

LAW ENFORCEMENT MANAGEMENT INSTITUTE

THE TRAINING OF LAW ENFORCEMENT OFFICER IN DOMESTIC VIOLENCE

A RESEARCH PAPER

SUBMITTED IN PARTIAL FULFILLMENT

OF THE REQUIREMENT FOR

THE LAW ENFORCEMENT MANAGEMENT INSTITUTE

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INTRODUCTION

Officers assigned to Field Operations Units patrol the streets and respond to citizens' call for service and conduct the initial investigation of crimes to which they have responded. The law of criminal procedure, under which these officers must operate, is complex, and constantly changing. Law enforcement officer are expected to understand these complexities and keep abreast of changes. More important they are required to apply the law to diverse situations which do not neatly conform to the principles set out to guide them. Violations of citizens' rights committed by officers, who are unaware or ignorant of court-imposed limitations on their activities, lead to the failure of many prosecutions as well as the reversal of many convictions. We must understand the differences judges whose job it is to interpret the laws and police officers whose job it is to enforce the laws.

Some prosecutors and police officers, on the other hand, maintain that a aggressive image of law enforcement in a community can serve to significantly reduce criminal activity of all types.¹ At the same time, the threat of civil lawsuits resulting from alleged police misconduct have become a significant factor of mainstream litigation over the past decade.

Police intervention in disputes between family members is frequently considered a routine, yet particularly dangerous, police assignment. Police officers must be aware of the danger involved in disturbance calls. Police generally believe that handling family disturbances is one of their more hazardous duties.

Berk and Losefe (1980-1981), reported that family disturbances "are one of the least frequent types of incidents involved in police homicides."²

Understandably, many law enforcement officers and administrators resented the loss of arrest discretion in handling family disturbances. Many believed, mandatory arrests, were countered to the theory that regards "crisis intervention" as the best way to handle domestic violence situations. Officers are now required to tell victims of all reasonable means to prevent further abuse including other service agencies in the community, and the availability of shelters, and both parties legal rights.

Indeed, there is more than ample evidence that insensitive, untrained and inept police management of human problems is a significant breeding ground for violence. Family crisis intervention training (FCI) does increase and improve a police officer's performance in the resolution and handling of family disturbance situations. In 1991, 4,095 Texas law officers were assaulted in the line of duty; assault resulted in injury to the officer, in 38% of the cases.

Domestic Violence (also known as family violence), is defined in the Texas Family Code as the; 'intentional use or threat of physical force by a family or household against another member of the family or household.' 'Family Violence means an act by a member of a family or household against another member of the

family or household that is intended to result in physical harm, bodily injury, or assault, or that is a threat that reasonable places the member in fear of imminent physical harm, bodily injury or assault, excluding the reasonable discipline of a child by a person having that duty. `Family includes individuals related by consanguinity (blood) or affinity (marriage), individuals who are former spouses of each other , individuals who are the biological parents of the same child, without regard to marriage , and a foster child and foster parent, whether or not those individuals reside together.' `Household means a unit composed of persons living together in the same dwelling, whether or not they are related to each other.' `Member of a Household includes a former member of a household who has filed an application or for whom protection is sought.'³

These definitions mean that arrest for domestic violence may be made without regard to the relationship between the alledged offender and the victim. This includes individuals related by blood or marriage (whether still married, divorced, separated or common law). Those who may be arrested also include friends and companions of the victim or alledged abuser, former spouse,

biological parents (without regard to marriage or legitimacy), foster children and foster parents (whether or not those individuals reside together). Household is defined as a unit composed of persons living together in the same dwelling, whether or not they are related to each other. Member of a household includes a former member of a household who has filed an application for protection is sought.

To assist Houston police officers with the difficulties that can occur in responding to domestic problems, the department has addressed the issue in general orders. Specifically, the following guidance is taken from Houston Police Department guidelines:

There is a tool for officers to have in making effective decisions, that may effect the outcome of a disturbance. In a protective order, the court may prohibit a party from committing family violence. The court shall specifically describe the prohibited locations and the minimum distances there from, if any, that the party must maintain. An order of this code is effective for the period specified in the order, not to exceed one year. If the order does not specify a period in which the order is effective, the order expires one year after the date the order is issued.

Each protective order except a temporary ex-

parte order, shall have the following statement printed in bold-faced type or in capital letters: "A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE A MISDEMEANOR PUNISHABLE BY A FINE OF AS MUCH AS 2,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATED MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS SEPARATED FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISION FOR AT LEAST TWO YEARS."

In order to insure that officers responding to calls are aware of the existence and terms of protective orders, each municipal police department and sheriff shall establish procedures within the department or office to provide adequate information or access to information for law enforcement officers of the names of persons protected by the orders are directed.

The primary duties of a peace officer who investigates a family violence allegation or who response to a disturbance call that may involve family violence are to protect any potential victim of family violence, enforce

the law, and make lawful arrests of violators. A peace officer who investigates a family violence allegation or who responds to a disturbance call that may involve family violence shall advise any possible adult victim of all reasonable means to prevent further family violence, including giving written notice of a victim's legal rights and remedies and of the availability of shelter or other community services for family violence victims.

