



NDAA

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**NATIONAL DISTRICT ATTORNEYS ASSOCIATION
POLICY POSITIONS ON DOMESTIC VIOLENCE**

WHEREAS, the National District Attorneys Association, representing America's local prosecutors, recognizes that domestic violence is a serious and pervasive criminal and public health issue with devastating consequences for both the victims and society; and

WHEREAS, the National District Attorneys Association calls for the aggressive prosecution of all cases of domestic violence regardless of whether they are charged as misdemeanors or felonies in order to prevent the escalation of violence.

THEREFORE BE IT RESOLVED, that the National District Attorneys Association adopts the attached "POLICY POSITIONS ON DOMESTIC VIOLENCE."

Adopted by the Board of Directors, October 23, 2004 (Monterey, CA)
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NATIONAL DISTRICT ATTORNEYS ASSOCIATION'S

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Adopted: October 23, 2004 by the Board of Directors in Monterey, California

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NDA POLICY POSITIONS ON DOMESTIC VIOLENCE¹

INTRODUCTION

DELINEATING "DOMESTIC VIOLENCE": RELATED DEFINITIONS AND ITS RELATIONSHIP TO OTHER CRIMES

One of the problems encountered in discussing domestic violence and in examining its causes and consequences lies in defining the term itself. State criminal statutes dealing with this issue employ a variety of terms including "domestic violence," "spousal abuse," "domestic battering," "family violence," "domestic abuse," and "partner or family member assault," and incorporate a variety of differing definitions and elements for each specific term.² Researchers and federal agencies routinely use the term "intimate partner violence" which adds to the confusion. The difficulty in using the terms adopted by the states is that they can be interpreted to encompass other crimes such as elder abuse and child abuse, which while extremely important, are outside the scope of this document and its primary area of focus. Without a consistent, focused label and definition it is difficult to define the problem and even more difficult for prosecutors to establish effective policy positions to address the associated issues.

As a result, for purposes of this document, the term "domestic violence" is intended to encompass the "actual or threatened physical or sexual violence or psychological and emotional abuse³ directed toward a spouse, ex-spouse, current or former boyfriend or girlfriend, or current or former dating partner."⁴ This term is also intended to incorporate offenses such as stalking, violation of protective orders, and miscellaneous offenses such as harassing telephone calls, trespass, and destruction of property where the victim is a spouse, ex-spouse, current or former girlfriend or boyfriend, or current or former dating partner. The addition of protective order violations and offenses such as harassing telephone calls is done because the consistent and aggressive prosecution of these types of offenses, where a charge of domestic violence, for a myriad of reasons, cannot be prosecuted often provides effective means of addressing the issues associated with domestic violence. All cases of domestic violence regardless of whether they are charged as misdemeanors, felonies, or violations of civil protective orders, should be aggressively prosecuted to prevent the escalation of violence.

For purposes of this document "*physical violence*" is defined as "[t]he intentional use of physical force with the potential for causing death, disability, injury, or harm."⁵ "*Sexual violence*" is defined as the "[u]se of physical force to compel a person to engage in a sexual act against his or her will, whether or not the act is completed; [a]n attempted or completed sex act involving a person who is unable to understand the nature or condition of the act, to decline participation, or to communicate unwillingness to engage in the sexual act; or abusive sexual contact."⁶ "*Sexual violence*" also includes threats to use

physical violence to compel a person to participate in nonconsensual sexual acts. "*Threat of physical or sexual violence*" is defined as "[t]he use of words, gestures, or weapons to communicate the intent to cause death, disability, injury, or physical harm. Also the use of words, gestures, or weapons to communicate the intent to compel a person to engage in sex acts or abusive sexual contact when the person is either unwilling or unable to consent"⁷ qualifies as threats of physical or sexual violence.

Despite the restrictions on the term, "domestic violence," the National District Attorneys Association recognizes the interrelationship between domestic violence and numerous other crimes such as drug and alcohol use and abuse,⁸ animal cruelty,⁹ elder abuse,¹⁰ and child abuse.¹¹

While an in-depth discussion of these other types of crimes is outside the scope of this particular document, the inextricable connection between domestic violence and its impact on children, who witness such violence, necessitates a discussion of this issue. The impact of such violence on children is real and the consequences can be dire. A 1994 report revealed that between 3.3 million and 10 million children are witnesses to domestic violence annually.¹² Of particular concern is the relationship between this type of violence and the physical, emotional, psychological, and behavioral impact on children. It is believed that exposure to domestic violence may be the worst violence for children to witness.¹³ The National Clearinghouse on Child Abuse and Neglect Information reports that children who witness domestic violence "may suffer severe emotional and developmental difficulties similar to those suffered by children who are the direct victims of child abuse, neglect, and sexual abuse,"¹⁴ in addition to increasing the likelihood that they will also either become a victim of or engage in acts of abuse in the future.¹⁵ Children exposed to domestic violence are more likely to experience depression and anxiety and more likely to engage in behaviors such as committing violence against peers, attempting to commit suicide, abusing drugs and alcohol, running away from home, engaging in prostitution, and committing sexual assault crimes.¹⁶ Furthermore, "[i]nfants exposed to violence may not develop the attachments to their caretakers that are critical to their development; in extreme cases they may suffer from 'failure to thrive.' Preschool children in violent homes may regress developmentally and suffer sleep disturbances, including nightmares."¹⁷

DYNAMICS OF DOMESTIC VIOLENCE

The National Coalition against Domestic Violence defines battering as a "pattern of behavior used to establish power and control over another person through fear and intimidation, often including the threat or use of violence."¹⁸ While there are numerous theories that have been developed to explain domestic violence,¹⁹ the most commonly used explanation of the dynamics is the "Power and Control Wheel," developed by the Domestic Abuse Intervention Project in Duluth, Minnesota. However, it is important to note that because this theory was developed by a group of female victims, that it is only applicable to the abuse of female victims by male perpetrators.²⁰ Because most victims of domestic violence are female,²¹ for purposes of this policy the "Power and Control

Wheel" will be used to explain the intricacies of this type of violence. The data, however, supports a finding that domestic violence is also perpetrated by women.²²

The "Power and Control Wheel," illustrates that domestic violence is a cyclical pattern of physical and/or sexual violence by an abuser to exert power, establish control over, and diminish the independence of the victim. At the center of the wheel lies the cause of the violence -- the need for power and control. Violent acts or the threat of acts of violence serve as the rim of the wheel while varying types of behaviors, primarily psychological/emotional in nature, act as the spokes of the wheel to facilitate the establishment of power and control.²³ Specifically the abuser may use coercion and threats to harm a victim; intimidation through gestures or destruction of property; emotional abuse such as humiliation; isolation from family and friends; economic abuse; use of children as pawns in obtaining power and control; male privilege; or minimizing the abuse, denying that abuse occurred, and blaming the victim for the abuse, as means to control the victim. It is the use of violence that reinforces the ability of the abuser to use these various other psychological and emotional behaviors to dominate the victim.²⁴ Added to the complexity of the dynamics of domestic violence are the special fears, concerns, and needs of the victims of such violence.²⁵

SPECIAL CHARACTERISTICS OF VICTIMS OF DOMESTIC VIOLENCE

SITUATIONAL DIFFERENCES BETWEEN VICTIMS OF DOMESTIC VIOLENCE AND VICTIMS OF OTHER TYPES OF CRIME

The victim of domestic violence has a relationship with the offender that many other victims of crime generally do not have. Victims of this type of crime have either a current or past marital, romantic, or sexual (intimate) relationship with their abuser. They share a past and a potential future with the perpetrator of the violence. They are aware of the abuser's history of violence - a history not only with them but also possibly with other partners. They know the abuser's habits and the factors that correlate with the abuser's violent acts. Victims know as a result what they can do to maintain their safety and wellbeing along with that of their families. In addition, victims may have children in common with the offender. Some victims are dependent upon the abuser for the right to remain in this country and many are often economically dependent upon the offender.

FEARS AND CONCERNS FOR THE VICTIMS OF DOMESTIC VIOLENCE

Policy Position:

As a result of the philosophical differences between a victim of domestic violence and prosecutor handling such cases, it is imperative that prosecutors devise methods to most practicably address the goals of all parties involved in cases of domestic violence and to eliminate as many of the conflicts as possible.

COMMENTARY

Because of the unique relationship that an offender and a victim of domestic violence share, victims often have very specialized concerns and fears. As a result, the victim of domestic violence will generally not react to the criminal justice system in the same fashion as victims of other types of crimes. A victim of domestic violence may often express hostility towards the police and prosecutor over the arrest and prosecution of the offender. In the end a victim of domestic violence may refuse to cooperate; recant his/her initial version of the abuse; or display reluctance to participate in the criminal justice system.

These concerns and fears generally stem from the three major ties that an offender and victim have: intimate relationship; parental relationship; and financial relationship. Victims often have a fear of retaliation and additional violence by the abuser if they participate in the criminal process or testify against the offender.²⁶ Often a victim may have had an unpleasant experience with the criminal system during other episodes of abuse and now lacks faith in the criminal justice system's ability to either hold the offender accountable or to provide for his/her protection. Often times the abuser has told the victim that there is nothing that the victim can do about the abuse and that no one will believe him/her. Prior bad experiences confirm the abuser's predictions and victims accept this as their fate.

