

THE STATE OF NEW HAMPSHIRE



**GOVERNOR'S COMMISSION ON
DOMESTIC VIOLENCE**

**PROBATION AND PAROLE:
DOMESTIC VIOLENCE POLICY AND PROCEDURES**

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**Prepared by the
Governor's Commission on Domestic Violence**

GOVERNOR'S COMMISSION ON DOMESTIC VIOLENCE PROTOCOL COMMITTEE

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PURPOSE

To enhance public safety by reducing the incidence of domestic violence, as well as to heighten awareness of domestic violence and related issues.

APPLICABILITY

To all staff of the **DIVISION OF FIELD SERVICES ONLY**.

POLICY

The Department of Corrections recognizes that domestic violence perpetrators constitute a significant supervision challenge as they share all the attributes of high risk, chronic offenders who usually have quick and easy access to their victims. To ensure the public safety objectives of the department are met, the offender must be held to the conditions of parole, probation, or bail as ordered. The safety and concerns of the victim must be taken into consideration and the supervising officer must work in concert with other agencies involved in the case.

PROCEDURE

The following procedures are intended to supplement, not replace or supplant existing departmental policies; Officers should use this policy as a guide and training document. Nothing contained herein is intended to limit the discretion of Officers in dealing with their caseloads or obligations. Instead, this policy should be used to heighten their awareness of some of the unique features of domestic violence cases.

The term domestic violence includes all situations in which a perpetrator physically or emotionally abuses a present or former spouse, lover or co-habitator, whether married to each other or not. Typically, domestic violence perpetrators share all the attributes of high risk, chronic offenders, as well as the following:

1. The abuse for which they are placed under supervision may constitute their first criminal arrest; however, the abusive behavior has usually occurred over a period of years. It is ingrained behavior which the perpetrator denies but clearly has control over.
2. They do not share the police, prosecutor's or the court's view that what they did was criminal. They rationalize and minimize their behavior, blaming their victim or the police for interfering in a "family matter".
3. Alcohol or drug abuse is not the cause of their abuse but many domestic violence perpetrators suffer from alcohol or drug abuse which further inhibits both their ability to control their behavior and to respond to therapy.
4. They have easy access to their victims. The victim's whereabouts will be known by the abuser unless the victim has sought sanctuary in a shelter or have found a place to hide. Additionally, the abuser will know where the victim lives, works, shops and spends most of the time.

5. The victim may be unable or unwilling to separate from the abuser. They may blame themselves for their own abuse, reinforcing their abuser's rationalization and abusive behavior. They may believe that they can work out their problems together.
6. Even if the victim wants to leave the abuser, they have a strong emotional bond to the perpetrator and want the abuse to end, not the relationship. As a consequence, they may decide to stay, may stay for the sake of the children, or they may be economically unable to leave. The abuser may have threatened harm to the children or threatened to cut them off from support if the victim leaves.
7. As the supervising Probation/Parole Officer (PPO), it may be difficult to understand the victim's unwillingness or inability to detach themselves from the abuser. (The phenomenon surrounding this trait is often described as "battered women's syndrome" but can affect male victims as well as female victims.)
8. Most batterers will try to befriend the supervising officer and will frequently share confidences. Upon close analysis the motivation for this friendship will always be the same: To convince the PPO that it is the victim's fault and the victim should be blamed. In those instances the supervising officer should reinforce the offender's culpability. The batterer's behavior is criminal and they should be constantly reminded of that fact.

In domestic violence cases the supervising officer may have a duty to protect the victim as they are clearly known, specific to the perpetrator and are clearly identifiable.

