



New Jersey Division of Criminal Justice

Interviewing Techniques in Domestic Violence Cases

Module 4

In-Service Training
For
Police Officers

Student Manual

Note

This training module is for law enforcement use only. It is intended to serve as a summary of legal concepts. It does not constitute the creation of a prescribed legal standard. It should not be construed as evidential in any criminal or civil proceedings.

As with all training material that is date sensitive, the instructor should ensure that the most current training material is being used.

The New Jersey Division of Criminal Justice has prepared the following domestic violence training programs, with:

Dynamics of Domestic Violence, Module 1, both instructor and student manuals

Legal Aspects of Domestic Violence, Module 2, both instructor and student manuals

Enforcement of Out-of-State Restraining Orders or Orders of Protection in Domestic Violence Cases, Module 3, both instructor and student manuals

Interviewing Techniques in Domestic Violence Cases, Module 4, both instructor and student manuals

Handling a Domestic Violence Call, In-Service Training for Police Dispatchers, both instructor and student manuals

Training Guide for Completing the Victim Notification Form

- ◆ Training Guide for Completing the Domestic Violence Complaint and Application for a Temporary Restraining Order

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Interviewing Techniques in Domestic Violence Cases¹

Introduction

This training program addresses techniques for conducting an interview with the victim of domestic violence to effectively obtain the most information that may be useful at trial.

This training program will also cover techniques for addressing a victim's fears, how to reassure the victim and the importance of gathering all relevant information.

How an officer conducts him or her self during the interview will often determine the level of cooperation the officer will receive from the victim at the crime scene. The interview can also influence the victim's willingness to cooperate during the prosecution. This training program also will address techniques for conducting an interview with the suspect and with children in the household who may have witnessed the abuse.

I. General Approach

In handling domestic violence incidents, the officer's general approach should reflect the seriousness of the offense and its consequences for both the suspect and the victim. To convey this seriousness, officers should:

- Impress upon the parties involved that domestic violence is a crime
- Utilize special interviewing techniques to overcome a victim's reluctance to report the incident
- Investigate the incident as thoroughly as any crime not involving family members
- Handle the situation in such a manner that the victim views the officer's behavior as positive

II. **Separate the Parties and Interview the Victim Out of the Suspect's Hearing**

Once officers have arrived at the scene of the incident, the officers should separate the victim and suspect as soon as safely possible and interview them separately. Take the victim out of hearing range and away from eye contact with the suspect. This will greatly decrease the likelihood that she² will be intimidated by the suspect. It also increases the likelihood of her cooperation with the officers.

In making decisions about when and how to separate the parties and while conducting the interviews, do not jeopardize officer safety. Safety of the officers and parties involved requires the officers to maintain control of the parties during the interview.

Example:

In a recent domestic violence case, officers responded to a call from a possible domestic violence victim. When the officers approached the residence and rang the doorbell, the victim opened the door and told the officers that all was fine and that they could leave. The officers did not ask her to step outside or ask to enter the residence. The victim later reported that she had said this to the officers because the offender had been standing behind the door with a loaded gun. This case underscores the importance of being sure that you are interviewing the victim alone.

III. **Interviewing the Victim for Information**

In general, for interviewing the victim of domestic violence, officers should use the same information-gathering and interviewing skills that they learned in recruit training for sexual assault investigation. Here are additional suggestions and strategies which have proven effective in obtaining information in domestic violence cases.

A. The Kinds of Questions the Officers Should Ask

The questions should be specific and direct and asked in a supportive and matter-of-fact tone of voice. Examples of questions to ask a victim of domestic violence:

1. Can you tell me what happened?
2. You have an injury. It looks like someone hit you. Who hit you?

3. Has this person ever hit you before?
4. What did the person hit you with? Open or closed hand?
5. Where on your body were you hit?
6. How many times were you hit?
7. Was any instrument used? A shoe? A knife? A gun? A telephone? A fist?
8. Were any threats made against you?
9. Are there weapons in the house?

B. The Kinds of Questions that Should Not be Asked

1. Questions which appear to blame the victim or which are asked in a hostile tone of voice may have the effect of further intimidating the victim or obscuring important evidence. Therefore the officers should not ask accusing or hostile questions; for example: What did you do (or say) to make this person hit you?
2. Questions that are ambiguous or rhetorical; for example: Are you okay? Keep in mind that when most people are asked: "Are you okay?": they automatically answer, "I'm fine." The person may not be fine at all. Often the victim is in shock and may not be fully aware of her injuries. In order to find out the person's actual condition, ask specific questions which will focus the victim's attention on her injuries and their extent.

Officers should remember that earning the victim's confidence and cooperation may rely on the kinds of questions asked and the way they are asked.