A victim may feel overwhelming shame because of the abuse; he/she may not want friends, family, and the community to know about the violence let alone the personal details of his/her family life. Victims may also experience overwhelming guilt because of a belief that it was their call to the police that led to the offender's arrest; embarrassment; and possible loss of job or social status. A victim of domestic violence may experience considerable pressure from his/her family, religion or culture to reconcile with the offender. In other situations a victim may hold certain religious beliefs that preclude him/her from testifying against a partner or from participating in the prosecution. The love or feelings that a victim has for the offender and the hope or belief that the abuse will end without the intervention of the criminal justice system, may cause a victim to recant or refuse to participate in the prosecution.

For those victims with children in common with the abuser, they may fear that participating in the process will cause a loss of custody or separation from the children. They may have been told that they could lose custody of the children for permitting the

violence to occur in the children's presence or the abuser may have threatened to take the children from the victim if they report the abuse or follow through with the prosecution.

For victims who are not citizens of this country and rely upon the abuser for the spousal or fiancée privilege to remain in this country there can be overwhelming fear that the reporting of abuse or participation in the prosecution may result in deportation.

When there are pending civil matters such as divorce, child custody or child support, or pending criminal matters against the victim the offender may have exerted pressure on the victim to drop criminal charges in exchange for the dismissal of petitions for custody or other civil matters.

Lastly, if the victim is without employment; without job skills because of years of isolation; or without any financial reserves, he/she may fear by reporting the abuse or participating in the process that he/she will lose all economic support from the offender.

In order to alleviate the victim's fears and concerns, the victim will take whatever measures he/she deems necessary whether it be recanting his/her account of the abuse on the witness stand, refusing to comply with subpoenas; refusing to meet with prosecutors or police to discuss the case; or even committing perjury.

THE MAGNITUDE OF DOMESTIC VIOLENCE

Policy Position:

Domestic violence is not a private matter to be resolved within the family unit. The amount of abuse perpetrated against intimates and former intimates in our society is staggering. These acts of abuse are serious criminal matters, which result in disastrous consequences for the victims, their families and friends, and society as a whole.²⁷

COMMENTARY

Domestic violence is a serious and, unfortunately, pervasive criminal and public health issue for our society. Statistics indicate that the level of domestic violence committed in the United States is high. The Bureau of Justice Statistics reports that during the year 2000, 1,247 female murder victims and 440 male murder victims died at the hands of an intimate partner.²⁸ According to figures from the National Violence against Women Survey "approximately 4.8 million intimate partner rapes and physical assaults are perpetrated against U.S. women annually, and approximately 2.9 million intimate partner physical assaults are committed against U.S. men annually."²⁹ In addition, the survey estimates, per year, 503,485 women and 185,496 men are stalked by an intimate partner.³⁰

Surviving victims of domestic violence suffer not only from physical injuries but also from the psychological and emotional impact of the incident manifested in depression,

anxiety and suicide attempts.³¹ Recent research indicates that domestic violence results in nearly two million physical injuries *to women*³² and 581,391 injuries *to men* per year.³³ Victims are frequently burdened with the inability to work either inside the home or in the workplace because of injuries sustained, whether they are mental or physical. Female victims of domestic violence lose 13.6 million days of paid work and household chores per year.³⁴

However, domestic violence does not impact the victim alone--it is a systemic problem. Domestic violence committed in the presence of children often results in the physical injury of children who attempt to intervene in the incident³⁵ or results in the development of emotional and behavioral problems for children that see or hear the violence or its aftermath.³⁶ In addition, children are victims of abuse in one-third to one-half of those families where the female is a victim of domestic violence.³⁷ Family members and friends are inevitably engaged to assist with the situation, oftentimes, placing them in danger of injury from the abuser. Similarly, many incidents of domestic violence occur in the workplace placing co-workers and employers at risk of injury or death.

The medical and mental health care communities, the criminal justice system, and the economy also suffer from the increased demands that domestic violence generates. Of the two million injuries sustained by women per year as a result of domestic violence, 555,000 necessitate medical attention and domestic violence leads to approximately 18.5 million visits to mental health care providers by women per year.³⁸ Of the injuries suffered by men, 124,999 require medical treatment.³⁹ Researchers conclude that these injuries require the assistance of millions of medical health providers.⁴⁰ The cost of medical and mental health services for female victims alone is estimated to be 4.1 billion dollars.⁴¹

The drain on law enforcement and judicial resources is significant. The National Violence Against Women Survey estimates 598,125 suspects of intimate partner rape, physical assault, and stalking are detained or arrested per year.⁴² Of those 598,125 suspects, 434,072 are prosecuted annually.⁴³ In addition to criminal prosecution burdens, court system resources are also taxed as the survey estimates that 1,131,999 victims of domestic violence obtain protective orders and approximately 60% of those orders are violated.⁴⁴

Lastly, loss of victim productivity due to injuries resulting from domestic violence significantly impacts the workplace and the economy. Research estimates that the value of lost productivity from employment for female victims is \$727.8 million and the value of lost productivity from household chores for female victims is \$130.8 million.⁴⁵

CONFLICTS BETWEEN THE GOALS OF PROSECUTORS AND VICTIMS IN CASES OF DOMESTIC VIOLENCE

Policy Position:

The encouragement, education, and support of victims of domestic violence partnered with thorough investigations, the utilization of physical evidence, and expert testimony, when appropriate, during trial are the most efficacious means of resolving such cases.

COMMENTARY

It is important to note that in cases of domestic violence, unlike most other types of crimes, there will be times when differences will arise between prosecutors and victims of domestic violence because victims are often conflicted about their roles in the criminal justice system. Prosecutors strive to protect the victim and his/her family from further violence. But in addition, their goal is to hold the offender accountable for his/her behavior and to deter other offenders from engaging in similar behavior through conviction and imposition of a jail or prison sentence, supervised probation and/or mandatory attendance at batterer intervention programs. Lastly, prosecutors seek to ensure the safety of the community through similar means.⁴⁶

First and foremost, victims want to avoid additional abuse. They have their safety and that of their family as primary goals; however, their means of arriving at those goals often do not coincide with that of the prosecutor. Victims of domestic violence often disagree with, or are afraid to acknowledge, the need for accountability, incarceration, or batterer intervention programs. Because of their relationship to the offender and the associated fears and concerns, victims believe that they know the best methods for ensuring their safety along with the safety of their family. These methods may include attempts at dropping charges of abuse, recantation of testimony during trial, or advising the police and prosecutor that they falsified the incident.

Furthermore, many victims wish to continue a relationship with the offender for a variety of reasons. Many prosecutors see this choice as detrimental to the victim's well being and safety which causes additional conflicts. It is imperative that when such conflicts arise that prosecutors be acutely aware of, sensitive to, and respectful of the victim's feelings regarding the case. That is not to say, however, that prosecutors should not vigorously prosecute such cases in order to hold abusers accountable and to protect the victim and the community from further violence.

DEALING WITH CONFLICTS

It is crucial for prosecutors to encourage, educate, and support a victim of domestic violence as a means of addressing this type of crime. The level of court empowerment ("expectations a victim has that she/he will be afforded fair and equitable treatment by the court") have been shown to be influenced by a prosecutor's actions. Research indicates that the helpfulness of a prosecutor is positively related to the victim's levels of

court empowerment and that coercive acts by prosecutors reduce the level of the victim's court empowerment.⁴⁷ It is equally important that the education and encouragement process begin early on and remain consistent throughout the criminal proceedings. Doing so may increase the likelihood that a victim will be amenable to criminal justice system involvement and willing to participate in the prosecution. Probably one of the most important means of supporting a victim is, unless otherwise required by law, to eliminate any requirement that he/she sign a criminal complaint alleging domestic violence where a law enforcement officer has conducted an investigation. By eliminating this requirement it emphasizes to the victim, the offender, and the community that it is the state/commonwealth that has initiated the charges and it is the state's responsibility to handle the charges. In addition, the pressure placed on the victim by the offender to drop the charges may be lessened when it is clear that the state is in charge of making decisions regarding the crime.

Prosecutors should have a system in place so that victims are contacted as soon as practicable after the arrest of the abuser, either by the law enforcement agency or a member of the victim/witness services unit. Prosecutors should also establish rapport with the victim, as soon as feasible, and obtain pertinent information from the victim regarding the incident and any prior abuse so that it can be utilized at all stages of the process.

Information concerning resources available to victims of domestic violence should be provided and should include information on shelters, victims' advocacy groups in the community, victim/witness services provided through the prosecutor's office, medical services, and pro bono legal services for issues such as divorce, child support, child custody and protective orders. Victims should be educated on the prevalence of domestic violence, its consequences, and the associated dynamics. The criminal justice system should be explained to all victims and they should know what to expect from the system as the case progresses and what the system expects of them. Victims should always be treated with respect, and information, input and viewpoints on the case should be actively solicited from the victim, if not previously provided. The information and viewpoints obtained should be thoughtfully considered throughout the process and employed in decision-making regarding the charges. However, as in all criminal matters, it is equally important that a prosecutor's discretion be the ultimate guiding force in the handling of a case of domestic violence.

In cases where despite the use of education, encouragement and support of the victim, the victim is not amenable to participating, the use of physical evidence, hearsay exceptions, and/or expert testimony in lieu of the victim's in court testimony is of utmost importance. Whenever it is feasible, the investigation of the crime and the preparation for prosecution should be conducted in such a manner that in the event of the victim's unavailability or his/her refusal to cooperate, the case can still be presented to the court. The thorough collection of physical evidence, witness statements, medical records, and prior criminal history is essential in these situations. While by no means mandatory in all cases of domestic violence, there are cases where the use of expert testimony may be beneficial to

explain to a judge or jury why a victim of domestic violence may recant his/her earlier testimony, fail to appear for court, or even commit perjury.