Bail Supervision in domestic violence cases

The Department, through the Division of Field Services, will provide bail supervision over defendants for whom the Court has ordered such supervision as a condition of bail. In those instances the offender will be required to report to a District Office of the Division of Field Services where:

1. Conditions of bail, including frequency and method of reporting, will be reviewed with the defendant and which will be clearly documented in writing. The conditions of bail will be acknowledged as understood, agreed upon and signed by the offender.
2. Background data such as criminal history, substance abuse, known use of weapons and a photograph will be obtained, if available and where possible, from the arresting or prosecuting agency.
3. A lethality checklist (attached) may be reviewed to determine risk to the victim.
4. A release of information form will be obtained in the event the offender is ordered to attend counseling or is currently in counseling.
5. The supervising officer will be mindful of all relevant policies and procedures of the Department of Corrections.

Orders for Pre-sentence Investigation Report

Upon receiving an order from the Court to conduct a pre-sentence investigation as a result of the filing of an intent to plea or upon a finding of guilt, the Division of Field Services will:

1. Send the defendant an appointment letter; a copy to defense counsel if any;
2. Request record checks (State, Local, NCIC, Triple I and Motor Vehicle);
3. Request all police reports pertaining to the offense(s);
4. Contact victim(s) for their input;
5. Secure a signed release of information form from the defendant if he/she is already is undergoing counseling;

6. When making your sentencing recommendation to the court, the Department's sentencing guidelines should be followed as with any sentencing recommendation. In those instances where a term of incarceration is discretionary, consideration should be given to a short term of incarceration so as to underscore the seriousness of the offense. A term of probation is almost always appropriate whether or not in combination with incarceration unless the incarceration being considered is a State Prison sentence.
7. Diversion should never be considered appropriate whether or not the defendant agrees to batterer's counseling.
8. Mandatory batterer's counseling should always be part of any sentencing recommendation, as well as, an understanding that the defendant shall meaningfully participate. Batterer's counseling programs would ideally consist of the following elements:
 - a) specific to treating batterers;
 - b) confrontive in nature;
 - c) group counseling (preferable);
 - d) domestic abuse must be seen as a crime, not as a disease or mental disorder;
 - e) treat battering as a learned behavior and, as with any learned behavior, it can be unlearned. In other words, battering should be viewed as controllable;
 - f) treatment should be mandatory; and
 - g) the goal of treatment should be to eliminate battering behavior.
9. The treatment program should advance the following:
 - a) Recognition that the abuser should accept responsibility for his behavior;
 - b) Developing behavioral alternatives to battering;
 - c) Increasing constructive expression of all emotions, listening skills, and anger control;
 - d) Decreasing isolation of the batterer and development of personal support systems;
 - e) Decreasing the batterer's dependency on and control of the relationship; and
 - f) Increased understanding of family and social factors of domestic abuse.
10. Under no circumstances will the offender be recommended to attend couples counseling, family counseling, mediation or treatment modalities which do not recognize and treat the offender's obsessive need for control over their victims. It should always be kept in mind that the defendant is a criminal and the abused spouse or significant other is the victim of criminal behavior. Any treatment approach or practice that blames or intimidates the victim or places the victim in a position of danger is not appropriate. Domestic violence perpetrators may possess poor impulse control or they may exhibit remarkable control in public but be very explosive when with the victim in private.
11. A sentencing recommendation that the perpetrator pay for the victims counseling and that of any child who may have been a victim of abuse or a witness of abuse is appropriate where the defendant is able to pay, if even a small amount.
12. Community service should be considered as a viable alternative in instances where a short term of incarceration is to be imposed and where the community service would help the defendant gain empathy for the victim.

13. If the defendant is known to abuse drugs or alcohol, appropriate substance abuse treatment should also be recommended. In addition to treatment, self help groups such as AA or NA should be part of the supervision plan and clearly articulated to the defendant as being mandatory. It should be noted, however, that substance abuse is NOT the cause of domestic abuse but will exacerbate the behavior and impede rehabilitation.
14. The Pre-sentence Investigation Report will be completed in consonance with PPD 5.38.
15. All other relevant policies of the Department of Corrections will be followed when writing a PSI in a domestic violence case.