Any peace officer may arrest, without warrant, persons who the peace officer has probable cause to believe have committed an assault resulting in bodily injury to a member of the person's family or household. The assault need not have occurred in the officer's presence nor does the officer need the complaint's cooperation to file charges, if the officer feels that there is a danger of further violence occurring.⁴

Officers should consider which party is the principle physical aggressor. The parties are generally not equal in power or violence, and many victims act in self-defense. Intervention by the criminal justice system can be the essential element in preventing future violence. Therefore, where officers have

responded to a disturbance involving family or household members and have established probable cause to believe that an assault has occurred resulting in bodily injury , procedure will normally call for officers to arrest the offender. If the victim is not a member of the offender's family or household, the officer must also be able to show that there is a danger of further bodily injury to the victim for an arrest to be executed. Probable cause cannot be based upon considerations such as the potential financial consequences of an arrest, verbal assurances that the violence will cease, or speculation that a complainant may not appear in court to testify.

If an officer determines that a Class C Violation has occurred, issuance of a citation and release of the suspect is not allowed; the suspect must be incarcerated. If officers arrest a suspect for a Class C assault on a family member, the charges can be enhanced to a Class B assault. Two previous Class C convictions on a family member can enhance the new charges to a third degree felony. If officers choose not to make an arrest, they should do so with the knowledge that they may be held accountable should further violence occur between the alleged offender and the victim. It should be noted that Departmental Standard Operating Procedures define bodily injury to include physical pain or any impairment of physical condition such as bruises, abrasion, scratches, and black eyes.

Officers should seek to establish an effective and cohesive policy that works. The role played by the line officer in seeking

solutions to the increased occurrence of domestic violence, has been in the past been sorely neglected in the past and has often been ridiculed. Neighborhood-oriented policing styles seem to call for an active role by line officers who in most cases, deal with the at-risk family units on a sometimes daily basis. Line officers assigned to particular beats have often lost trust in the system that appears to ignore a sincere attempt by officers to relate pertinent information concerning the areas, its culture, and the officers storehouse of personal knowledge concerning the at-risk family. "Just make me a good report," is a phrase that every veteran of more than a couple of years service dreads to hear from a supervisor when attempting to relay via telephone the serious nature of a domestic violence episode.

Several shortcomings of the existing system become readily apparent to police veterans who have worked a number of domestic cases. The most glaring would be deaths due to an apparently uninterrupted cycle of the family violence. "That is to say a family situation which has called attention to itself by contacting the police on several occasions...indeed even this same family have had reports filed and arrest made only to be lost in the system...i.e., no case follow-up, no charges filed, no possible referral to other agencies beside those in the law enforcement community for possible solutions."⁵ The Investigative Division reads a field report, notes that the complainant was referred to file, and moves on to the next item of their crushing case load in the belief that one case has been cleared. If the violence

continues causing another officer will return, and perhaps even make an arrest. The victim in many instances signs the refusal then calls the police again and again. The manpower expenditure builds and builds and while the problems remains.

Officers use their own discretion about when to arrest. Officers must protect victims of family violence under such laws as the following:⁶

1. Texas Code of Criminal Procedure (article 5.4).
2. Houston Police Department (HPD) General Order 600.6.
3. Texas Code of Criminal Procedure (14.03 warrantless arrest) of criminal Procedure (14.03 warrantless arrest).

Some other reasons to arrest a batterer are as follows:

1. To provide for the safety of victim, children, other household members.
2. To deter future family violence.
3. To at least temporarily eliminate repeat visits to that location.
4. To send a clear message to victims, batterers and children that such behavior is inappropriate and against the law.
5. To assure that victims know that the police will help, encouraging them to leave violent relationships or to get professional help.
6. To uphold a protective order demonstrating the seriousness of the judge's order and making the victim feel safe knowing the protective order can protect.

Violence against women is a epidemic in the United States and affects women of all ages. There is an urgency for addressing the causes and consequences of female abuse that makes violence the number one health issue.⁷ Awareness and dismay about the extent of violence against women is growing in Texas. One effective way to stop

domestic violence is to arresting the perpetrator, although the overall effectiveness of this approach is still being studied.

Over the years, Texas legislators have considered many bills that could assist the police in effectively responding to domestic violence. Below are some bills considered by Senate and House Committees in the 1991 Legislation Session:

HB 391: PASSED - Provides enhancement of the penalty for each successive violation of a protective order and modifies the warning on a protective order. Provides enhancement of the penalty for class A assault of a family member when the perpetrator has previously been convicted of Class A assault of a family member.

HB 2045: PASSED - Requires arrest for violation of a protective order when the violator is on the scene when peace officer arrive. Provides grounds for a new protective order once a violation of a former protective order has been determined.

HB 1149: PASSED - Clarifies the previous legislative intent that the filing fee for a protective order shall not exceed \$16.00 and the fee for service of notice of a protective order shall not exceed \$20.00 under any

circumstances. The entire process of obtaining a protective order shall not exceed \$36.00 for the application.