ISSUES SPECIFIC **TO DOMESTIC VIOLENCE CASES**

ADOPTION OF OFFICE POLICIES-“NO DROP” POLICIES VERSUS PROSECUTORIAL DISCRETION

Policy Positions:

Prosecutors should treat all cases involving domestic violence in such a manner that:

- 1. Victims understand that their safety is the paramount concern of law enforcement and the prosecutor;***
- 2. Abusers and potential abusers understand that they will be held accountable for such acts; and***
- 3. The community is acutely aware of the importance and serious ramifications of these cases.***

While there may be several benefits to written office policies, in cases of domestic violence such policies may be too restrictive. Prosecutorial discretion and specialized training as applied to the facts of individual cases are the best tools to effectively address domestic violence.

Prosecutorial discretion is the greatest tool that a prosecutor can employ in dealing with any criminal offense. Prosecutors are encouraged to use prosecutorial discretion to resolve cases of domestic violence and to provide for both victims’ safety and abusers’ accountability.⁴⁸

COMMENTARY

Over the last three decades public policy regarding the handling of domestic violence has varied significantly. Initially, the violence was treated as a private family matter to be mediated by the police and kept out of the court system. Due to the ineffectiveness of the police mediation approach, a series of mandatory arrest statutes were adopted by the states in response to the violence problem. Prosecutors’ offices began to evaluate how to handle the domestic violence cases making their way into the court system and to evaluate the need for office policies on the issue.⁴⁹ Many offices have adopted a variety of policies for dealing with such crimes.⁵⁰ Specifically, many have adopted “no drop” policies prohibiting the dismissal of charges assuming there are no evidentiary or ethical prohibitions against prosecuting the matter.⁵¹ Unfortunately, for a number of reasons, such policies have not necessarily resolved the rate of recidivism.⁵²

While there are a myriad of philosophical beliefs regarding the prosecution of domestic violence cases, there is no single policy applicable to all cases of domestic violence.⁵³

The National District Attorneys Association recognizes that there may be a number of benefits to adopting office policies for the handling of certain crimes.⁵⁴ However, due to the intricate dynamics associated with domestic violence and the complexities associated with its victims, NDAA believes that the adoption of an office policy may be too restrictive in such cases. It is essential that each instance of domestic violence be evaluated and resolved on a case-by-case basis. It is equally important that prosecutorial discretion not be hampered by one-size-fits-all policies.

Any office policy should emphasize the use of prosecutorial discretion and provide guidance in the exercise of such discretion.⁵⁵ In addition, any policy should mandate that resolution of such matters must be made in a manner that considers the victim's safety and ensures the accountability of the offender. The manner in which the crime is handled should also emphasize to the community and potential offenders the severity of domestic violence and its impact on society.

ARRESTS –DUAL ARRESTS AND PREDOMINANT AGGRESSORS

Policy Positions:

With respect to matters of domestic violence there are rare cases where dual arrests are appropriate. However, law enforcement should be encouraged to use all available means to identify and arrest only the predominant aggressors in those cases where complaints are received from two or more persons involved in an incident of domestic violence.

Prosecutors should educate law enforcement so that they are able to apply the concepts of probable cause and self-defense to the facts of an incident of domestic violence before making an arrest. Arrest is the appropriate response with respect to a predominant aggressor; however, it is inappropriate with respect to those persons who lawfully act in a reasonable manner either in self-defense or in the defense of others.

COMMENTARY

Domestic violence incidents are among the most difficult for a law enforcement officer to respond to and investigate. They are extremely volatile and present a serious danger to police.⁵⁶ Police upon arrival must ensure the safety of the participants while simultaneously determining what occurred prior to their arrival. Often they are faced with two or more persons displaying injuries and alleging that they are the victims of domestic violence.

Domestic violence situations, while extremely difficult for the police, can be appropriately resolved with thorough investigation and proper training of law

enforcement by prosecutors. It is recognized that there are instances where both individuals should be arrested, though such situations should be rare. The use of dual arrests of parties involved in domestic violence is discouraged, and law enforcement is encouraged to make a determination as to the predominant aggressor in each incident.

In order for law enforcement to do this, police personnel should be regularly educated by prosecutors on the legal concepts of probable cause and defense of self, others, and property. It is critical that police be trained to apply the principle of probable cause to the facts of each situation and not simply arrest both persons alleging abuse. In addition, they must thoroughly understand the laws in their respective states governing defense of self, others, and property. Incidents where persons use reasonable force in defense of themselves or others should not result in arrest.

A determination of the predominant or primary aggressor should be based upon the totality of the circumstances surrounding each incident. The factors to be considered should include, but not be limited to, the following: nature and extent of each party's injuries; physical size of the parties; use of alcohol or drugs by the parties; prior history of abuse by each party; demeanor of the parties; physical evidence at the scene; statements and observations of third parties to the incident; and future dangerousness of each of the parties.

PROSECUTION METHODS—DOMESTIC VIOLENCE PROSECUTIONS INDEPENDENT OF IN-COURT VICTIM TESTIMONY AND/OR COOPERATION

Policy Position:

All cases of domestic violence should be thoroughly investigated and prepared for prosecution. A thorough knowledge of both the law and the facts of each case are essential to the successful resolution of these cases. The extensive use of carefully collected evidence and, when appropriate, expert testimony is important in cases of this nature.

COMMENTARY

Laying a solid foundation for the prosecution of domestic violence cases is of the utmost importance in the successful resolution of such cases. Law enforcement should be responsible to thoroughly and adeptly interview victims, suspects, and witnesses; prepare incident reports; and collect evidence. The collection of evidence should include, but not be limited to, the physical evidence present at the scene of the incident; the procurement of medical records, follow-up photographs, and criminal histories; and the documentation of any and all evidentiary statements, including those that qualify as exceptions to the hearsay rule. This ensures that in the event that a victim is unable or unwilling to participate prosecution can still occur.

It is equally imperative that prosecutors know and understand all of the facts in each case and that they have a thorough understanding of how the rules of law and evidence apply to those facts. This is even more important in cases where a victim is unable or unwilling to cooperate in the prosecution. With a thorough understanding and the use of innovative strategies in the use of certain evidence, there is a greater likelihood of success in the prosecution.

COMPELLING THE TESTIMONY OF DOMESTIC VIOLENCE VICTIMS

Policy Positions:

Prosecutors are encouraged to subpoena victims of domestic violence to court as a means of:

- 1. Informing the victim about the case;***
- 2. Ensuring the victim's appearance in court to aid in the admissibility of out-of-court statements made by the victim;***
- 3. Relaying to both the abuser and the victim that the state is responsible for pursuing charges; and***
- 4. Alleviating the pressure on the victim from the abuser to drop charges.***

In instances where victims of domestic violence fail to appear for court hearings, prosecutors should use their discretion and carefully weigh any decision to request a contempt citation.

COMMENTARY

The subpoenaing of victims of domestic violence to court appears to be a fairly controversial topic among professionals dealing with domestic violence. However, prosecutors should be encouraged to subpoena victims to ensure their appearance in court for a number of reasons.

While it is recognized that a subpoena should never be the only means of communicating with a victim, a subpoena provides one additional means of informing a victim regarding the criminal matter and its progress. It also serves as documentation for victims to give to employers for purposes of procuring leave. In addition, the presence of the victim in court may allow the use of out-of-court statements made by the victim regarding an incident of violence.⁵⁷ In jurisdictions where the court demands the presence of the victim for prosecution, the issuance of a subpoena may prevent a dismissal and provide the prosecutor with an opportunity to obtain the appearance of the victim.

Because incidents of domestic violence are based on power and control, the use of subpoenas delivers a message to the offender that he/she is no longer in control; the charges have not been dropped; the prosecution of the matter is progressing; and the state

is solely responsible for the prosecution of the case. With a message that the victim is not responsible for the prosecution of the case, it is more likely that the pressure on the victim by the offender to drop the charges will be lessened.

Inevitably there will be instances where a victim fails to appear for court. In certain instances the victim will be unable to attend the proceedings for a number of valid or justified reasons. However, there may also be situations where the victim deliberately refuses to appear for a number of differing reasons. This second scenario is an extremely difficult situation for prosecutors. While the *National Prosecution Standards* direct that contempt penalties *should be available* for failure to appear, prosecutors must use their best judgment and prosecutorial discretion based on each individual set of facts to determine whether the issuance of a contempt citation *is an appropriate response* to such actions.⁵⁸

FILING CHARGES AGAINST VICTIMS FOR FILING FALSE REPORTS OR PERJURY

Policy Position:

Prosecutors have a unique responsibility to maintain the integrity of the criminal justice system at all times. In situations where the victim has recanted statements or committed perjury due to threats or coercion by the offender, the filing of charges for perjury, obstruction of justice, and similar offenses would be inappropriate. However, persons who intentionally file false police reports should be held accountable for their conduct.