SENTENCING/DISPOSITION AND SUPERVISION

1. One of the purposes of supervision is to protect the public through the offender's required compliance with the rules of probation and parole. By providing supervision, combined with referral services to the offender, the hope is to reduce the probability of further violence and/or coercion.
2. Perpetrators of family violence will frequently, but not always, require maximum supervision due to the nature of their offence. The reasons for such supervision are numerous: the risk of recidivism is extremely high; the community is at risk of future violence; the majority of offenders have substance abuse problems which can exacerbate the potential for continued violence; it is likely they have committed the crime a number of times in the past; they will typically rationalize their criminal behavior; they know and have easy access to their victims; and they are likely to have come from a violent home and perhaps suffered abuse as a child.
3. P/POs must monitor attendance of the perpetrator at batterers' treatment, substance abuse treatment and maintenance programs. Conditions of any co-terminus civil protection or restraining orders will also be enforced either by the Department, if within our jurisdiction, or by contacting the enforcing authority to encourage their involvement. The department should coordinate and maintain regular confidential contact between all agencies related in the supervision of this individual to ensure compliance with the court ordered conditions, including periodic, private contact with the victims.
4. Initial contact with the probationer or parolee will entail the supervising P/PO reviewing the disposition with the offender. A discussion of the conditions of the court order will take place along with the Rules of Adult Probation/Parole. These rules will be understood, agreed upon and signed by the probationer/parolee. From that time until such time the sentencing court or Parole Board releases this individual from community supervision or the supervision period expires, the probationer/parolee will be held accountable to these rules and regulations.

VIOLATIONS

Bail Supervision

- a) Failure to meaningfully participate in any court ordered treatment will be considered a violation of the terms of their bail and treated accordingly.
- b) A reoccurrence of abusive conduct will immediately result in the filing of a report in the appropriate the Court. Contact with the local police agency should occur, who should be urged to use their powers of arrest as may be appropriate.
- c) The P/PO should also file a report of violation of bail conditions to the prosecuting authority responsible for the case. The report shall be in written form, detailing the breach of conditions and recommended action.

- d) For new arrests, copies of police reports should be obtained for documentation purposes.
- e) Should no action occur on a recommended violation of bail conditions and the offender continues to be in non-compliance with the conditions of bail, the probation/parole officer will notify the Court and the prosecuting authority that supervision is not possible due to the lack of cooperation by the offender. Even in the case of partial compliance of the bail order, the prosecuting authority will be notified immediately that supervision is impossible due to lack of cooperation on the part of the offender.

Violation of Probation

- a) Failure to meaningfully participate in any court ordered treatment will be considered a violation of the terms of their sentence and treated accordingly.
- b) A reoccurrence of abusive conduct will immediately result in the filing of a violation. Contact with the local police agency should occur who should be urged to use their powers of arrest as may be appropriate.
- c) The P/PO will immediately report violations of conditions to the Court. The report shall be in written form, detailing the breach of conditions and recommended action. A copy of the report shall be provided to the prosecuting authority responsible for the case.
- d) The defendant shall be required to obey all laws, orders of support and any orders of no contact with the victim, as well as, civil protection orders.
- e) It is incumbent upon the probation officer to react strongly at the first sign of noncompliance by the offender and not wait for a criminal offense to occur. Violations may be filed when conditions of probation or special orders of the Court have been violated.
- f) If the probationer is arrested for a new crime of battering, the arresting police officer should be encouraged to notify the supervising P/PO where upon the P/PO may indicate that the Department will seek lawful means of further detention and that the probationer qualifies to be held without bail if so ordered by the Court. At the time of the arraignment on the new charge, the police officer should again be encouraged to notify the court of the interest the PPO may have in seeking further detention. According to the bail law the court should then order the defendant held without bail pending further action by the PPO.
- g) When requesting the Court issue a warrant for the arrest of an offender, P/PO's shall submit a written Violation of Probation.
- h) It is the policy of the Department that maximum utilization of available sentencing alternatives be considered, where appropriate, in recommending dispositions of probation violations.
- i) All Violations of Probation should be prosecuted by the prosecutor of jurisdictions having a full-time prosecutor employed by their police department or by the PPO.