HB 1563: PASSED - Clarifies the availability of protective orders as part of a divorce action. The law no longer permit mutual orders when no evidence exists that the either party committed family violence. Conforms to the Rules of Civil Procedure so that protective orders can be granted after 48 hours if the respondent fails to appears for the protective order hearing.

HB 2045: PASSED - Allows for victims of domestic violence organizations to filing a late application for an exemption from ad valorem taxation.

SB 1437: PASSED - Authorizes emergency shelters for victims of domestic violence to file a late application for an exemption from ad valorem taxation.

SB 409: PASSED - Provides a "cooling off" period of four hours, after bond has been posted following arrest for a family violence assault, when a law enforcement officer has probable cause to believe violence will continue.

directed to the elimination of violence behavior.

HB 770: DID NOT PASS - Classifies that someone who has been granted possession of property through a court order is considered the owner for purposes of a criminal offense should another steal, damage, or destroy that property, even if the other is a spouse with an interest in the property. Clarifies that no crime under Texas law is exempt from enforcement or prosecution just because the actor is the spouse of the victims, except sexual assault of the spouse.

HB 740: DID NOT PASS - Relating to the submission by local law enforcement agencies of family violence reports to the Department of Public Safety.

SB 1539: DID NOT PASS - Establishes a defense against prosecution of a battered person who is charged with injury by omission. This defense shall apply when a victim of family violence is battered by the perpetrator of the specific act resulting in injury to a child, elderly individual, or invalid, and when the battered person did not voluntarily engage in the specific act.

HB 2591: DID NOT PASS - Requires the Supreme Court of Texas to implement an eight hours training course on family violence, sexual assault, and child abuse to be provided to all current judges prior to August 31, 1995, and to establish a requirement that new judges attend the course during their first term in office.⁸

CONDITIONS THAT MAY LEAD TO DIFFERENT POLICE DOMESTIC VIOLENCE DECISIONS

The advent of new domestic violence statutes has both clarified state policies and, in effect, set a legal standard for police intervention. Constitutional challenges were mounted, and courts found that police practices often did violate protection guaranteed by the due process and equal protection clauses of the Fourteenth Amendment of the Constitution. Constitutional court interpretations are important inputs into legislative and judicial policies.

The Minneapolis experiment promoted probable cause arrest i.e., that a peace officer may arrest without a warrant which can reduce further injury or death to the victims. In the Minneapolis domestic violence experiment, police respond to domestic assault cases in one of three ways: (1) arrested perpetrator, (2) sent perpetrator from the scene for 9 hours, (3) or provided participants with some form of advice. When victims felt that the

police listened to them, as well as arresting the batterer, repeat violence was reduced by 9%. The explanation is that victims felt empowered and this empowerment had a deterrent effect on the batterer. Consequently, the Minneapolis police department changed its policy on domestic assault and required officers to submit written reports when they failed to make a legal arrest possible. Legislatures have been fairly quick to respond to the result of the Minneapolis experiment which offers a basis for action regarding the safety of battered women.

To introduce several federal and state cases that address the issue of police and state liability for failure to protect victims of domestic violence, a few words on legal rights and remedies and the difficulty of translating rights into action are in order. Legal rights are established by "the people," the legislature, and appellate courts through constitutions, statutes, and appellate cases.⁹ The Fourteenth Amendment, ratified in 1868, fundamentally changes the authority structure in American government. By making explicit the "dual citizenship" of Americans, it made the federal government, for the first time, the guarantor of basic rights of Americans against encroachment by state government. Most law suits against municipalities or state or local officials that claim that laws, rules, written or unwritten policies, or "customs" violate the Fourteenth Amendment are brought under the Civil Rights Act of 1871. The common-law rule regarding police protection in domestic violence, as well as in general law enforcement, is similar to federal due process rules and does not offer significant protection

to the interests of the battered spouse.

The court rulings on Constitutional issues have had a dramatic effect on the conduct while the civil court system has probably had as much influence as anything for holding the police accountable to citizens and introducing change into the way the police do business. Therefore, the civil courts have been used to influence policy through the issue of liability.

However, domestic violence is a significant unresolved problem in this nation--one that transcends all economic, social, racial and ethnic boundaries. Furthermore, it is a problem that puts a tremendous strain on the resources of police departments while exposing municipalities to potentially damaging litigation. It is a questionable as to whether supervisory personnel and patrol officers fully understand the domestic violence laws of their individual states and their power to act when confronted with apparent family violence. Given the broad scope and the use of patrol efforts required by the applicable statutes, and the high number of complaints reported, police agencies should seriously consider establishing regular domestic violence indoctrination and updated training programs.

PROPER POLICE RESPONSE TO DOMESTIC VIOLENCE

Initial training should begin with a series of lectures at department headquarters. Held prior to the start of patrol shifts, these lectures should address a variety of issues regarding proper procedures involving domestic violence calls, emphasizing that obtaining civil orders of protection can aid officers in handling

such cases. The lectures should seek to teach responding officers their powers and responsibilities in approaching these difficult matters. Officers should sensitize themselves to their own attitudes which may affect their response to these calls. Some officers clearly resent domestic violence calls and look upon them as a waste of police time because the victims often refuse to cooperate in the prosecution of the offender. Training programs should also emphasize that patrol officers can offer much assistance to victim, including information about procedures for obtaining a civil order of protection and the availability of locally-based havens and support groups for battered women. Such positive assistance helps reduce the frustration officers often feel when the victim is reluctant to file charges.