COMMENTARY

As frustrating as the failure of victims to appear for court may be for prosecutors, the deliberate recantation of prior statements regarding an incident, the commission of perjury on the witness stand and acknowledgement of having filed a false police report by victims of domestic violence is even more distressing. A decision on how to handle such situations is extremely difficult. Because of the intimate relationship between the victim and the offender and the unique fears and concerns of the victim in cases of domestic violence, prosecutors should realize that victim recantation, lying, and refusal to cooperate are usually done at the insistence of the abuser and a belief by victims that such actions will ensure their safety in the future. Prosecutors should also recognize that reacting to such behaviors with the prosecution of a victim of violence is extremely counterproductive.

The National District Attorneys Association believes that individuals who deliberately falsify allegations of abuse against current or former intimates should be held accountable through prosecution for the appropriate offense(s).

DISPOSITIONS- DIVERSION OR DEFERRAL OF DOMESTIC VIOLENCE CASES

Policy Position:

Abusers must be held accountable for acts of domestic violence. To that end, the use of general continuances and ultimate dismissals, if uniform good behavior is maintained during the intervening period, should be avoided. Such dispositions are inappropriate inasmuch as such practices do not provide for adequate accountability.⁵⁹

COMMENTARY

While there is very little definitive research on the effect of various disposition methods on the rate of recidivism in cases of domestic violence,⁶⁰ the key to reducing recidivism and in preventing future domestic violence is to hold offenders accountable for their behavior. It is also critical that offenders accept responsibility in order to achieve accountability.

OFFICE ORGANIZATION TO ENHANCE THE SUCCESS RATE IN DOMESTIC VIOLENCE CASES

SPECIALIZED UNITS & SPECIALLY DESIGNATED PROSECUTORS

Position Positions:

Because of the complexity of domestic violence cases, prosecutors should establish, whenever feasible, specialized domestic violence units and where not feasible, prosecutors should appoint specially designated prosecutors in their offices to handle these cases.

Regardless of whether an office has established a specialized unit for the prosecution of domestic violence or designated a specific domestic violence prosecutor, all prosecutors and staff should, when feasible, receive training in the area of domestic violence.

COMMENTARY

Due to the dynamics and complexities associated with domestic violence, whenever feasible, a separate unit specializing in domestic violence should be established within the prosecutor's office.

Since a primary justification for the establishment of a separate office unit is the need for special expertise in the area of domestic violence, staff should be assigned to the unit on a

full-time basis, where practicable. In addition, these staff members should receive special training upon assignment to the unit and should be required to receive trainings in the area of domestic violence on a regular basis. To make full use of the division's expertise, policies should be implemented within the office to refer developing cases to the domestic violence unit.⁶¹

It is recognized that it is not always practical for prosecutors' offices to establish specialized units for the prosecution of domestic violence within their offices. Limitations on the creation of these units exist in offices with both small and large staff numbers. In small offices, prosecutors are often handling cases from a large geographical area with limited resources. Large offices are often dealing with staff sizes that simply prohibit the designation of an additional specialized unit. In those offices where a separate unit is not an option, individual prosecutors should be designated to handle matters of domestic violence. In order to accomplish this goal, specially designated prosecutors should also receive special training upon designation and continue to receive regular trainings regarding the subject matter and its associated issues.

It is also recognized that there will be some jurisdictions that simply cannot either establish a domestic violence unit or designate one particular prosecutor to handle all matters of domestic violence. However, even in those jurisdictions which do have such units or designated prosecutors there will be times when the specially designated prosecutor or the unit as a whole cannot handle a case of domestic violence. In those instances, it is equally important that all prosecutors have received some type of training in the area of domestic violence for a basic understanding of the dynamics involved, and the fears and concerns of the victims. Educating support staff on issues of domestic violence is a positive step towards developing rapport with the victims of this crime. Support staff are most likely the first in the office to greet victims of domestic violence and to address many of their questions over the telephone. It is important that these persons understand the dynamics behind this type of violence and the unique characteristics of its victims. With a better understanding of the issues, staff will know how to interact with such victims. This in turn can lead to a better relationship between the prosecutor's office and the victim, ultimately increasing victim confidence in the system.

VERTICAL PROSECUTION

Policy Position:

Due to the dynamics of domestic violence; the situational differences between victims of domestic violence and victims of other crimes; the unique fears and concerns of victims; and the potential for conflicts between the victim and the prosecutor, the use of vertical prosecution should be endorsed by prosecutors, whenever possible.

COMMENTARY

In order to ensure continuity in the prosecution of domestic violence, the same prosecutor should appear, whenever feasible, at all stages of the process from arraignment through all post-sentencing motions. In addition, the same prosecutor should appear, when practicable, at all contempt citations hearings resulting from a failure to obey civil protective orders.

The use of vertical prosecution eliminates the need for numerous prosecutors to assimilate and victims to repeatedly recite the facts and history of a particular case. In addition, this system minimizes the number of personnel with whom the victim must interact; provides continuity for the victim and the court; and builds victim confidence in the criminal justice system.

VICTIM/WITNESS UNIT STAFF WITHIN THE PROSECUTOR'S OFFICE

Policy Position:

Ideally, prosecutors should develop policies and procedures for providing specialized victim services to victims of domestic violence. Because of the comprehensive needs of victims of domestic violence, prosecutors should ensure that victim/witness units are established within their offices and that such units provide these specialized victim services.

COMMENTARY

The demands placed upon prosecutors and the limited resources provided to them do not permit individual prosecutors to address all of a victim's needs throughout the process—particularly victims of domestic violence. Whenever possible, prosecutors should establish within their offices victim/witness units to assist the prosecutor in dealing with the variety of issues of concern to victims and witnesses.⁶²

Ideally the victim/witness unit should act as a repository of information for each case of domestic violence. Victim/witness personnel should be responsible for providing informational updates to victims to include, but not limited to: information on the setting

or denial of bond; terms and conditions of bond, release dates, trial dates, sentencing dates, information regarding sentencing, and post-dispositional motions.⁶³

In addition, the victim/witness unit should devise and provide an orientation of the courtroom and the trial process to all victims of domestic violence. Victims should understand each stage of the process and the role they play. Understanding what to expect and what is expected of them will provide some degree of comfort for victims. Victims should also be informed of prosecutorial decisions and the reasons for those decisions. Where applicable, victims should be advised that they are entitled to restitution and personnel should assist victims in the completion of victim impact statements.⁶⁴

Information regarding services available to victims of domestic violence should be provided through the victim/witness unit, in addition to referrals to social services and legal assistance organizations. Victim/witness personnel should also inform victims about civil protective orders and the process for obtaining an order through the court.

With regard to court appearances, the victim/witness unit should, where practicable, arrange for safe and comfortable waiting areas before the case is called and provide information regarding safety procedures for traveling to and from court, if deemed necessary.

In addition to providing these services to victims, personnel should strive to maintain the confidentiality of a victim's addresses and telephone numbers.

TRAINING & EDUCATION

Policy Position:

Experienced domestic violence prosecutors, when feasible, should regularly coordinate, conduct or participate in programs to educate other prosecutors, law enforcement, judges and court staff, probation/parole officers, victim/witness personnel, victim advocacy agencies, clergy, the medical and mental health communities, and the civil bar about new and unique issues surrounding domestic violence.

COMMENTARY

The dynamics, the best sentencing alternatives for offenders and the most effective prosecution strategies are constantly changing and evolving in the area of domestic violence. As a result of these constant changes, the education of prosecutors, law enforcement agencies, judges and court staff, clergy, victim/witness personnel, victim advocates, the medical and mental health communities, and the civil bar on a regular basis is necessary to keep all entities up-to-date.

Topics that were once overlooked as commonplace now are demanding increased scrutiny. For example, the act of attempted strangulation once characterized as a minor incident by professionals dealing with domestic violence is now recognized as one of the ultimate acts of power and control. Professionals now also understand that “strangulation is one of the most lethal forms of domestic violence: unconsciousness may occur within seconds and death within minutes.”⁶⁵ Attempted strangulation is not often accompanied by any serious injuries yet the danger of death is quite real.⁶⁶ To effectively deal with this particular aspect of domestic violence, as well as others, it is imperative that all individuals involved with a victim of such violence receive the necessary training to understand how to properly investigate and preserve evidence; to determine which questions to ask of victims and offenders, to identify the symptoms/signs of attempted strangulation, and to determine which questions should be asked of experts on this topic.⁶⁷

PROSECUTORS

Experienced prosecutors should train new prosecutors and prosecutors without experience in handling matters of domestic violence. Specifically, training should include, but not be limited to:

- ❖ The dynamics of domestic violence;
- ❖ Interacting with victims of such violence;
- ❖ Community resources available to victims;
- ❖ Obtaining and preparing witnesses for trial;
- ❖ Discovery issues;
- ❖ Obtaining medical records in accordance with federal and state laws;
- ❖ The use of hearsay evidence during trial;
- ❖ The use of real and demonstrative evidence;
- ❖ Batterer intervention programs and their respective success rates;
- ❖ The filing of pre and post-trial motions;
- ❖ Federal laws, i.e. firearms, interstate enforcement of protective orders, and immigration;
- ❖ Civil law, i.e. custody, child support, divorce, protective orders, and the impact on criminal matters; and
- ❖ Ethical considerations in the prosecution of domestic violence crimes.

