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## **Partners’ Analysis of Select New Jersey Police Departments’ General Orders on Domestic Violence**

Partners sought to understand how law enforcement agencies translate statewide law enforcement policies into operating procedures, commonly known as General Orders, at the local police department level.<sup>1</sup> Through the Open Records Act, Partners requested General Orders and policies and procedures relating to 1) responding to domestic violence offenses and 2) communicating with persons with limited English proficiency from nine police departments<sup>2</sup> and two county prosecutors<sup>3</sup> within the counties that Partners serves. One municipality, East Orange, refused to produce records, asserting a security exemption under OPRA.<sup>4</sup> In addition, Partners reviewed policies governing the New Jersey State Police (“NJSP”) and Gloucester Township in Camden County, two police departments known for their attention to domestic violence policy matters. Of the policies produced, only Newark and Passaic make their General Orders available to the public through their websites.<sup>5</sup>

Partners’ review of sample police policies reveals considerable differences in the range of topics covered and the level of detail provided to guide police officers. While most policies largely mirror OAG procedures, the more robust and specific policies provide more department wide direction as to how to respond to domestic violence offenses. As Harry Earle Law Enforcement Risk Control Consultant for J.A. Montgomery Consultant (Ret. Police Chief Gloucester Township) explains:

**“Law enforcement leaders who wish to protect victims and their officers, may best achieve their goals by utilizing the OAG procedures as the minimum standard, and then adjusting their policies in consultation with their Municipal Attorney that address the unique needs of their community.”**

In the following discussion, Partners identifies policies that enhance support for domestic violence victims in two areas: communication with victims and enhancing victim safety. A summary chart on page 2 encapsulates Partners’ findings below:

### **Advancing Communication and Understanding**

#### **Mandatory Activation of Crisis Response**

In most police departments that work with Crisis Response Teams (“CRT”), also known as Domestic Violence Response Teams—and many do not<sup>6</sup>—police officers are required to ask victims if they wish to return to the police precinct to meet with an advocate and may choose how to describe the services advocates provide. By contrast, some departments have a policy requiring mandatory activation of the CRT whenever a victim of domestic violence comes to the police station. This approach ensures that

## Police and County Prosecutor Policies that Strengthen Law Enforcement Response to Domestic Violence

Mandatory Activation of Crisis Response Team

Improving Language Access for Victims with Limited English Proficiency or Hearing Impairment

Limiting Victim Interviews to Confidential Space

Limiting the Use of Dual Arrests by Requiring Legal Approval

Targeting Support for Victims at High Risk of Revictimization, including Maintaining Communication and Connection with Victims

Improving Victim Access to Treatment and Enhanced Evidence Collection in Cases of Nonfatal Strangulation

Ensuring that Victims Can Access Copies of the Police Report and Criminal Records Easily and Promptly to Offer as Evidence for Restraining Order Trials

Proactively Preventing and Addressing Domestic Violence within Law Enforcement

the advocate has the opportunity to directly offer support and describe the service to the victim. Of the policies reviewed, the NJSP and Gloucester Township were the only two with mandatory activation of CRT.<sup>7</sup> Detailed policies about the CRT program provide officers with information and procedures to fulfill their duty to link victims with advocates.<sup>8</sup>

### Language Access

Partners sought to learn how police departments support language access to ensure accurate and clear communication when responding to police calls.<sup>9</sup> While none of the responding departments produced a language access policy or criteria for use of an interpreter, some General Orders address important aspects of meeting the needs of individuals with limited English proficiency (“LEP”).

NJSP requires the provision of an interpreter as needed and relies on bilingual officers to meet that need.<sup>10</sup> Jersey City also reported that it meets language needs by maintaining lists of officers who speak a second or third language and sharing that information within the department.<sup>11</sup> Without a formal process for testing the fluency of officers, this approach to language access has clear limitations. Woodbridge and Clifton reported having access to language interpreting services.<sup>12</sup> NJSP was the only department to prohibit the use of family members for interpretation,<sup>13</sup> an especially important protection in domestic violence cases.