Programs should address the reservations some officers have about arresting offender who may violate a civil protection order by being present at the home of the victim, but did not cause any additional physical harm to the victim. The training should reassure police that this type of violation merits arrest because:

1. It represents contempt for the criminal justice system;
2. The mere presence of the offender may be an intimidating form of subtle extortion;
3. The offender's presence creates the opportunity for further abuse.¹⁰

Specialized training should be provided in those within the unit who require specialized skills. Training, for personnel assigned to specialized activities, should begin within 30 days of their assignment to that function. Training may be provided by

department sources, extra-departmental sources or through a supervised on-the-job training program. Training must address the department's policies, procedures, rules and regulations specific to the assignment. Training should develop and enhance the knowledge, skills and abilities of the personnel assigned to the specialized activity and make personnel aware of any managerial, supervisory or administrative concerns which may be inherent in the specialized assignment, in this case, domestic violence matters. Performance standards should be set for of these specialized duties and care should be taken to assure that personnel are able to perform their duties to these standards by the end of the training period.

Launching a formal domestic violence training program within a department should include an outreach component targeted to the media and support groups sympathetic to the issue. Those interested in pursuing objectives should consider the following recommendations:¹¹

1. Conduct an analysis and summary of existing resources and personnel devoted to domestic violence and draft a written reports by high ranking officers.
2. Prepare a separate manual for responding officers on proper procedures. To instruct officers about their function, authority and role, as well as standard arrest procedures.
3. Training should be launched on two levels a technically oriented program for supervisory personnel and an interactive case study and instructional program for patrol officers.
4. A study should be initiated to review domestic violence response procedures within other law enforcement agencies, and a procedure should be established to

communicate this new-found knowledge within the department.

5. A major effort should be made to alert the media, local civic and professional organizations, and the general public regarding the department's effort to improve its response to domestic and family violence, involving the investigation, processing, and prosecution of these matters.

Police administrators can take the lead in responding effectively to abuse within the home by launching concerted on-going training programs that keep officers knowledgeable about developments in attitudes respecting enforcement of domestic violence laws. Training can be in the form of cadet training, department-wide in-service training for large group, divisional training of a specialized nature, or training for individuals and very small groups on technical or complex topics. Training can also occur at various locations such as the academy, the respective work unit officers, or other off-premises locations.

An on-going issue in police management is the need for higher education for police officers. Police officers with some college hours are more likely to benefit from more general public education due to language or cultural barriers. A recent study by the authors for the Police Executive Research Forum (PERF) found that up to 62% of the nation's law enforcement agencies serving jurisdictions with more than 50,000 inhabitants had some form of educational incentive programs.¹²

Higher education requirements could be quantitatively validated to show job-relatedness. Some people say that requiring college hours means that some potentially effective people may not be

hired. The type of work today's police officer does increasingly requires college level skills. The organization is not doing itself or the community college any service by continuing to hire people who do not have the skills to do the job.

What is the relationship between higher education and changing responsibilities of the police department? Recruiting, selecting and employing personnel are investments in the future. Certainly an administrator must be concerned with an officer's performance in the short-term, mid-term and long-term. The coupling of the college experience with training and field experience will mold the officer into an effective employee.

The courts have addressed both education in general and police education in particular on several different occasions, especially concerning matters of discriminatory effects, job validation, and related issues. When the job clearly calls for a high degree of skill, the economic and human risks involved in hiring an unqualified applicant are great; the employer bears a corresponding a greater burden to show that his employment criteria are job related. The courts, therefore, should proceed with great caution before requiring an employer to lower his pre-employment standards for such a job.

Few professionals are so peculiarly charged with individual responsibility as are police officers.¹³ Officers are compelled to make instantaneous decisions, often without clear-cut guidance from the legislature or departmental policy, and mistakes of judgement could cause irreparable harm. Education engenders the ability to

flexibly hand difficult or ambiguous situations with greater creativity or innovation.¹⁴ It develops a broader base of information for decision making.

Domestic violence training is needed for all police officers. There is a large variance among departments in the number of hours devoted to domestic violence during recruit training.

Field training for newly hired police recruits traditionally has been classroom training. This training, which is one of the most important functions any police agency undertakes, tries to give recruits basic competency to perform as patrol officers. Most academy training programs, however, leave a wide gap between the classroom and the "real world" of police work.

SUMMARY AND CONCLUSION

In conclusion, programs for police officers are constantly being refined as we learn more about the complexities of domestic violence and gain more experience in working with this difficult and challenging issue. Clearly, there is a tremendous need for data collection and evaluation of training programs, further refinement of the programs that already exist, and development of new strategies for handling domestic violence.

