

# NEW YORK STATE OFFICE FOR THE PREVENTION OF DOMESTIC VIOLENCE

OPDV Bulletin/Spring 2011

## IN THIS ISSUE

From the Executive Director .....	Cover
The Domestic Incident Report Repository .....	Cover
Did You Know.....	Cover
Domestic Violence and Cases Connected With the Military.....	Page 2
Q&A About the DIR Repository .....	Page 3
Legislative/Legal Update.....	Page 4
Updated Model Domestic Incident Policy and Domestic Violence Training Curriculum for Law Enforcement.....	Page 4



See the OPDV website for information on [Intimate Partner Sexual Abuse](#).

## The Domestic Incident Report Repository

The Domestic Incident Report (DIR) has been used to document domestic violence in New York State since 1994. Police are mandated to complete a DIR when responding to domestic incidents, whether or not an arrest is made. When filled out properly, DIRs serve as a vital tool for responders in domestic violence cases. They are used by prosecutors to build cases against abusers, by police to ensure they have a complete history available to them when responding to domestic incidents, and by judges and advocates in assessing risk to victims.

While DIRs contain a wealth of information, typically they have only been available to responders within the jurisdiction in which they were completed. This limitation was problematic since we know that given the reality of people's everyday lives, domestic violence often crosses city, town and county lines. Starting this spring, the NYS Division of Criminal Justice Services (DCJS) is making it possible for DIRs to be shared within the criminal justice community statewide and in electronic format through the creation of a DIR repository. This new tool will help to enhance the response to domestic violence in New York State by providing responders with more complete information with which to approach their cases.

See the Q&A on page 3 to learn more about the DIR repository.

## Did you know...

Between 11/11/10, when the crime of strangulation was added to the NYS Penal Law, and 2/22/11, a total of 2,003 people were charged with felony and/or misdemeanor crimes of strangulation. Many of these people would have only faced violation charges before this law's passage.

Data provided by NYS Division of Criminal Justice Services.

## From the Executive Director



Greetings! April is a busy month: it is sexual assault awareness month, and April 10 – 16 is Crime Victims Week. Many of you will be conducting outreach and education, highlighting how interrelated all of our work is. Many domestic violence victims have reported a crime, and the vast majority (approximately 80%) of sexual assaults are committed by individuals known to the victim – adult women are at greatest risk of being raped by their intimate partners (boyfriends and husbands), while teens and men are at greatest risk from acquaintances<sup>1</sup>.

This Bulletin highlights a new tool that the NYS Division of Criminal Justice Services is launching this spring – the DIR repository. The state-wide repository will give officers the access they need to make responses to domestic violence calls that are thorough and informed. It will make it easier to identify individuals most at risk, assemble the best evidence, and ensure that officers have the information they need to keep themselves safe on domestic violence calls.

Another Bulletin piece discusses domestic violence within a particularly vulnerable community: the military. New York is home to Ft. Drum, a base with some of the most re-deployed soldiers in the U.S. Army. We are so thankful for their service, and are working with them to support military families when domestic violence is identified. These cases are complicated; we wanted you to hear the perspective of an expert.

As always, many thanks for your tireless commitment to keeping people safe in their intimate relationships.

*Amy Barasch*  
Executive Director

<sup>1</sup> Extent, Nature, and Consequences of Rape Victimization: Findings from the National Violence against Women Survey, Patricia Tjaden and Nancy Thoennes, January 2006, NIJ.