C. Additional Interviewing Strategies

Officers should be calm and direct. One of the initial objectives upon entering the residence is to calm all parties.

- If the victim or suspect is angry or distraught, the officers can directly ask this person to slow down, talk slowly and lower his or her voice.
- If the victim is yelling, crying or generally difficult to interview, tell her that you cannot understand her.

If necessary, repeat these instructions over and over in a calm, direct tone of voice. Often, when dealing with an agitated victim or suspect, the specific words the officers use may be less important than the way the officers say them. Repeating clear instructions, or questions, in a firm voice will help the person -- victim or suspect -- focus on what the officers are saying and calm down.

The officers should be aware of their body language. How an officer stands and holds his or her arms and head, the nature of the officer's facial expression and the officer's tone of voice all convey a clear message to victims and suspects about how the officer perceives the situation. For example, even though the officer may be making calming, supportive statements, the officer's body language can convey the opposite message of boredom, irritation, disbelief, dislike or anger.

- Be patient. Repeat questions if the victim does not understand or answer them fully.
- Question statements indicating that the injuries were caused by an accident. Use specific, non accusatory questions.
- Don't get bogged down trying to ascertain motives.

Generally, speaking, the motive of a person who commits a crime is not relevant as long as the offender intended to do the act and willfully assaulted the victim.

People sometimes commit crimes for what they believe are justifiable motives:

I wanted to teach her a lesson, or

I wanted to show him that what he did was wrong.

With very few exceptions, motives are irrelevant in the commission of most crimes. The best of motives is no defense to an intended crime. While there may appear to be mitigating circumstances at the scene, it is not the job of the police officer to play portable judge. The job of the officer is to identify crimes and respond in a manner that is consistent with the facts as the officers assess them.

IV. **Be Aware of the Victim's Fears, Embarrassment and Confusion**

A. General Guidelines

Many factors affect a victim's ability and/or willingness to cooperate and provide information in an interview. The officers must be aware of these factors and conduct the interview in ways that reassure the victim that her concerns are legitimate and are being addressed. Keep in mind:

- This may be the first time that the victim has called the police.
- The neighbors may have called the police and, therefore the victim will be surprised to see the police officers, and probably embarrassed as well.
- The victim may not be aware that the abuse is a crime.
- The officers may be asking the victim very personal questions that no one else has ever asked before -- and he or she doesn't even know the officers.

B. **Victim Feelings that can Hinder the Police Investigation**

After an episode of domestic violence, the victim will often experience feelings that might hinder a police investigation. This is especially true in cases where there is a history of domestic violence. Feelings that may inhibit the victim's willingness to cooperate include:

1. Fear for self, children and possibly, for suspect
2. Immobilization and shock.
3. Feelings of helplessness and hopelessness to effect change.
4. Guilt, shame or embarrassment.
5. Feelings of self-blame, i.e., the victim may feel that she is responsible for the violence.

Feelings of isolation, i.e. the victim may have been isolated and appear unresponsive or impaired.

For more information regarding the emotional aspects of domestic violence, see *Dynamics of Domestic Violence*, Module I, In-Service Training for Police Officers, by the Division of Criminal Justice

Discussion Points:

- Victim Blaming
- Stockholm Syndrome
- Battered Woman Syndrome

See *Dynamics of Domestic Violence*, *supra*, at Characteristics of a Victim of Domestic Violence

C. **Responding to Victim Fears**

To gain the victim's confidence and cooperation, the officers must show themselves to be aware of and responsive to her feelings. By reassuring the victim in this way, the officers will increase her willingness to reveal the specifics of the crime. To reassure the victim:

1. Emphasize that the victim is not responsible or to be blamed for the violence.
2. Explain that she is safe while you are present and that the police are there to help the victim.
3. Tell the victim that she is not alone and that this happens, unfortunately, to many women.

D. **Victim Reluctance to Cooperate**

Officers may encounter victims who appear extremely reluctant to cooperate with the investigation. In addition to issues mentioned above, such as embarrassment, shame, guilt and fear, there are additional elements influencing domestic violence victims' response to law enforcement personnel and to the criminal justice system.

- **Lack of Faith in the Criminal Justice System**

The victim the officers are interviewing may have previously signed a criminal complaint and/or cooperated fully with law enforcement and the courts, only to have had the case dismissed by a "reluctant" investigator or prosecutor. The victim may have received a severe beating for her "cooperation." Or, she may have simply called the police in the past (in this jurisdiction or others), only to have officers tell her that there was nothing they could do. Again, she may have received "punishment" for having called the police.