As a manager, training program can be made effective by including community service providers. The police should be kept abreast of developments in attitudes respecting enforcement of domestic violence laws. Future training programs, information sharing, and evaluation of training are topics that require on-going police management attention. All of this should lead to a

mandatory 40 hours in-service training course for all patrol officers.

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Appendix A

**Lawsuit, Yvette Lewis, Kateri Bearheels, Betty Jo Watson and Elizabeth Pecina (plaintiffs)
vs. City of Dallas, ET (defendants), regarding domestic violence.
stress**

U. S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

MAY 1 1987

By _____
Deputy

S

DEFENDANTS

CONSENT DECREE - PAGE 1

enforcement of the law allowable in situations where family violence has been alleged.

Plaintiffs have alleged in their complaints that Defendants have violated their rights under the due process and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States; and under 42 U.S.C. §§1981, 1983, 1985(c), 1986 as well as state claims of negligence in the manner set forth in the allegations of their complaints. Yvette Lewis, et al., v. City of Dallas, et al., Civil Action No. CA3-85-0606-T was filed as a class action on March 26, 1985 and Betty Jo Watson, et al., vs. City of Dallas, Civil Action No. CA3-85-1572-T was filed on August 13, 1985 and later consolidated with Civil Action No. CA3-85-0606 by this Court on July 23, 1986, for purposes of discovery and pretrial. Class action allegations were withdrawn by joint motion. The withdrawal of those allegations was subsequently approved by the Court. Defendants have denied the allegations of those complaints relating to all alleged violations, and the agreements and stipulations herein do not constitute an agreement, stipulation or admission that the alleged acts did or did not occur.

Defendants specifically aver that the alleged violations do not reflect the past, present, or future policies, procedures, performance, or conduct of the Defendants, or any of them or of their agents, or employees.

The parties have agreed to resolve this matter on the terms set forth below and have agreed to the entry and implementation of this

Decree.

Violence in Dallas families continues to be reported at an increasing rate, creating a growing demand for an effective response from social service agencies and from the criminal justice system.

In recognition of the fact that family violence is a complex problem of great concern, the parties to this Consent Decree have engaged in extensive discussion wherein the myriad problems unique to family violence were reviewed. These discussions have been mutually beneficial and have provided the parties with a fuller understanding of the special problems attendant to victims of family violence and to police response to family violence. The parties believe that the policies and procedures which have been developed as a result of these discussions will effect a better resolution of problems arising from family violence incidents.

No statement contained in this Consent Decree shall in any way be interpreted to constitute an admission of liability or wrongdoing in the past or present on the part of any Defendant. The policies and procedures articulated in this Consent Decree shall supercede and replace, where applicable, the policies and procedures previously employed by the Dallas Police Department with regard to family violence, as that term is herein defined. The Dallas Police Department (DPD) will not employ an arrest avoidance policy in dealing with incidents of alleged family violence.

IT IS HEREBY STIPULATED, ORDERED, AND AGREED:

This Consent Decree shall be binding on all Defendants, subsidiaries, successors of each and every Defendant, all officers, agents, servants and employees of each and every Defendant, and all persons in active concert or participation with them for as long as the Court retains jurisdiction of this matter.

I.

DEFINITIONS

The following definitions shall apply with reference to family violence:

A. "Family violence" means the intentional use or threat of physical force by a member of a family or household against another member of the family or household, but does not include the reasonable discipline of a child by a person having that duty.

B. "Family" includes individuals related by consanguinity or affinity, individuals who are former spouses of each other, individuals who are the biological parents of the same child, without regard to marriage or legitimacy, and a foster child and foster parent, whether or not those individuals reside together.

C. "Household" means a unit composed of persons living together in the same dwelling, whether or not they are related to each other.

D. "Member of a Household" includes a former member of a household who has filed an application or for whom protection is

sought as provided by Subsection (c) of Section 71.04 of the Texas Family Code.

E. "Arrest Avoidance Policy" is that conduct or written or unwritten policy, which by characterizing family violence situations as civil or family matters and presuming that arrest is not an appropriate or desirable response to family violence situations, has the effect of discouraging arrests.

II.

TASK FORCE

A. A task force on family violence will be created within ninety (90) days by the Public Safety Committee of the Dallas City Council. The purpose of the task force will be to research, explore, develop and monitor the City of Dallas' response to the problem of family violence in Dallas and the Dallas Police Department's enforcement of laws relating to family violence.

B. The membership of the task force will be determined by the members of the Public Safety Committee of the Dallas City Council; however, representatives from local family shelters, including, but not limited to, Family Place, Genesis Women's Shelter and New Beginnings, groups involved in family violence intervention and prevention, and one representative from the Dallas Police Department shall be included as task force members.

C. The task force shall meet no less than quarterly for a period of two (2) years.

D. The task force shall review, evaluate and recommend new

City of Dallas training materials and programs regarding the enforcement of laws relating to family violence and its prevention. Task force members will be allowed to monitor all training conducted by the Dallas Police Department relevant to family violence.

E. The task force will submit an annual report of its recommendations to the Dallas City Council.

III.

PROCEDURES

A. The Dallas Police Department has the duty to protect victims of family violence without regard to the relationship between the alleged offender and victim. The Dallas Police Department's duty to prevent the commission of criminal offenses, including acts of family violence, is not waived or excepted because of a family or household relationship between the potential violator and victim.