## Domestic Violence Cases Connected With the Military

**Ellen C. Schell, Counsel and Director of the Military Families Project, The Legal Project**

Domestic violence with a military connection looks similar to domestic violence in the civilian world. Abusers use whatever they find to be most effective in controlling a victim. Abusers who are connected with the military have some additional methods of control available to them, but also may be held accountable in some different ways. Many of the dynamics that prevent survivors from seeking help are the same for both groups:

- o Fear of increased violence and/or retaliation to victim or children
- o Fear of losing children, status, or financial support
- o Fear of family, social group response
- o Love and connection with abuser



On the other hand, there may be some problematic differences for those connected to the military:

- o The family may be very far from home and support systems – even in a different country
- o The service member (victim or abuser) may face adverse career consequences or discharge from military
- o Service member abusers have ongoing, official access to firearms

The military is its own special world. A basic understanding of the culture is useful for anyone dealing with these cases. For instance, commanding officers have very broad powers to issue orders to subordinates, as long as they are lawful orders. A lawful order given **MUST** be obeyed, or the disobeying service member may be disciplined. Therefore, things can get done in the military with far less fuss than in the civilian world. Some things commanding officers can accomplish with a simple order are: removal of an abuser from the home; issuance of a Military Protective Order; prohibition from coming on base if the abuser is a civilian; and payment of family support. All of this can be a distinct advantage to your client if you are working with a military-connected victim. You can call the commanding officer and ask for these things, and maybe get them quickly.

However, it is also vital to understand that “good order and discipline” is the basic tenet of the military system. Every decision, especially justice decisions, will be based on this principle. The emphasis is on the performance of the unit – not on the individual. It is important to understand and prepare for how this may affect a victim of domestic violence who is a service member. Because military readiness and fitness for service is of ultimate importance, a service member victim may suffer adverse career consequences such as changes in duties resulting in a cut in pay, demotions, or even discharge, that would not be problems for victims in the civilian world.

Domestic violence, including intimate partner sexual assault, is something the military has been taking very seriously over the past few years, in large part because of the increased understanding of the negative impact it has on good order and discipline. The services have developed internal systems and procedures for addressing these cases, but most people in the civilian world are not familiar with them.

Within the active-duty military, the Family Advocacy Program (FAP) is the mechanism for addressing domestic violence. Each military installation has a FAP. It is useful to establish a relationship with your local FAP personnel. The FAP is treatment-oriented, so a finding that a report of domestic violence is substantiated will result in treatment recommendations – counseling, substance abuse treatment, anger management, etc.

Punishment is not the purpose of the FAP. Punishment/discipline may be meted out by the command for failing to follow through with treatment, because of a new incident, or for any other reason command feels it is warranted. Again, the purpose of military justice is to maintain good order and discipline, and in order to reach that goal, commanders have a range of disciplinary options to choose among.

This article only addresses the tip of the iceberg about military-connected domestic violence, but the most important thing is to be aware you might have gaps in knowledge that could affect a military-connected victim’s life in significant ways. Be willing to reach out for technical assistance, and you’ll be able to provide effective, appropriate advocacy or representation to these clients. [The Legal Project’s](#) Military Families Program can assist with representation for victims in the Capital Region, and provide training and technical assistance to attorneys and advocates dealing with these cases across the state.

## Q&A About the Domestic Incident Report (DIR) Repository



*This Q&A was conducted with Sean M. Byrne, Acting Commissioner of the NYS Division of Criminal Justice Services.*

### **Q: What is the Domestic Incident Report (DIR) repository?**

**A:** Created using approximately \$1.5 million in funds available through the American Reinvestment and Recovery Act, the repository will be a secure electronic database for law enforcement of all DIRs filed by police departments and sheriff's offices across the 57 counties in New York State outside of the five that comprise New York City.

Law enforcement agencies across Upstate and on Long Island respond to approximately 175,000 domestic incidents annually, using a paper DIR to document each call, regardless of whether an arrest was made.

The repository will capture all of the incident details recorded on those paper documents, giving police and prosecutors cross-jurisdictional, electronic access to information that is crucial to victim and officer safety and effective prosecution of domestic violence cases.

DCJS receives a copy of each paper DIR. The agency is now scanning those hard-copy reports and extracting specific identifiers – such as address of incident locations and document numbers – that will be verified and then

compiled to create the repository. The repository is scheduled to “go live” this spring. Authorized users will have access to any DIR filed by the police departments and sheriff's offices across Upstate and on Long Island.