- **Genuine Confusion**

Some victims are genuinely confused about their feelings toward the offender. Some domestic violence offenders are respected members of their communities. When not violent, they may be very good fathers or mothers and loving husbands or wives. Further, family and friends may not believe the victim's stories of violence and may even pressure her again and again to "give him another chance."

Hence, some victims are confused about the offender and the possible results of arrest. They may falsely believe that all arrests end up in lengthy imprisonment. The victim may simply wish for the violence to stop, and may not want to bring about the economic and emotional hardships for the offender and for him or her self that accompany incarceration.

- **Fear of Retaliation, Economic Hardships, Social Stigma and Isolation**

A major obstacle to leaving could be the threat of severe retaliation. The time the victim leaves an abusive relationship is the time when she is most at risk. One study indicated that as many as 75% of the domestic violence assaults reported to police occur after the victim has left.³ Over 50% of battered women who leave their homes are hounded, badgered and forced to return.⁴ Other obstacles may include the lack of financial means to support herself and the children and the lack of support from friends and relatives who may blame her for the domestic problems.

E. **Working to Overcome Reluctance**

First of all, an officer should expect reluctance and not become impatient, frustrated or hostile when confronted with a victim's confusion or hesitation. In other areas of crime where the suspect knows the victim, the victim's whereabouts and the victim's family (crimes such as gang or drug-related violence), victim/witness reluctance is expected and taken into account in the investigation and handling of the case.

This same understanding and more should be afforded the victims of domestic violence who not only know the suspect but also may have a very long and complicated relationship with the suspect.

- **Mobilize and Encourage Victims**

1. Remind victims that a crime has occurred and that they have the right to be free from physical assaults and abuse.
2. Tell them about counseling and other programs that may be able to decrease or end the offender's destructive behavior.
3. Let victims know that there are programs that help people in their situations, and that they can talk with counselors about the options and alternatives.

For more detailed information regarding this subject, see the *Dynamics of Domestic Violence*, module 1, *supra*, at "If It's So Bad, Why Does She Stay?"

4. Reiterate that they alone cannot solve a violent partner's problems.
5. Inform the victim that domestic violence usually reoccurs and gets worse unless there is some form of intervention.
6. Let the victim know that she is not helping the abuser if she colludes with his efforts to minimize or cover up the situation.

- **Explain Criminal Justice Options**

Explain to the victim that there are many options in terms of the criminal justice system, including domestic violence diversion (court-ordered counseling and substance abuse treatment), probation, suspended sentences, etc. An arrest does not necessarily mean a state prison term.

V. **Interviewing the Suspect**⁵

Batterers come from all socio-economic backgrounds. Batterers include judges, doctors, engineers, lawyers, teachers, members of the clergy, law enforcement officers. They include the rich, the poor, the middle class, the educated, the uneducated.

In some cases, the responding officers may be required to resort to calming techniques because the batterer may be angry that some strangers have intruded into a family matter. However, in some cases, the batterer may be agreeable or conciliatory to the officers. They may deny that abuse occurred or minimized the degree of abuse. They may also blame their partner and that they had no other option but to take corrective action.

The officers must be alert to any manipulative language or behavior of the batterer when they question the batterer. The officers should:

- not make any accusatory statements while questioning the batterer. They should allow the batterer to tell his version of the incident before confronting the batterer with contradictory information.
- not collude or support the suspect's statements as to the reasons for the abuse.

For more information on this matter, see the *Dynamics of Domestic Violence, supra*, Characteristics of a Batterer

- document all spontaneous statements by the batterer, even if the statements appear on their face to be self serving.
- give the suspect *Miranda* warnings before questioning, if the officers placed the suspect under arrest or restrained his freedom of movement like an arrest.

VI. Interviewing Children⁶

“An estimated 87% of children in homes in which domestic violence occurs witness that abuse and suffer secondary psychological effects, including aggressive behavior and depression.”⁷

Police should:

- interview children away from the parents and in a comfortable place for the children. The officer also should be at eye level with the child.
- befriend the child and explain why the police are there.
- not indicate to the children what response the officers want from the child. The officer should be careful in using leading questions when questioning children.
- be alert to any indication that the child is fearful of one or both parents or feels responsible for what has happened.
- be alert for any signs of child abuse. In some cases, where there is spousal abuse, there also is child abuse.⁸

VII. Gather and Document All Relevant Information

A thorough investigation at the scene is critical to both the current and any future criminal case filed against the suspect. In addition, detailed knowledge of the present incident and past incidents will increase the officers ability to make appropriate decisions about their arrest options and to correctly advise victims on follow-up procedures.

- **Gather all Relevant Background Information**
 1. Are there weapons in the house?
 2. Were there witnesses?

3. Was the reporting party someone other than the victim? if so, have the officers spoken with that person?
4. Are there children likely to be endangered by the incident or did children witness the incident?