B. The Dallas Police Department's primary duties when investigating family violence allegations or responding to family violence disturbance calls are to protect the victims or potential victims of family violence, enforce the law and make lawful arrests of violators. In family violence incidents where probable cause for arrest exists, Dallas police officers shall arrest the alleged offender.

C. The following provisions apply in all family situations, regardless of the existence of any court orders.

1. DISPATCH PROCEDURE:

(a) The Dallas Police Department shall give calls from battered spouses or other victims of family violence Type 1 dispatch priority.

(b) Dispatchers receiving a call regarding family violence shall elicit from the caller, and communicate to field units, the following information whenever possible: type of incident; address of the incident or complainant; name of business or apartment number; determine whether an ambulance is needed; whether weapons are involved; whether the suspect is present or not; if the suspect is not present, direction and mode of travel; name of complainant or caller; complainant's telephone number; whether any type of protective order is in effect; and any other necessary information which shall be requested and used by Dallas Police Department personnel to determine the appropriate nature of police response.

(c) The Dallas Police Department will ensure that bilingual Spanish-speaking persons are on duty in the Communications Division or otherwise available.

2. FAMILY VIOLENCE IS CRIMINAL CONDUCT:

(a) Arrest is the most appropriate response to family violence crimes which involve: (1) an alleged felony; or (2) alleged breach of the peace or offense against the public peace; or (3) any criminal offense committed, threatened or about to be committed in the officer's presence or within his/her view; or (4) an alleged assault resulting in bodily injury to another person

where there exists probable cause to believe that there is danger of further bodily injury to that person; or (5) probable cause to believe there has been a violation of a court order, as defined by section 25.08 of the Texas Penal Code, whether or not the offense is committed in the presence of the peace officer.

(b) The Dallas Police Department will not adopt or employ an arrest avoidance policy in response to incidents of alleged family violence.

(c) The Dallas Police Department shall treat all reported family violence as alleged criminal conduct. The Dallas Police Department shall treat requests for police assistance and/or criminal investigation from victims of family violence as it does all other requests for assistance in cases where there has been alleged physical violence inflicted upon a person. The Dallas Police Department shall not respond to requests for assistance from victims of family violence any less diligently than they respond to requests for assistance from other persons who have been victims of violent crimes arising in a non-domestic context.

(d) The following factors shall not be used as a basis for determining whether or not to effect an arrest in family violence incidents: that the suspect lives on the premises with the victim; that the suspect and the victim are or are not married or have or have not had a prior or existing cohabiting relationship; whether or not a court order against the suspect is presently in effect; that the victim has made prior calls to the Dallas Police Department; that there may be adverse financial consequences caused

by the arrest; that the alleged injury is not visually apparent or verifiable to the police officer without further investigation if there is a permanent protective order in effect; or that the victim indicates that he/she may be hesitant or unwilling to participate in subsequent criminal proceedings or that prosecution and conviction may not occur despite the existence of probable cause to arrest.

(e) When determining whether probable cause exists for an arrest for family violence, a police officer, when appropriate, shall consider the following factors: whether the suspect has a prior history of arrests or citations involving family violence; whether the suspect has previously violated court orders pertaining to family violence; whether the suspect has a prior history of assaultive behavior; statements obtained from a complainant; and statements obtained from the victim expressing fear of retaliation or further violence should the suspect be released.

3. CRIMINAL INVESTIGATION:

The following provisions apply in all alleged family violence situations regardless of the existence of any court orders:

(a) The responding officer shall interview the complainant and any witnesses as fully as possible under the circumstances and investigate to determine if a crime has been committed.

(b) If the suspect is not on the premises, reasonable efforts shall be made to locate the suspect and take follow-up

steps appropriate under the circumstances.

(c) Dallas police officers, when investigating or responding to family violence calls, agree to give written and oral notice to the victim of his/her legal rights and remedies and of the availability of shelter or other community services for family violence victims. This notice will be written in English and Spanish and shall comply with the provisions of Article 5.04(c) of the Texas Code of Criminal Procedure.

(d) A copy of the notice is attached and is incorporated as fully set out herein.

(e) Dallas police officers will also inform victims of family violence that they may file a criminal complaint against the person committing family violence, pursuant to relevant provisions of the Texas Code of Criminal Procedure, and provide written notices advising them of the locations where charges can be filed and the procedures to be followed in filing charges.

(f) The responding officer shall inquire whether there are any existing court orders. If the officer is informed there is, but there is no copy available at the scene, the officer shall radio dispatch to verify if a protective order is on file and inquire as to the terms of the protective order, if appropriate. If the officer is informed there is no existing court order, then the responding officer will determine whether there is probable cause to arrest. In family violence incidents where probable cause for arrest exists, Dallas police officers shall arrest the alleged offender.

(g) If the offender is not on the premises at the time the police officers arrive, reasonable efforts will be made to locate the offender. When probable cause exists for an arrest, charges will be expeditiously filed, regardless of the police officers' immediate success in apprehending the offender.