LAW ENFORCEMENT⁶⁸

One of the keys to the successful prosecution of domestic violence is an effective, thorough investigation. To ensure competent investigations, law enforcement agencies should be trained by prosecutors in the following areas, including but not limited to:

- ❖ Proper investigative techniques;

- ❖ Gathering of all evidence necessary for prosecutions without reliance upon the victim's in court testimony (i.e. photographs, 911 tapes, statements, physical evidence, forensic test results);
- ❖ Interviewing of witnesses, victim, and defendant;
- ❖ Completion of incident reports;
- ❖ Medical treatment waivers and gathering of all medical documents;
- ❖ Follow-up interviews with victims and witnesses for additional information and new photographs;
- ❖ Gathering offender's criminal history and evidence of prior bad acts;
- ❖ State domestic violence law or other applicable law, including the elements of the crime, special criminal procedures applicable to these offenses, and the ability to make warrantless arrests; and
- ❖ Searches with and without warrants.

COURTS AND COURT STAFF

Prosecutors should provide instruction to both judges and court staff on the dynamics of domestic violence to explain the possible reasons for a victim's refusal, recantation, or reluctance to cooperate with the prosecution. Training can take the form of either formal training sessions or informal education through the use of motions *in limine*, jury selection or the use of expert witnesses during trial. The use of an expert witness to explain to the jury the dynamics underlying domestic violence and the possible fears and concerns of a victim which might cause them to recant or refuse to testify is an informal yet extremely effective means of educating not only the court but also the general public about this topic. The use of jury selection questions which draw upon the dynamics of domestic violence and the use of motions *in limine* which request permission to employ expert witnesses to explain such matters also educate the court on the unique issues surrounding domestic violence.

CLERGY

Given the clergy's unique position in the community, it is incumbent upon prosecutors, where feasible, to educate faith based communities on the subject of domestic violence. Specifically, clergy should understand that domestic violence is a crime and as a result both prosecutors and law enforcement have roles to play in the handling of the matter. They should understand that the police are responsible for investigating the incident while the prosecutor is responsible for bringing the matter to trial. In addition, the specific policy of each prosecutor for handling such matters should be explained. If the prosecutor has a policy that all cases of domestic violence are prosecuted, it should be explained that absent ethical or evidentiary constraints the matter will be resolved through the court system. Training of clergy can be extremely helpful if they are instructed how to identify those victims of violence in their congregations, how to educate those parishioners identified as victims about the dynamics of this type of violence, and to provide resource information to such victims.

VICTIM/WITNESS UNIT PERSONNEL WITHIN THE PROSECUTOR'S OFFICE

Prosecutors should train victim/witness personnel on the applicable domestic violence laws so that they clearly understand the elements necessary to prosecute such a crime. Aside from the statutory law, personnel should also be given sufficient information to develop an understanding of the dynamics of the violence and the characteristics of the victims of such violence. Victim/witness personnel should be educated on any office policies, written or otherwise, on domestic violence. Prosecutors should also, where feasible, train the victim/witness staff on how to effectively explain to victims the court process and what to expect during the different stages of trial. Because a prosecutor's conduct is governed by the rules of evidence, the laws of discovery, and the canons of ethics, it is equally important that the victim/witness staff be trained to explain these rules to the victim. Explaining to the victim what a prosecutor is likely to do and the reasons why will prepare the victim for what more than likely will happen in court. Knowing what to expect makes the victim more confident in the system and assists in establishing rapport with that individual.

VICTIM ADVOCATES

Just as in the case of victim/witness personnel, victim advocates employed outside of the prosecutor's office should be trained on the role of the prosecutor, the rules of evidence, the canons of ethics and discovery obligations so that they in turn may educate the victim on such issues. By eliminating the element of surprise for the victim the likelihood of conflict between the victim and the prosecutor is reduced. In addition, the training of victim advocates on available community resources for victims of domestic violence is extremely important. Victims should receive information about where they can obtain affordable temporary housing or shelter, medical care, pro bono legal services for divorce, custody and support purposes, or information on public transportation.

MEDICAL/MENTAL HEALTH COMMUNITIES

The medical and mental health communities are in unique positions inasmuch as they often observe victims shortly after a physical injury or upon the need for psychological counseling. As a result it is crucial that prosecutors conduct, coordinate or participate in the training of medical personnel so that they are able to identify victims of domestic violence. Physicians should be educated specifically about interviewing a patient believed to be a victim --doctors should understand that specific types of questions should be asked and that they should be asked outside the presence of a possible offender.⁶⁹ Physicians should also be trained on the importance of educating victims about the power and control issues involved in domestic violence, the prevalence of the problem in our society, safety planning for the victim and his/her family, and the availability of resources for victims.

When applicable, medical personnel should also be instructed on their mandatory reporting responsibilities and on their liabilities for failure to report. Where state law

requires, mental health providers should be advised on their liability for failure to report specific threats made by a patient. Lastly, the medical and mental health communities should be provided with information on various treatment programs, which are available to offenders for addressing domestic violence issues.⁷⁰ When available, the success rates and reported effectiveness of such programs should also be provided.

PUBLIC AWARENESS

Policy Position:

Prosecutors should be involved in educating the public regarding domestic violence and associated issues.⁷¹

COMMENTARY

Prosecutors should educate the general public about domestic violence—the definition of the crime; the current levels of such violence in our communities; the impact of this type of crime on our society; the means of identifying a victim of domestic violence; the routes for providing assistance to a friend or family member who is a victim; and the consequences for committing such crime.

The prosecutor has many avenues for educating the public about domestic violence. Informational brochures, advertisements or posters can be easily produced and distributed in public areas where victims of domestic violence are likely to visit. Such areas include grocery stores, doctors' offices, public libraries, community centers, and religious centers.

In addition, the use of public service announcements on radio or television, the development and implementation of school programs, and appearances at community events are excellent ways to transmit this information to large audiences. By taking the time and resources necessary to educate the public about domestic violence the prosecutor also educates a number of important populations: victims and potential victims of domestic violence, potential jury pools, offenders and potential offenders, employers of victims of this type of abuse, and the children of the community. The education of these groups in advance of their involvement in the criminal justice system can only serve to strengthen the prosecutor's ability to handle these types of matters if they, in fact, enter the criminal justice system.

COOPERATION & COMMUNICATION IN DEALING WITH DOMESTIC VIOLENCE

MULTI-DISCIPLINARY EFFORTS

Multi-disciplinary Teams

Policy Position:

The development and use of prosecution-led multi-disciplinary teams in the investigation and prosecution of domestic violence is encouraged.

COMMENTARY

Obstacles such as lack of evidence and/or recanting victims are faced repeatedly by prosecutors when dealing with matters of domestic violence. While specialized domestic violence units along with regular training and education are very important in the successful prosecution of domestic violence, it is also crucial that all entities dealing with issues of domestic violence work in conjunction with one another. The combination of experience and resources into multi-disciplinary teams is paramount to effectively resolving these types of crimes.

Multi-disciplinary teams should include, but not be limited to the following individuals/agencies:

- ❖ Prosecutor;
- ❖ Victim/Witness Unit;
- ❖ Law Enforcement;
- ❖ Victim Advocates;
- ❖ Probation/Parole Officers;
- ❖ Child Welfare Services; and
- ❖ Treatment Providers

In order for such multi-disciplinary teams to be effective it is important for prosecutors to provide the leadership for such teams. The prosecutor should determine which particular individuals and agencies should be members of the team. The prosecutor should be responsible for coordinating all members of the team and providing for routine communications and meetings among the members. Lastly, the prosecutor should develop procedures and protocols for communication and interaction among the various members of the multidisciplinary team. It is truly important for the successful prosecution of these cases that the team's activities be conducted in a coordinated fashion in order to conduct a thorough investigation and an efficacious prosecution of the crime of domestic violence.

Community Task Forces

Policy Position:

The development and implementation of community task forces for the purpose of exchanging information and sharing resources among various members of the public and private sector regarding issues surrounding domestic violence are encouraged.

COMMENTARY

While multi-disciplinary teams address specific instances of domestic violence currently pending in the criminal justice system, community task forces bring together a wider array of individuals and agencies from the community to address the issues associated with domestic violence in a particular community and not an individual case.

Prosecutors should not only participate in but also lead, when feasible, such community task forces. Not only do such task forces provide a forum for the exchange of information and resources among the participants, but they also provide prosecutors with one additional avenue for educating the community about emerging critical issues.

In order to be effective, community task forces should include, but not be limited to the following individuals and agencies:

- ❖ Prosecutor;
- ❖ Law Enforcement;
- ❖ Judges & Court Staff;
- ❖ Victim/Witness Services (within the prosecutor's office);
- ❖ Victim Advocates (outside the prosecutor's office);
- ❖ Mental Health Community;
- ❖ Medical Health Community;
- ❖ Clergy;
- ❖ Probation/Parole;
- ❖ Corrections;
- ❖ Survivors of Domestic Violence;
- ❖ Civil (Domestic Relations) Attorneys; and
- ❖ Child Welfare Services.

Death Reviews⁷² & Safety Audits of Cases of Domestic Violence

Policy Position:

The development and use of Domestic Violence Fatality Reviews and Safety Audits are encouraged to review and improve the criminal justice system's response to incidents of domestic violence.

