steps outlined above were completed. If patrol officer failed to complete any of the above, make sure the work is completed.

B. RE-INTERVIEW THE VICTIM, WITNESSES & CHILDREN

- 1 Do not simply "confirm" what is in the patrol officer's report.
- 2 Interview the victim or witness in detail and document the information received in your follow-up report.
- 3 Whenever possible, interview the victim in person.
- 4 Obtain subsequent photographs of the victim even if the patrol officer took photographs.
- 5 Obtain copies of medical reports if available.

Victim impact...

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The TDCJ-Victim Services Division is currently in the process of consolidating an extensive data base of victims and survivors from across the state who are interested in participating on victim impact panels in their geographic areas. Following the initial interview, screening, and preparation process, panelists will be available for presentations throughout the state.

Information concerning the Victim Impact Panel Program is available toll free at 800/848-4284. Visit the TDCJ-Victim Services link at <www.tdcj.state.tx.us> or e-mail <Victim.Svc@tdcj.state.tx.us>.