(h) When an arrest is effected or charges filed, the Dallas Police Department will collect and preserve all evidence, pursuant to Dallas Police Department policies and procedures and Texas law, reasonably necessary to support prosecution.

(i) Dallas Police officers shall inform all victims of their rights to file a criminal complaint against family violence offenders. If an offender is arrested by the Dallas Police Department and criminal charges relative to family violence are filed, no criminal charges against the family violence offender will be dismissed within seventy-two (72) hours of the date and time of arrest, even if an affidavit of non-prosecution is filed by the family violence victim. No criminal charges against any family violence offender shall be dismissed without due consideration being given to the seriousness of the offense and the State's interest in prosecuting criminal offenders.

(j) The responding officer shall prepare an offense or incident report regarding the incident. A description of the injuries shall be made in the offense or incident report by the responding officer. All initial reports filed by the responding officer shall indicate whether family violence has occurred or was alleged. The notation of family violence will be made on all

initial reports filed whether offense/incident reports and or arrest reports.

(k) If an officer does not make an arrest in response to a family violence assault or a violation of §25.08 of the Texas Penal Code, a written statement of the reason for no arrest shall be included in the offense or incident report.

4. PROTECTIVE ORDERS PROCEDURES:

(a) The immediate arrest of the offender or the filing of criminal charges against the offender is the appropriate response to a violation of a permanent protective order. It is not necessary for the suspect to be present for an arrest to be made subsequent to the reported incident of family violence or for criminal charges to be filed.

(b) Each law enforcement officer shall accept a certified copy of the protective order as proof of the validity of the order, and it is presumed the order remains valid unless the order contains a termination date that is past or is more than one year old from its entry date. The age of the order shall be determined starting with the date on which the order was signed.

(c) When necessary to verify the existence of a protective order, in those circumstances where the victim does not have a copy of a protective order or the copy is not certified, Dallas police officers, while on the scene, shall radio the appropriate division of the Dallas Police Department to determine if a protective order is on file.

5. FELONIES:

(a) When a family violence incident involves an alleged felony, the police officer shall presume that arrest is appropriate. When probable cause exists to believe that a felony has been committed and there is probable cause to believe that a particular person committed the felony, the responding officer shall arrest that person without a warrant, consistent with Dallas Police Department arrest policies and Texas law in regard to felony cases arising in a non-domestic context. Where the suspect is no longer present at the scene, the police shall exercise due diligence to effect his/her arrest, consistent with Texas law and Dallas Police Department policies regarding felony cases arising in a non-domestic context.

6. MISDEMEANORS:

Arrest shall be presumed to be the appropriate response to family violence incidents which involve an act of physical violence or criminal conduct directed toward the complainant.

7. CRIMINAL TRESPASS:

In addition, but not in lieu of arrest for violation of a protective order and/or assault, arrests shall also be made for criminal trespass or attempted criminal trespass, pursuant to relevant provisions of the Texas Penal Code, §30.05.

IV.

INFORMATION AND REPORTING SYSTEMS

A. When a police officer has reason to believe that an offense involving family violence has occurred, the officer shall make a written report which shall include the information prescribed in Art. 5.05 of the Texas Code of Criminal Procedure, and:

- (1) a written statement of the reason for not arresting, if no arrest is made, unless the report indicates the suspect is at-large;
- (2) a description of the suspect, when necessary;
- (3) a narrative of the incident;
- (4) a departmental code identifying the incident as one involving family violence;
- (5) information on witnesses; and
- (6) notations regarding other family violence reports if there is personal knowledge of those reports by the responding police officer.

B. The Dallas Police Department shall establish a departmental code for identifying and retrieving family violence reports as previously outlined within no later than thirty (30) days from the signing of this Consent Decree.

C. In order to ensure that officers responding to calls are aware of the existence and terms of permanent protective orders, the Dallas Police Department shall, within no later than thirty

(30) days after the effective date of this Consent Decree, establish procedures to provide adequate information or access to information for law enforcement officers of the names of persons protected by a protective order and of persons to whom protective orders are directed. A written outline of those procedures will be provided to Plaintiffs' counsel by the Dallas City Attorney's Office no later than sixty (60) days after the effective date of this Consent Decree.

D. The City of Dallas and Plaintiffs' counsel shall contact the Dallas County Family District Court Clerk's Office within thirty (30) days after the effective date of this Decree to set up a meeting for the purpose of developing a system whereby protective orders issued by the Family District Court Clerk's Office will be expeditiously transmitted to the Dallas Chief of Police.

Protective Orders received by the Dallas Chief of Police shall be disseminated to the appropriate divisions of the Dallas Police Department where they will be processed as soon as is practical, in any event not to exceed three (3) working days. In the event that a protective order substantially lacks essential information, the Dallas Police Department shall attempt to remedy the situation as soon as is reasonable under the circumstances.

E. The following protective order information shall be entered on the Communications Division computer upon receipt by the Dallas Police Chief:

- (1) names of the persons protected by the order;
- (2) address (residential and business) of the persons

protected by the orders;

(3) names of the persons to whom the protective orders is directed;

(4) expiration date of the protective order (either specified or by operation of law).