COMMENTARY

Cases of domestic violence are among the most difficult for prosecutors to evaluate and prepare for trial. For purposes of improving the criminal justice system, facilitating the responses by police and prosecutors to domestic violence, and preventing abuse in the future, it is important that fatality review teams, in the cases of victim deaths, and safety audits, in the case of non-fatal injuries be established. Such fatality teams or safety audits should not be employed for punitive or retributive purposes but rather for the purpose of system improvement. Fatality review teams and safety audits provide excellent opportunities for all participants in the process to identify weaknesses in the criminal justice system; to discuss strategies for resolving the identified problems; and to provide a cache of resources to implement the strategies. As in the case of multi-disciplinary teams, any establishment of fatality reviews and safety audits should be prosecutor-led and coordinated. In order to be effective, such review teams should include, but not be limited to, the following individuals and agencies:

- ❖ Prosecutors;
- ❖ Law Enforcement Officials;
- ❖ Medical Health Community/Medical Examiners;
- ❖ Judges;
- ❖ Probation & Parole Officers; and
- ❖ Victim Advocates.

MULTI-JURISDICTIONAL EFFORTS

Federal/State cooperation in Cases of Interstate Violence, Stalking, Violation of Protective Orders, Firearms Charges

Policy Position:

Local prosecutors are strongly urged to work closely with federal law enforcement and U.S. Attorneys' offices when cases of domestic violence involve matters of federal or concurrent jurisdiction.

COMMENTARY

It is recognized that not all cases of domestic violence will fall solely within the jurisdiction of the local prosecutor. In cases where an offender travels in interstate and

either commits or attempts to commit a crime of violence against an intimate partner;⁷³ stalks or harass an intimate partner;⁷⁴ or violates a protective order,⁷⁵ federal jurisdiction may possibly be invoked. In these cases, in addition to those cases of concurrent jurisdiction,⁷⁶ it is crucial that local prosecutors work in conjunction with the appropriate United States Attorney's Office and federal law enforcement to provide all necessary investigative information, assistance, and resources for the successful resolution of the matter.⁷⁷

It would be beneficial for local prosecutors to initially establish a relationship with their U.S. Attorney, before the need actually arises in a particular case of domestic violence. Local prosecutors and United States attorneys are also encouraged to create an open line of communication between their offices with several points of contact identified in each office.⁷⁸

PUBLIC & PRIVATE PARTNERSHIPS

Policy Positions:

The National District Attorneys Association recommends that local prosecutors partner with the private sector in addressing domestic violence issues.

COMMENTARY

Money, equipment and manpower are consistently in short supply for the investigation and prosecution of cases of domestic violence. Prosecutors are encouraged to become innovative in the creation of partnerships with the private sector to assist with the resource shortage that is being experienced by local prosecutor offices across the country.

Home security, cellular telephone, and camera companies have all provided tremendous support to prosecutors and law enforcement since the early 1990's.⁷⁹ Home security systems and cellular telephones for emergency purposes have given victims peace of mind. Cameras and film provided to law enforcement have enhanced the ability of police to preserve evidence of abuse. There are a myriad of potential corporate sponsors who may be available to provide funding or resources for other needs, including educational programs, literature, and victim housing needs. It is incumbent on prosecutors to partner with members of the private sector for such assistance.

FUNDING

Policy Positions:

Federal funding, through the Violence Against Women Act of 1994, has been the fundamental component in the local prosecutor's success in saving lives through the hiring and training of dedicated domestic violence prosecutors and victim/witness coordinators. The continuation of dedicated funding to local prosecutors for these purposes is crucial for continued success.

Increased allocation of resources and additional funding within prosecutors' offices for the prosecution of domestic violence cases and for the specialized training of prosecutors and their staff in this same area are critical. Additional funding and resources should be made available at the local, state and federal levels of government to allow for the effective prosecution of domestic violence cases and for the specialized training of prosecutors and their staff in this area.

Additional funding for research to determine the effectiveness of various adopted policies for the handling of domestic violence crime is also vital to reducing the levels of violence.

COMMENTARY

Adequate funding both within the prosecutor's office and at the federal, state, and local levels of government is necessary before the criminal justice system can hold batterers accountable and ensure the safety of victims, their families, and the community.

The theories regarding the dynamics of domestic violence, the approaches to interacting with victims of such violence, and the strategies for effective prosecution are continually changing as more research is conducted. It is necessary, therefore, that all components of the criminal justice system receive funding for training on such emerging issues. Specific to prosecutors, the National Prosecution Standards suggest that "the prosecutor's budget should include a line item for training, adequate to allow both internal activities and for prosecutor attendance at programs conducted outside the office."⁸⁰

Funding is also critical for providing law enforcement with the resources that they need to thoroughly investigate cases of domestic violence; for victim/witness units and victim advocates to provide the services and rights that are often mandated by state constitutions and statutory law; for community treatment programs to provide effective rehabilitative services to offenders; for probation and parole officers to provide meaningful supervision and oversight; and for prosecutors to equip their offices with an adequate number of assistants to handle the multitude of cases that pass through the court system on a daily basis.

Lastly, definitive research on the effectiveness of office policies concerning domestic violence; best practices for the prosecution of these cases; the effectiveness of varying

methods of treatment for offenders; and the rates of recidivism for various types of dispositions is needed. Such research requires significant funding, however, without funding to conduct research, train and equip the system, the prevalence of domestic violence will continue to increase to the detriment of its victims and society as a whole.

ENDNOTES

¹Not all of the statements/commentary may be in keeping with those of The Office on Violence Against Women, United States Department of Justice, Office of Justice Programs. Prosecutors should be aware that deviation from VAWA regulations may result in the elimination of federal funding.

²This conclusion is based upon research on state domestic violence laws compiled by the American Prosecutors Research Institute, Violence against Women Program, Alexandria, Virginia. The program's website is available at http://www.ndaa-apri.org/apri/programs/vawa/yaw_home.html.

³The National District Attorneys Association recognizes that there are behaviors, such as psychological and emotional abuse, that qualify as domestic violence but which are not acts punishable as crimes.

⁴This is the definition of "intimate partner violence" adopted by the CDC. *Intimate Partner Violence: Overview*, National Center for Injury Prevention and Control, The Centers for Disease Control, available at <http://www.cdc.gov/ncipc/factsheets/ipvoverview.htm>.

⁵*Intimate Partner Violence Surveillance, Uniform Definitions and Recommended Data Elements*, The Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, 1999, 2002 second printing.

⁶*Id.*

⁷*Id.*

⁸"Alcohol use is frequently associated with violence between intimate partners. It is estimated that in 45% of cases of IPV, men had been drinking, and in about 20% of cases, women had been drinking." *Intimate Partner Violence*, National Center for Injury Prevention and Control, Centers for Disease Control, available at <http://www.cdc.gov/ncipc/factsheets/ipvfacts.htm>, citing, Roizen J. Issues in the epidemiology of alcohol and violence. In: Martin SE, editor. *Alcohol and Interpersonal Violence: Fostering multidisciplinary perspectives*. Bethesda (MD): National Institute on Alcohol Abuse and Alcoholism; 1993. p. 3-36. NIAAA Research Monograph No. 24. The Centers for Disease Control also reports that drug or alcohol use by male partners is "associated with increased risk for physical, sexual, and/or emotional abuse." (citing Coker AL, Smith PH, McKeown RE, Melissa KJ. Frequency and correlates of intimate partner violence by type: physical, sexual, and psychological battering. *American Journal of Public Health* 2000; 90(4):553-9); See also, Robert Mackery, Ph.D., C.A.C., DVS, *Facts On: Alcohol, Drugs and Domestic Violence*, Center of Alcohol Studies, at <http://www.rci.rutgers.edu/~cas2/fact9.shtml>. In a 1984 survey conducted by Lehmann and Krupp, the researchers asserted "that although the association between alcoholism and domestic violence is clear, 'most existing research supports the conclusion that alcohol abuse does not cause domestic violence.'" Robert Mackey, Ph.D., C.A.C., DVS, *FACTS ON: Alcohol, Drugs and Domestic Violence*, Center of Alcohol Studies, reviewed at <http://www.rci.rutgers.edu/cas2/fact9.shtml> citing Lehmann, N., & Krupp, S. (1984). Alcohol-related domestic violence: Clinical implications and intervention strategies. *Alcohol Treatment Quarterly*, 1(4), 111-115.

⁹"It is estimated that 88 percent of pets living in households with domestic abuse are either abused or killed. Of all the women who enter shelters to escape abuse, 57 percent have had a pet killed by their abuser." *The Link between Animal Abuse and Domestic Violence*, American Animal Hospital Association at http://www.healthypet.com/Library/animal_bond-14.html.

¹⁰See *National District Attorneys Association Policy Positions on Elder Abuse, Neglect and Financial Exploitation*, Adopted by the Board of Directors, March 22, 2003 (New Orleans, LA)

¹¹"Men who are physically violent towards their partners are also likely to be sexually violent towards their partners **and are likely to use violence towards children.**" (*emphasis added*) *Intimate Partner Violence*, National Center for Injury Prevention and Control, Centers for Disease Control, available at <http://www.cdc.gov/ncipc/factsheets/ipvfacts.htm>, citing, Straus MA, Gelles, RJ, editors. *Physical Violence in American Families: Risk factors and adaptations to violence in 8,145 families*. New Brunswick (NJ): Transaction Books; 1990. See also, *Get the Facts-Domestic Violence and Children*, End Abuse, Family Violence Prevention Fund at <http://endabuse.org/programs/display.php3?DocID=77> - "In a national survey of more than 6,000 American families, 50 percent of the men who frequently assaulted their wives also frequently abused their children." citing Strauss, Murray A., Gelles Richard J., and Smith, Christine. 1990. *Physical Violence in American Families; Risk Factors and Adaptations to Violence in 8,145 Families*. New Brunswick: Transaction Publishers.