Violations of Parole

- a) The parolee shall be required to obey all laws, orders of support and any orders of no contact with the victim, as well as, civil protection orders.
- b) As with probationers, failure to meaningfully participate in any treatment will be considered a violation of the terms of their release and treated accordingly.
- c) A reoccurrence of abusive conduct will immediately result in the filing of a violation. The offender will be arrested with or without a warrant.

- d) The P/PO will immediately report violations of conditions to the Parole Board. The report shall be in writing detailing the breach of conditions and recommended action.
- e) It is incumbent upon the P/PO to react strongly at the first sign of noncompliance of the offender and not wait for a criminal offense to occur. Violations may be filed when conditions of parole have been violated.
- f) Violations may be filed when conditions of parole, special orders of the Court or special orders of the Parole Board have been violated.
- g) If the parolee is arrested for a new crime of battering, the arresting police officer should be encouraged to notify the supervising P/PO where upon the P/PO will indicate that the Department will seek lawful means of further detention and that the parolee qualifies to be held without bail if so ordered by the Court. At the time of the arraignment on the new charge, the police officer should again be encouraged to notify the court of the interest the P/PO may have in seeking further detention. According to the bail law the court should then order the defendant held without bail pending further action by the P/PO.
- h) At the conclusion of the preliminary hearing or if the parolee waives their right to this hearing, they will be transported back to Prison for a final revocation hearing.

The victim should be told that the officer is always available should they feel at risk or if the batterer has breached restraining orders or in any way threatening actual or perceived harm. The victim should be given the officer's business card or told how to reach the officer if necessary.

Batterers are likely to re-offend, threaten or actually harm the victim. Likewise, victims are also likely to go back to the batterer. As a consequence, the officer must be constantly aware of the potential harm. The officer should also be familiar with both the batterer's treatment services and the victims support services in the geographic area they work in. If necessary, they should take the initiative to contact service providers to ensure familiarity.

In many geographic areas of the State, local Domestic Violence Coordinating Councils have been formed to combat domestic violence. Officers are encouraged to participate, take an active role and work in conjunction with those councils.

APPENDIX A

INTERVIEW TECHNIQUES FOR DOMESTIC VIOLENCE ABUSERS

1. Use lots of probing, open-ended questions. (Example: "Why did you hold her down?")
2. Follow-up with specific questions which will generate details. (Example: "How did she get the mark on her arm and throat?")
3. Use different types of questions which have the same objective. (Example: "What responsibilities do you assume in the relationship?" and "What is your role within the family?")
4. Use assuming questions. (Example: "So after you punched her in the jaw, what happened?" or "What did you do after you left her house?")
5. Avoid giving the abuser answers to your questions. (Example: "Do you argue a lot about you going out with your friends?")
6. ALWAYS define what abuse is when asking questions about the abusive history. (Example: Any physical touching which occurs during a conflict.)
7. It will be necessary to clarify common statements like: "several times," "a few times," and "argue about little things."
8. Listen carefully to the responses. Attitudes usually surface even when they try to hide them.
9. Keep a "poker face." It is important to confront and address issues that an abuser will be more open if they believe you are buying their story.
10. Use silence.
11. Use the police report to confront discrepancies after the abuser explains their story. Don't even let them know you have it until after their explanation.
12. Because the abuser has a high need for control, an aggressive, confrontational style will cut-off communication, resulting in resistance and resentment. Approach is important.
13. Always let the abuser know that as a routine procedure, the victim will be contacted for their comments and version of the present offense. Tell the abuser if the victim's story will be different and why. Ask the abuser for the best way to reach the victim i.e. work and home telephone, message number and address (if different). The abuser may give you more information than the victim is willing to reveal.
14. Explore emotional abuse by asking what words they use the most frequently to hurt the victim's feelings. This is very difficult to determine because the abuser denies such abuse. Approach it by saying, "It's common in relationships to try to hurt your partner with words or actions which don't involve physical touching. Can you give me some examples that you have used when you become angry?"
15. ALWAYS conduct a Lethality Assessment.