### Confidential Communication

While police policies require the separation of family members during police interviews in domestic violence calls, they do not expressly require that the parties be out of earshot from one another. Creating confidential space to interview domestic violence victims is key to promoting a safe environment conducive to good communication, and some police departments have designated space for victims and children in the station houses. However, few of their department policies explicitly address

confidentiality. One exception is NJSP, which provides guidelines on confidentiality, limiting waiting time for victims, and avoiding repeated questioning of the victim, all of which are beneficial to survivors of domestic violence.<sup>14</sup>

## Enhancing Victim Safety

### Restrictions on Dual Arrest

Although the victim and perpetrator may both sustain injuries during a domestic violence incident, generally one person is the primary aggressor. Proper identification of the victim by the police on the scene of a domestic violence call is essential to avoiding criminalizing victims of domestic violence and helping them secure legal protection and access to social services. To reduce the use of cross-arrests, the Union County Prosecutor's Office, the Elizabeth Police Department, and Gloucester Township require the officer at the scene to obtain legal permission through the prosecutor's office or police legal officer before making a dual arrest.<sup>15</sup> Such a policy sends a message to law enforcement that dual arrests should be rare, according to Lauren Bivona, CRT Coordinator at Safe in Hunterdon and former Flemington Borough police officer.

### Risk Assessment for Enhanced Protection

Gloucester Township has a unique policy approach to violence prevention that uses risk assessment to guide the police department's victim response.<sup>16</sup> Its Home Involved Violence Intervention Strategies is the only policy Partners reviewed that utilizes the score from the Ontario Domestic Assault Risk Assessment ("ODARA") to customize a police response and implement specific protective actions based on risk level.<sup>17</sup> Gloucester Township police department also utilizes dedicated domestic violence detectives to assess the needs of the victim, conduct a safety review, collaborate with a social worker, and appear in municipal court for domestic violence cases.<sup>18</sup>

### Response to Non-Fatal Strangulation

Some victims endure repeated episodes of non-fatal strangulation by their attackers, and these episodes do not always leave physical evidence that is readily observable.<sup>19</sup> Working with the Essex County Family Justice Center, located in Newark, the Newark Police Department has a policy that requires enhanced documentation in cases involving non-fatal strangulation. The policy directs the police to connect the victim to the Essex County Family Justice Center for follow up services.<sup>20</sup>

### Victims' Access to Police Records

Police records can be critical in helping a victim meet the evidentiary burden in family court necessary to obtain a civil restraining order and may enable the victim to qualify for some benefits. When the police make records available to the victim and testify in the family court proceedings, they can play a key role in helping survivors obtain a final restraining order. Clifton, Elizabeth, and Passaic Police Departments provide for the release of police reports to the victim and/or defendant if sought in conjunction with a restraining order application.<sup>21</sup> Police forwarding of photographs to the family court also aids victims who are seeking restraining orders.<sup>22</sup>

### Prevention of Domestic Violence within Law Enforcement

Many departments have clear policies about responding to domestic violence within the police force. As one good example, Gloucester Township's policy indicates that the police department provides education, identification, and support for officers in their own high conflict family situations.<sup>23</sup>