### **Q: How will the repository work?**

**A:** The electronic repository will be accessible via a secure, online portal and authorized users, such as police, prosecutors and dispatchers, will be able to search the repository by data fields, including the address of an incident location, and see every DIR associated with those data fields. Authorized users also will be able to access scanned copies of the DIRs relevant to their search.

A search of the DIR repository by incident address also will generate a summary of all DIR activity at that location, including the number of reports filed and if there are any “red flag” indicators, such as past violence, threats and presence of, or access to, weapons.

### **Q: Why was the repository created?**

**A:** Hard-copy DIRs are not conducive to cross-referencing or data mining. The reports are typically filed chronologically at DCJS and within each agency that filed the reports. The reports are not cross-referenced by victim, offender or address, and an officer from one jurisdiction often has no idea that another jurisdiction may be investigating the same individual. In the so-called “information age,” that is not only ridiculous, but has the potential to be very dangerous. The DIR repository will change that, providing a far more complete look at the incidence of domestic violence across Upstate and on Long Island, allowing law enforcement and advocates to develop policies and coordinated strategies that will better help them combat domestic violence in their communities.

### **Q: What is the goal of the repository?**

**A:** To mine the wealth of data currently captured in paper documents so that police and prosecutors can see an offender's involvement with law enforcement comprehensively, rather than in a vacuum. Police and prosecutors will know the history of domestic violence, not just the history of arrests, so they will be able to use that information to hold offenders accountable.

### **Q: How will the repository help enhance the response to domestic violence in New York State?**

**A:** Law enforcement agencies have made great strides in responding to domestic violence – treating it as the crime that it is – but the problem continues to persist in communities across the state.

One of the greatest weapons in the fight against domestic violence is information. Domestic violence is a serial crime, one that often escalates in severity and doesn't always stay in the same jurisdiction. Couples may move from municipality to municipality and in and out of different counties, allowing offenders to escape detection from law enforcement.

Having a full and accurate history of the domestic violence is essential: with a comprehensive picture, police can respond appropriately to an incident, prosecutors can more effectively handle the case and work with advocates to provide a victim with the support and assistance needed to break the cycle of abuse.



## Legislative/Legal Update

### Temporary Spousal Maintenance – Resources for Implementation

In 2010, several significant amendments were made to the laws governing divorce in New York State. One new provision requires the courts to assess the respective incomes of divorcing parties and award temporary maintenance, determined by

an established formula and set of factors, to the less moneyed spouse. Several resources have been developed to assist in the implementation of new maintenance provision. The NYS Office of Court Administration has developed a web-based calculator to compute the financial award: <http://www.nycourts.gov/divorce/calculator.pdf>. In addition, Legal

Assistance of Western New York, Inc. has created a summary explanation of the new spousal maintenance law, which includes a calculator developed by the Nassau County Coalition Against Domestic Violence: <http://www.lawny.org/index.php/family-self-help-140/other-family-law-self-help-75/214-spousal-maintenance-in-new-york>

## Updated Model Domestic Incident Policy and Domestic Violence Training Curriculum for Law Enforcement

In December 2010, the Municipal Police Training Council (MPTC) approved the newly updated Model Domestic Incident Policy for Law Enforcement. In March 2011, the MPTC approved the revised Domestic Violence Training curriculum delivered to police recruits in the various academies throughout the State.

### Model Domestic Incident Policy for Law Enforcement

The update to the policy represents the first significant change since 1999. The amended policy has been disseminated to police departments in the state. Its adoption by local police departments helps to strengthen the consistency of the police response to domestic violence statewide and promotes New York State's commitment to recognize the severity of domestic violence cases and the need for specialized system-wide response.