¹²Martha A. Matthews, *The Impact of Federal and State Laws on Children Exposed to Domestic Violence*, *The Future of Children*, DOMESTIC VIOLENCE AND CHILDREN, Vol. 9, No. 3 (Winter 1999), citing Davidson, H. *The impact of domestic violence on children: A report to the president of the American Bar Association*. Washington, DC: American Bar Association, 1994.

¹³Betsy McAlister Groves, *Children who Witness Violence*, Family Communications, Inc. website available at http://www.misterrogers.org/early_care/violence_witness_article.asp. “Children who witness domestic violence have no refuge; there is no place that is safe. Furthermore, they have no adults to turn to for comfort or protection. If one parent is the terrified victim of violence and the other parent is the perpetrator of the violence, who can be available to the child? Children who grow up with domestic violence are particularly vulnerable and often need specialized intervention that involves not only counseling but also legal/court intervention, housing or shelter and other concrete services.”

¹⁴*Child Abuse and Neglect State Statutes Series Compendium of Laws Domestic Violence: Child Witnesses to Domestic Violence*, National Clearinghouse on Child Abuse and Neglect Information, U.S. Department of Health and Human Services, available at <http://nccanch.acf.hhs.gov/general/legal/statutes/stats02/childwit.cfm>, citing B. M. Groves, *Mental Health Services for Children Who Witness Domestic Violence*, 9 *Future of Children* 122 (1999); D. E. Logan & S. A. Graham-Bermann, *Emotional Expression in Children Exposed to Family Violence*, 1 *J. of Emotional Abuse* 39 (1999).

¹⁵Martha A. Matthews, *The Impact of Federal and State Laws on Children Exposed to Domestic Violence*, *The Future of Children*, DOMESTIC VIOLENCE AND CHILDREN, Vol. 9, No. 3 (Winter 1999), citing Davidson, H. *The impact of domestic violence on children: A report to the president of the American Bar Association*. Washington, DC: American Bar Association, 1994.

¹⁶*Get the Facts-Domestic Violence and Children*, End Abuse, Family Violence Prevention Fund, available at <http://endabuse.org/programs/display.php3?DocID=77> (citation omitted) (accessed May 5, 2004).

¹⁷*The Effects of Domestic Violence on Children*, End Abuse, Family Violence Prevention Fund, available at <http://endabuse.org/programs/display.php3?DocID=150> (accessed May 5, 2004). See also Betsy McAlister Groves, MSW, LICSW, Project Director, The Child Witness to Violence Project, Boston University School of Medicine, *Domestic Violence and the Impact on Children* (audio excerpt), Annual CASA Conference 2003 Conference Presentations-Audio Excerpts available at <http://www.casenet.org/conference/conference-excerpts.htm>.

¹⁸*The Problem, What is Battering?*, The National Coalition against Domestic Violence at <http://www.ncadv.org/problem/what.htm>.

¹⁹Martha Smithey & Murray A. Straus, *Primary Prevention of Intimate Partner Violence*, Family Research Laboratory, University of New Hampshire. Researchers cite the following theories of intimate partner violence: deterrence theory, strain theory, social learning theory, control theories of crime, moral justification theory, control-balance theory, conflict theory, and feminist theories of criminal justice and crime.

²⁰*Wheel Gallery*, Minnesota Program Development, Inc. at <http://www.duluth-model.org/wheels.html>.

²¹The Centers for Disease Control report “[a]ccording to the National Violence against Women Survey, 1 out of 4 U.S. women has been physically assaulted or raped by an intimate partner; 1 out of every 14 U.S. men reported such an experience.” (citing Tjaden and Thoennes 2000b) *Intimate Partner Violence*, National Center for Injury Prevention and Control, The Centers for Disease Control at <http://www.cdc.gov/ncipc/factsheets/ipvfacts.htm> (citation omitted).

²²“In 1993, approximately 575,000 men were arrested for committing violence against women. Approximately 49,000 women were arrested for committing violence against men.” District of Columbia Coalition against Domestic Violence, Domestic Violence Statistics, *The Costs of Domestic Violence to Society: Prevalence*, website available at <http://www.dccadv.org/statistics.htm> citing American Psychological Association, *Violence and the Family: Report of the American Psychological Association Presidential Task Force on Violence and the Family* (1996), p. 10.

²³NVAA Text 2000, Chapter 9 Domestic Violence at <http://www.ojp.usdoj.gov/ovc/assist/nvaa2000/academy/I-9-DV.htm>; See also, Ellen Pence and Michael Paymar, *Domestic Violence Information Manual*, The Duluth Domestic Abuse Intervention Project, Springer Publishing Company, Inc., 1993 at <http://www.duluth-model.org/>.

²⁴*Id.*

²⁵ Ellen Pence and Michael Paymar, *Domestic Violence Information Manual, Wheel Galleries*, The Duluth Domestic Abuse Intervention Project, Springer Publishing Company, Inc., 1993 at <http://www.duluth-model.org/>.

²⁶ “[B]attered women are most often killed when attempting to seek legal redress or when leaving an abusive relationship.” Barbara J. Hart, *Barriers to Victim Participation in the Criminal Justice System*, Barbara J. Hart’s Collected Writings, Minnesota Center Against Violence and Abuse at <http://www.mincava.umn.edu/documents/hart/hart.html>, citing Browne, A. (1987). **When Battered Women Kill**. New York: The Free Press & Sonkin, D., Martin, D., & Walker, L.E. A. (1985). **The Male Batterer: A Treatment Approach**. New York: Springer.

“Among victims of violence committed by an intimate, the victimization rate of women separated from their husbands was about 3 times higher than that of divorced women and about 25 times higher than that of married women.” Ronet Bachman, Ph.D., and Linda E. Saltzman, Ph.D., *Violence Against Women: Estimates from the Redesigned Survey*, August 1995, United States Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, NCJ-154348 Special Report.

²⁷ Since 1992 the National District Attorneys Association has supported policies that 1) Increase penalties in cases of violence against women including enhanced penalties for repeat offenders; 2) Increase restitution in cases of violence against women; 3) Grant funds for state and local prosecutors and law enforcement to improve the investigation and prosecution of cases involving violence against women; and 4) Grant funds designed to improve local prosecution and police policies and protocols, to develop data collection systems, and to strengthen victim services programs. See National District Attorneys Association Resolution 92.13, *Violence Against Women*, Adopted by the Board of Directors on July 19, 1992.

²⁸ Callie Marie Rennison, Ph.D., *Intimate Partner Violence, 1993-2001*, Bureau of Justice Statistics, Crime Data Brief, U.S. Department of Justice, Office of Justice Programs, February 2003, NCJ 197838.

²⁹ Patricia Tjaden & Nancy Thoennes, *Executive Summary, Extent, Nature, and Consequences of Intimate Partner Violence: Findings from the National Violence Against Women Survey*, p. iii. Report for grant 93-IJ-CX-0012, funded by the National Institute of Justice and the Centers for Disease Control. Washington (DC): NIJ; 2000.

³⁰ *Id.*

³¹ *Get the Facts-Domestic Violence and Health Care*, End Abuse, Family Violence Prevention Fund available at, <http://endabuse.org/programs/printable/display.php3?DocID=25>. “Fifty-six percent of women who experience any partner violence are diagnosed with a psychiatric disorder. Twenty-nine percent of all women who attempt suicide were battered, 37% of battered women have symptoms of depression, 46% have symptoms of anxiety disorder, and 45% experience post-traumatic stress disorder.” (citations omitted)

³² National Center for Injury Prevention and Control. *Costs of Intimate Partner Violence against Women in the United States*. Atlanta (GA): Centers for Disease Control and Prevention, Department of Health and Human Services; 2003, p. 19. Please note that these figures were based on a determination that “[n]early 5.3 million intimate partner victimizations occur among U.S. women ages 18 and older each year.”

³³ Tjaden & Thoennes, *supra* note 29, at v.

³⁴ *Costs of Intimate Partner Violence Against Women in the United States*, *supra* note 32, at 19.

³⁵ Fact Sheet: Domestic Violence and Young Children, Action Alliance for Children, available at <http://www.4children.org/news/7-97fact.htm>

³⁶ *Id.* See also, National Clearinghouse on Child Abuse and Neglect Information, *Child Abuse and Neglect State Statutes Series Compendium of Laws Domestic Violence: Child Witnesses to Domestic Violence*, at <http://nccanch.acf.hhs.gov/general/legal/statutes/stats02/childwit.cfm>, United States Department of Health and Human Services, Administration for Children & Families.

³⁷ Fact Sheet: Domestic Violence and Young Children, Action Alliance for Children, available at, <http://www.4children.org/news/7-97fact.htm>.

³⁸ *Costs of Intimate Partner Violence against Women in the United States*, *supra* note 32, at 19.

³⁹ Tjaden & Thoennes, *supra* note 29, at v.

⁴⁰ *Id.*

⁴¹ *Costs of Intimate Partner Violence against Women in the United States*, *supra* note 32, at 30.

⁴² Tjaden & Thoennes, *supra* note 29, at 54

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Costs of Intimate Partner Violence against Women in the United States*, *supra* note 32, at 31.