## Endnotes

- <sup>1</sup> Law enforcement agencies rely on a variety of methods for communicating with police and setting standards.
- <sup>2</sup> Partners obtained responses from Clifton, Edison, Elizabeth, Jersey City, Newark, Paterson, Passaic, and Woodbridge, selected because they are larger cities with large numbers of reported domestic violence offenses. Some responses were so lacking in detail that they appeared incomplete. Some jurisdictions supplemented their response, but others did not despite repeated follow up requests including emails and phone calls. The only local domestic violence policy produced by Jersey City, for example, was General Order 2-18, Ontario Domestic Assault Risk Assessment, Jan. 22, 2018
- <sup>3</sup> Partners obtained County prosecutor domestic violence guidelines for Essex and Union through OPRA. A third county's guidelines, was produced by Edison as its domestic violence police procedures.
- <sup>4</sup> While Partners disputed this issue with East Orange and found no legal basis for the wholesale failure to produce information, resource limitations resulted in Partners excluding East Orange from the sample.
- <sup>5</sup> The remaining departmental orders and policies and procedures discussed below are on file with the author. Partners recommends law enforcement agencies make their policies and procedures available on the internet so that they are accessible the communities the law enforcement agencies serve.
- <sup>6</sup> Jersey City does not have a CRT but its police department routinely invites Women Rising, the Hudson County lead domestic violence agency, to train police recruits, according to Joaneileen Coughlan and Margaret Abrams from Women Rising.
- <sup>7</sup> See NJSP SOP D15, "Domestic Violence Incident" (March 16, 2017) at 6-7; Gloucester Township Police Order G-2018-08 ch. 5 "Domestic Violence Procedures" (Dec. 2, 2019) at 39-43.
- <sup>8</sup> *Id.*; see also Newark Police Department General Order 5-01, Domestic Violence Response Team at 2 (July 6, 2017), <https://public.powerdms.com/NewarkPD/list/documents/1122368> (police should encourage victim to meet with the advocate).
- <sup>9</sup> The Essex County Prosecutor's Office indicated that it uses police interpreters or if necessary, interpreting services, when investigating a domestic violence offense. Letter from Assistant Prosecutor Stephan Pogany to Patricia Perlmutter (May 4, 2022) (on file with author).
- <sup>10</sup> NJSP SOP B39, "Victim Witness Services" (Jan. 14, 2021), at 5.
- <sup>11</sup> OPRA Response, Jersey City Deputy City Clerk (Dec. 3, 2021) (on file with author).
- <sup>12</sup> Woodbridge Police Department, Language Line Memo (Apr. 6, 2011); OPRA Response, Clifton City Clerk (Mar. 10, 2022) (on file with author). Other departments may permit use of language interpreting services but did not produce documentation to that effect. Jersey City's Deputy Police Chief, for instance, in a phone interview with Partners stated that Jersey City has access to a language line service.
- <sup>13</sup> NJSP SOP B39, *supra* note 10, at 5.
- <sup>14</sup> *Id.* at 5-6.
- <sup>15</sup> Union County Law Enforcement Policy and Manual on the Prevention of Domestic Violence (May 27, 2014) at 8; Elizabeth Police Department Domestic Violence Investigations (May 10, 2021) at 13; Gloucester Township Police Order, *supra* note 7, at 38.
- <sup>16</sup> Gloucester Township Police Order, *supra* note 7 at 19-21, 35-37. See Laura Johnson & Sarah McMahon, *Case Study on the 'Project Home Involved Intervention Strategies' Domestic Violence Model*, CTR. VIOLENCE AGAINST WOMEN & CHILD. (June 2019), <https://socialwork.rutgers.edu/file/5343/download>.
- <sup>17</sup> Gloucester Township Police Order, *supra* note 7, at 19-21, 35-37.
- <sup>18</sup> *Id.*
- <sup>19</sup> Catherine White, Glen Martin, Alice Martha Schofield & Rabiya Majeed-Ariss, *'I Thought He Was Going to Kill Me': Analysis of 204 Case Files of Adults Reporting Non-Fatal Strangulation as Part of a Sexual Assault over a 3 Year Period*, 79 J. FORENSIC & LEGAL MED. 102128 (2021).
- <sup>20</sup> Newark General Order 95-01, Domestic Violence Policy (Oct.3, 2017) at 6-7, available at <https://public.powerdms.com/NewarkPD/list/documents/1123105>
- <sup>21</sup> Clifton Police Department Policy & Procedure 2-24, Domestic Violence Investigations (Nov. 7, 2019) at 26. Elizabeth Police Department Domestic Violence Investigations, *supra* note 15, at 35; Passaic Police Department, Domestic Violence Investigation (July 23, 2020), at 37, available at <https://public.powerdms.com/passaicpolice/tree/documents/489497> .
- <sup>22</sup> See, e.g., Elizabeth Police Department Domestic Violence Investigations, *supra* note 15, at 15; County of Middlesex Prosecutor Directive #7 at 12 (both directing law enforcement to email photographs to the family court when the victim is seeking a restraining order).
- <sup>23</sup> Gloucester Township Police Order, *supra* note 7, at 22-24.