- **Gather Relevant Historical Information**

Officers often will be walking into a situation in which the relationship between suspect and victim has been characterized by a history of domestic violence. In order to respond effectively to the present incident, the officers will also need to know about past incidents, and therefore, they should also interview for relevant historical information. By asking the victim the following questions, officers can often get a rich sense of the historical background to an incident in a short amount of time.

1. Has this ever happened before?
2. What was the worst incident? Has a weapon ever been used?
3. Has the suspect ever been arrested for hurting you before?
4. Have you ever been treated by a doctor or hospitalized for injuries inflicted by the offender?

By inquiring about past violence episodes, the officers may gain information that will aid them in deciding:

1. How dangerous the situation is.
2. Whether to charge the suspect in the non mandatory arrest charges.
3. What charges to file.
4. Whether or not the children are safe.
5. Whether emergency housing should be sought for the victim's safety.

The officers should also remember that information regarding the history of violence is helpful to the prosecutor who will be prosecuting the case. Based upon the available medical reports and past police reports, the prosecutor may elect to:

1. Argue for higher bail than might normally be required.

2. Make a more persuasive request for a no-contact order.
3. Add additional charges to the present case based on past assaults. This can be done when the statute of limitations has not run out on the past offenses, and when there is sufficient documentation (usually medical reports or independent witnesses). This tactic is most often used where there is a continuing pattern of abuse and the suspect has not been previously arrested.

Example

One such case where such relevant background information was extremely important involved a young couple with a small child. The police were called by one of the woman's friends who reported that the man was chasing his wife around the house and beating her with a stick. The victim's injuries were minor, but when officers inquired about past assaults, they found that she had lost sight in one eye when her husband had punched her several months prior.

She had also been sutured for a past head wound. Further, on one occasion, when she was driving down the street with her baby in the front seat, her husband had jumped up on the hood of the car and smashed the windshield with a pipe. Pieces of broken glass fell into the car, hitting her and the baby.

There were numerous other assaults as well. As it turned out, many were witnessed by the same friend who was witness to the current incident. Her testimony, along with medical reports, enabled the prosecutor to bring charges for the past assaults along with the present charges. This made for a much stronger case.

- **Try to Get a Taped Statement from the Victim**

As stated earlier, the victim most likely will be pressured by the suspect, friends and family members not to cooperate with the prosecution. Depending on the facts of the case, a taped statement made by the victim at the scene can lessen these pressures by giving the victim a face-saving "excuse." The victim can tell those who are harassing her that the prosecutor already has all the facts on tape and that she cannot do anything about it.

VIII. Summary

In handling domestic violence incidents it is important for officers to:

- Impress upon the parties involved that domestic violence is a crime
- Utilize special interviewing techniques to overcome a victim's reluctance to report the incident.
- Investigate the incident as thoroughly as any crime not involving family members, and
- Handle the situation in such a manner that the victim views the officers' behavior as positive.

Remember when interviewing the victim to separate the parties; focus your questions and be specific; be supportive rather than accusing; and don't get bogged down by trying to determine the motivation of the crime.

Acknowledge the victim's fears. Expect confusion and reluctance on the part of the victim. The officer can overcome some of these obstacles by reassuring the victim, informing her about the dynamics of domestic violence and explaining that she is not to blame and that she alone cannot stop the offender's violence behavior. Explain to the victim her rights and that there are many different possible outcomes to an arrest.

Get all relevant information on the current incident and on any past incidents, including past medical treatment. Document this for the prosecution.

¹ This training module incorporates a training program published by the Family Violence Project, District Attorney's Office, San Francisco, California, entitled *Domestic Violence A Training Curriculum for Law Enforcement, Volume II: Reference Materials*, edited by Sue Martin and K. Kaufmann, copyright 1988. Reprinted with permission of the Family Violence Project.

Modifications were made in the San Francisco material so this training module will be consistent with other Division of Criminal Justice training modules

² National crime statistics reveal that about 95% of all spouse abuse victims are women. To avoid confusion, this training program will refer to the male as the batterer and the female as the victim. Men can be and are victims of domestic violence and are entitled to the same protections as women under the domestic violence laws of this nation and State

³ Walker, Leonore E., *The Battered Woman* 43(1979)

⁴ Browne, Angela, *When Battered Women Kill*, New York, New York, The Free Press 1987

⁵ Criteria for interviewing the suspect was added to this training module

⁶ Criteria for interviewing children was added to this training module

⁷ American Bar Association Report 1995

⁸ O'Dell, Anne, Det. Sgt. San Diego Police, lecture on *New Approaches in Domestic Violence Training for Law Enforcement*, National College of District Attorneys, 1995.