The purpose of the policy is to prescribe a course of action for responding to domestic incidents; it requires police to respond to every domestic incident as a serious call for service. Police are guided through the process of initial response to a domestic incident to arrest of a suspect if required. Victim safety is an essential element of the policy and reflected in its provisions. Officer safety is promoted in the policy by preparing law enforcement to effectively respond to and deal with domestic violence. Designed by a state-appointed workgroup, with subject matter expertise provided by



OPDV, it directs departments in the following: Communications Procedures, Responding Officer Procedures, Arrest Policy, Family Offense Arrest Processing, Non-Family Offenses Arrest Processing, Orders of Protection, Firearms, Appearance Tickets and Bail, and Additional Functions.

The policy updates reflect substantial changes to the laws in the field as well as advances in suggested practice. Changes include: anti-stalking law and other domestic violence legislation, revisions to the Domestic Incident Report (DIR), and modifications to the definitions of designated family offenses and members of same family or household.

Two notable additions to the original policy were made in this update. First, the revised policy addresses the removal of firearms when a domestic incident results in an arrest and a firearm is either used or threatened to be used during the commission of such crime. This is the first time removal of firearms has been prescribed in policy in New York State.

A second significant modification to the original policy is the Officer-involved provision. After careful review and discussion, this section was drafted to ensure it documented a clear course of action when either a suspect or victim of domestic violence is also a law enforcement officer. Specifically, the policy addresses both how a department should hold a member suspected of domestic violence accountable while respecting his/her rights, as well as ensuring that victim/officers receive the services needed while addressing both departmental policy and the victim's need for confidentiality.

The model policy is available on OPDV's website: [http://opdv.state.ny.us/professionals/criminal\\_justice/modeldvpoldec2010.pdf](http://opdv.state.ny.us/professionals/criminal_justice/modeldvpoldec2010.pdf).

### Domestic Violence Training Curriculum

In March 2011, the MPTC approved the revised Domestic Violence Training curriculum. The



Domestic Violence Training pilot for recruit police officers, Kingston, NY.

curriculum updates the information delivered during the 14 hours of domestic violence training for police recruits to include the most recent laws and promising practices. The curriculum is designed to incorporate adult learning principles and improve participant retention of material. Trainees gain awareness and develop their skills in handling domestic violence calls through the use of case studies and vignettes. The training was developed by OPDV with input from the DCJS Office of Public Safety (OPS) domestic violence instructors, and feedback from several pilot trainings.

This training provides recruit police officers with: a comprehensive overview of the law enforcement response to domestic violence; procedures for responding to and documenting domestic incidents; tools and resources to identify, investigate, and document domestic violence; and, resources to enforce offender accountability and enhance victim safety.

OPDV will provide training in how to use the new curriculum to domestic violence training instructors this summer.

*The MPTC is an eight-member council within the Division of Criminal Justice Services (DCJS) established under NYS Executive Law to recommend training standards for police officers. In addition, NYS Executive Law requires the MPTC, in consultation with OPDV, to develop, maintain and disseminate a domestic violence response policy for law enforcement. OPS provides staff support to the MPTC and as such, disseminates and promotes MPTC policy to all police departments across the State, encouraging implementation.*

**NYS Office for the Prevention of Domestic Violence** [www.opdv.state.ny.us](http://www.opdv.state.ny.us)

Please send any comments or content ideas to: [opdvbulletin@opdv.state.ny.us](mailto:opdvbulletin@opdv.state.ny.us)

If you would like to subscribe to the OPDV Bulletin, visit [www.opdv.state.ny.us/public\\_awareness/bulletins/subscribe.html](http://www.opdv.state.ny.us/public_awareness/bulletins/subscribe.html)

Permission to copy, use, and distribute content from The OPDV Bulletin is granted for personal, private, and educational purposes, except that reproducing materials for profit or any commercial use is strictly forbidden without specific permission from OPDV. Any reproduction or distribution of this material must expressly credit OPDV in a prominent manner, such as, "From the NYS Office for the Prevention of Domestic Violence, OPDV Bulletin, Spring 2011". This statement does not pertain to material from other sources.