However, the lack of any information (except identity of the protected person and person to whom the order is directed) shall not excuse the Dallas Police Department from filing, recording and enforcing the protective order.

V.

IMPLEMENTATION AND TRAINING

A Within sixty (60) days of the effective date of this Consent Decree, the Dallas Police Department will disseminate and sponsor one or more public service announcements via television and radio informing the public of the criminal nature of family violence and the Dallas Police Department's enforcement power. Video cassettes of the announcements will be made available to the local media for broadcast, as stipulated by Defendants' letter to Plaintiffs' counsel, dated January 12, 1987, with a transmittal letter from Defendants' counsel requesting that the announcement be broadcast for one year. Copies of the transmittal letters will be provided to Plaintiffs' counsel. Plaintiffs' counsel will be notified in advance of the dates when such public service announcements will be aired, if known to Defendants' counsel. Plaintiffs' counsel will be allowed to review all public service

announcements prepared by the Dallas Police Department prior to submission to the local media for the purpose of providing input and making recommendations. Plaintiffs and Defendants also agree to issue a joint press release regarding the settlement of this lawsuit. Plaintiffs' attorneys will be invited to address the Dallas City Council on this settlement.

B. The Dallas Police Department will immediately apprise all uniformed departmental personnel of the provisions of this Consent Decree through appropriate means.

C. All Dallas Police Department uniformed personnel will be given a copy of this Consent Decree and be responsible for knowing, understanding and complying with the provisions of this Consent Decree. The City of Dallas will verify in writing to Plaintiffs' counsel that all Dallas Police Department uniformed personnel have received a copy of this Consent Decree (without damages information) no later than ninety (90) days after the effective date of this Decree.

D. The Dallas Police Department will afford its personnel such training as may be necessary to ensure compliance with the provisions of this decree. Present and future Dallas Police Department personnel will receive training relevant to the provisions of this Consent Decree.

E. Training materials and school curriculum for recruits and advanced officers of the Dallas Police Department will be changed and/or modified to inform all uniformed personnel of the existence of this Decree and as may be necessary to ensure compliance with

the provisions of this Decree. Copies of all such changes and/or modifications will be forwarded to Plaintiffs' counsel no later than sixty (60) days after the effective date of this Consent Decree.

F. The Dallas Police Department agrees to change and/or modify, where necessary or appropriate, relevant provisions of all General Orders, Standard Operating Procedures and Special Orders relating to family violence in order to ensure compliance with the provisions of this Consent Decree and state law. Copies of all changes and/or modifications will be forwarded to Plaintiffs' counsel no later than sixty (60) days after the effective date of this Decree.

VI.

ENFORCEMENT AND MODIFICATION

A. This Consent Decree is a final judgment and is effective as of the date it is signed by the Court. The Court shall retain jurisdiction of this action to ensure compliance with the provisions of this Consent Decree for a period of two (2) years.

B. The parties to this Consent Decree hereby agree that any party may apply to the Court for an order modifying any provisions of this Decree.

C. If Plaintiffs or their counsel become aware of any violations of this Consent Decree, Plaintiffs will notify the City Attorney of the violations in writing. Defendants shall be allowed a reasonable period of time to correct any alleged violations. If the alleged violations involve any individual police officers and

are not corrected, the complainant may thereafter file a Written complaint with the Chief of Police. After investigation, should the violation not be corrected and/or appropriate discipline imposed or other corrective action taken, when applicable, Plaintiffs may thereafter apply to the court for relief. Plaintiffs' counsel, upon reasonable written notice shall be entitled to pursue discovery of all information relevant to the alleged violation of this Consent Decree. Plaintiffs' counsel may resort to the formal discovery procedures set forth in the Federal Rules of Civil Procedure if the request for discovery has not been satisfactorily resolved.

VII.

DAMAGES

The provisions regarding Damages and attorney's fees are contained in a separate document.

VIII.

A. The Court will retain jurisdiction of this matter as provided herein.

B. All costs of this matter will be borne by the party which incurred same.

C. The effective date is the date on which the judge signs this Consent Decree.

IT IS SO ORDERED:

Signed: May 13, 1987.

Robert B. Maloney
ROBERT MALONEY
United States District Judge

DATED: _____

APPROVED AS TO FORM AND CONTENT:

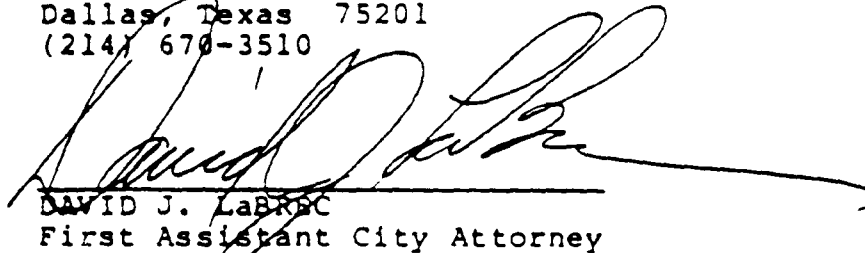
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