APPENDIX B

DEALING WITH ABUSERS

DO

DO emphasize (all the time) the abusers responsibility for their own choices. Accountability is a key to the change process.

DO remember that a lot of abusers have positive and upstanding public images and are usually only a threat to their family.

DO use the police report and arrest history to confront their denial but don't expect it to change.

DO recognize the abusers acceptability of violence as a way to solve problems.

DO look for control issues and need to control in the abusers actions and responses (like jealousy).

DO recognize that many abusers grew up being taught to control their feelings, environment and family. Because it's impossible, abusers have pent-up emotions that they can't identify or communicate.

DO expect the abuser to become more resistive and uncooperative when the probation officer exerts more control through directives and restrictions.

DO explore the upbringing of the abuser, specifically the dynamics of the family in relation to roles, control, conflict resolution and communication.

DO expect the abuser to present themselves as the victim.

DO contact the counselor to ensure treatment is domestic violence specific and has a strong accountability base. Develop a treatment plan and prioritize intervention for dual problems.

DO take an active role with the counselor and decide together treatment goals.

DO develop "contact" contracts with the victim and abuser so expectations are clear. Never allow contact unless permission from the victim has been granted.

DON'T

DON'T accept the abuser's projection of blame; especially on the victim.

DON'T be fooled by an abuser's appearances, articulate style, cooperative premise and numerous letters of support

DON'T be surprised by the abusers denial in spite of concrete facts to the contrary.

DON't expect them to openly promote violence but they will justify and minimize their actions.

DON't accept the excuse it's just an anger problem. Abusers use their anger to intimidate and control.

DON'T expect an abuser to be able to express their emotions.

DON'T be intimidated by their manipulative attempts to contest your control by using the court, attorneys or making complaints to your supervisor.

DON'T forget to remind the abuser that they are a role model to their children. Abusive behavior can be passed on to the next generation.

DON'T accept this victimization role making it clear that regardless of the victim's problem or response to the conflict, abuse is not an acceptable option.

DON'T let the abuser control their treatment.

DON'T ever allow marriage counseling until abuser specific treatment has been successfully completed.

DON'T get frustrated with the ups and downs in the relationship. Breaking the cycle requires proper intervention, time and a willingness to change.

APPENDIX B (continued)

DO expect most couples to be in the “Honey-moon” stage during the presentence process. Typically both minimize the violence, the decisions. abuser may be remorseful and taken steps to prove to the victim it won’t happen again (counseling, stopped drinking, etc.).

DO use probing questions to to elicit detailed responses.

DO recognize the prevalence of relationship abuse.

DO emphasize abuse is a crime with specific consequences. Make it clear the victim’s willingness to prosecute is not required for them to face new charges and/or probation violation.

DON’T forget to assess what stage in the cycle the couples is in and consider this as an important factor when making supervision decisions.

DON’T accept evasive and general responses.

DON’T assume relationship abuse is not an issue just because it’s not a domestic violence offense. Be attuned to indicators by exploring relationships.

DON’T accept domestic violence as just a “family problem.”

APPENDIX C

ABUSER RESPONSIBILITY

Ways to Deny Responsibility:

- (1) By Blaming the Victim (“But, she”)
- (2) By Forgetting What Happened (“I’m not sure”)
- (3) By Justifying the Violence (“I had the right”)
- (4) By Distorting the Facts
- (5) By Minimizing the Facts (“All I did was”)
- (6) By Blaming an Outside Factor (“It was the alcohol that”)
- (7) By Omitting Information
- (8) By Outright Lying (“I never touched her.”)
- (9) By Procrastinating or Putting Off (“I’ll get help if it ever happens again.”)
- (10) Through Apathy (“And you know what, I don’t care.”)

The goal of denying responsibility is shifting the blame away from ourselves. However, if denial continues, we lose the ability to respond in different ways. In order to change, there must be an acceptance of responsibility. This is a critical factor in treatment.