⁴⁶ NATIONAL PROSECUTION STANDARDS § 1.3 Societal Rights (National District Attorneys Association, 2nd ed. 1991) states “The prosecutor should at all times be zealous in the need to protect the rights of individuals, but must place the rights of society in a paramount position in exercising prosecutorial discretion in individual cases and in the approach to the larger issues of improving the law and making the law conform to the needs of society.”

⁴⁷ Mary A. Finn, Ph.D., *The Effects of Victims’ Experiences with Prosecutors on Victim Empowerment and Re-Occurrence of Intimate Partner Violence, Final Report*, August 2003, Submitted to the National Institute of Justice, United States Department of Justice, February 2004, Document No. 202983.

⁴⁸ NATIONAL PROSECUTION STANDARDS § 43.1 Prosecutorial Discretion (National District Attorneys Association, 2nd ed. 1991). “In the exercise of the discretion to prosecute, the prosecutor should determine which charges should be filed and how charges should be presented before a grand jury or court.

⁴⁹ See United States Department of Justice, Office of Justice Programs, National Institute of Justice, Research Report, *Legal Interventions in Family Violence: Research Findings and Policy Implications*, July 1998, NCJ 171666, p. 61, available at, <http://www.ncjrs.org/pdffiles/171666.pdf>.

⁵⁰ See compilation of *Sample Policies and Protocols* available from the Violence against Women Program, The American Prosecutors Research Institute. The programs website is available at http://www.ndaa-apri.org/apri/programs/vawa/vaw_home.html.

⁵¹ “No drop policies exist in the states of Florida, Minnesota, Utah and Wisconsin and in 66 percent of prosecutorial offices serving populations over 250,000 (Corsilles, 1994; Rebovich, 1996).” Mary A. Finn, Ph.D., *The Effects of Victims’ Experiences with Prosecutors on Victim Empowerment and Re-Occurrence of Intimate Partner Violence, Final Report*, p. 9, August 2003, Submitted to the National Institute of Justice, United States Department of Justice, February 2004, Document No. 202983.

⁵² According to the Indianapolis Domestic Violence Prosecution Experiment, for “cases in which the police made on the scene arrests for misdemeanor assaults, [results] indicated across the three prosecutorial tracks [pre-trial diversion to a counseling program for wife assaulters; prosecution to conviction with receipt of counseling as a condition of probation; or prosecution to conviction with traditional punishments-jail incarceration, probation, fine, or some combination thereof] there was little difference in the percentage of batterers who engaged in violence during the six months following settlement of the case, with nearly 30 percent of all defendants battering their victims again within the six months following case settlement.” Mary A. Finn, Ph.D., *The Effects of Victims’ Experiences with Prosecutors on Victim Empowerment and Re-Occurrence of Intimate Partner Violence, Final Report*, p. 15, August 2003, Submitted to the National Institute of Justice, United States Department of Justice, February 2004, Document No. 202983.

⁵³ “Despite an abundance of good ideas on prosecuting violence against women, few policies have been evaluated for their effectiveness in protecting victims from continuing abuse. Indeed, little research exists on the impacts of prosecution in any context. One must often make a best guess as to what policy will work better than others and minimize the risk of harm.” David A. Ford and Susan Breall, *Violence against Women: Synthesis of Research for Prosecutors*, December 2000, NCJ 199660 (submitted to the National Institute of Justice, September 2003), p. 1.

⁵⁴ Written policies provide guidelines for new and experienced prosecutors; provide for more consistency; provide guidance to the court system, police personnel, medical and mental health communities, victim advocates, etc; and act as educational documents when released to the public.

⁵⁵ NATIONAL PROSECUTION STANDARDS § 10.1 Policies and Procedures (National District Attorneys Association, 2nd ed. 1991).

⁵⁶ During the period of 1993-2002, 57 police officers were killed while responding to incidents characterized as “family quarrels.” *Law Enforcement Officers Killed and Assaulted (2002)*, Federal Bureau of Investigation, p. 22, at <http://www.fbi.gov/ucr/killed/02leoka.pdf>.

⁵⁷ See *Crawford v. Washington*, No. 02-9410 (U.S.S.C. March 8, 2004) footnote 9-“Finally, we reiterate that, when the declarant appears for cross-examination at trial, the Confrontation Clause places no constraints at all on the use of his prior testimonial statements. (citation omitted).” “The Clause does not bar admission of a statement so long as the declarant is present at trial to defend or explain it.”

⁵⁸ See NATIONAL PROSECUTION STANDARDS § 41.3 Contempt Sanctions (National District Attorneys Association, 2nd ed. 1991). “Contempt penalties should be available for an individual’s failure to comply with any such subpoena by failing to appear, failing to respond to questions, or failing to produce specified documents.”

⁵⁹ This practice is generally referred to as "diversion" or "deferral." This policy statement is not intended to cover those situations where a prosecutor requires a plea of guilty before a continuance for dismissal and

where the offender is required to comply with numerous conditions before a dismissal of the charge is entered.

⁶⁰See United States Department of Justice, Office of Justice Programs, National Institute of Justice, Research Report, *Legal Interventions in Family Violence: Research Findings and Policy Implications*, July 1998, NCJ 171666.

⁶¹ NATIONAL PROSECUTION STANDARDS (National District Attorneys Association 2nd ed. 1991) § 11.1, pp.42-43.

⁶² NATIONAL PROSECUTION STANDARDS § 26.7 Victim Assistance Program (National District Attorneys Association, 2nd ed. 1991) “To the extent feasible, the prosecutor should develop and maintain a victim/witness assistance program within the staffing structure of the office to provide services and give assistance to victims of, and witnesses to, crimes.”

⁶³NATIONAL PROSECUTION STANDARDS § 26.1 Information Conveyed to Victims (National District Attorneys Association, 2nd ed. 1991) “Victims of violent crimes, serious felonies, or any actions where it is likely the victim may be the object of physical retaliation, should be informed of all initial stages in the criminal justice proceedings to the extent feasible, including but not limited to , the following: a. Acceptance or rejection of a case by the prosecution’s screening unit, the return of an indictment, or the filing of criminal charges; b. A determination of pre-trial release of the defendant; c. Any pre-trial disposition; d. The date and results of trial; e. The date and results of sentencing; f. Any proceeding within the knowledge of the prosecutor which does or may result in the defendant no longer being incarcerated including appellate reversal, parole, release, and escape; and g. Any other event within the knowledge of the prosecutor which may put the victim at risk of harm or harassment.”

⁶⁴ See NATIONAL PROSECUTION STANDARDS § 26.2 Victim Orientation; § 26.3 Victim Assistance Provisions; §26.4 Cooperative Assistance; §26.5 Facilities; and §26.6 Victim Compensation Program (National District Attorneys Association, 2nd ed. 1991)

⁶⁵ Gael B. Strack, San Diego Assistant City Attorney & Dr. George McClane, Emergency Physician, *How to Improve Your Investigation and Prosecution of Strangulation Cases*, October 1998, updated August 2000.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ NATIONAL PROSECUTION STANDARDS §§ 20.1 Law Enforcement Training & 20.2 Prosecution Assistance in Training (National District Attorneys Association, 2nd ed. 1991). §20.1 Law Enforcement Training: “The prosecutor should encourage, cooperate with, and, where possible, assist in law enforcement training. The prosecutor should urge local law enforcement officers to participate in national, state, and regional training courses.” §20.2 Prosecution Assistance in Training: “The prosecutor’s office should develop a system, formal or informal, of assisting in the on-going training of officers by conducting periodic classes, discussions, or seminars, to acquaint law enforcement agencies with recent court decisions and procedural changes in the law.”

⁶⁹ “Although battered women comprise 20-30% of ambulatory care patients, only 1 in 20 is correctly identified as such by medical practitioners.” District of Columbia Coalition against Domestic Violence, *Domestic Violence Statistics, The Costs of Domestic Violence to Society: Physical Injury and Medical Treatment* website available at <http://www.dccadv.org/statistics.htm> citing Hyman et al., *Laws Mandating Reporting of Domestic Violence: Do They Promote Patient Well-Being?*, Journal of the American Medical Association, vol. 273, no. 22, 1781 (June 1995).

⁷⁰ Prosecutors should note that the use of offender services not approved by Office on Violence against Women may result in the elimination of federal funding to their offices.

⁷¹ NATIONAL PROSECUTION STANDARDS § 37.3 Public Education (National District Attorneys Association, 2nd ed. 1991) “The prosecutor should use all available resources to encourage citizen involvement in the support of law enforcement and prosecution programs and issues. The prosecutor should educate the public about the programs, policies, and goals of his office and alert the public to the ways in which the public may be involved and benefit from those programs, policies, and goals.”

⁷² For additional information on Death Review Committees see *Domestic Violence*, American Prosecutors Research Institute, 1997, pp. 39-40.

⁷³ 18 U.S.C § 2261 (2002).

⁷⁴ 18 U.S.C. § 2261A (2002).

⁷⁵ 18 U.S.C. § 2262 (2002).

⁷⁶ Possession of a firearm after a domestic violence conviction (18 U.S.C § 922(g)(9)(2002)) or possession of a firearm while subject to a protective order (18 U.S.C. §922(g)(8)(2002)) are examples of crimes that could possibly invoke both federal and state jurisdiction.

⁷⁷ NATIONAL PROSECUTION STANDARDS §§ 18.1 Prosecutorial Cooperation & 18.3 Resource Sharing (National District Attorneys Association, 2nd ed. 1991). §18.1 Prosecutorial Cooperation: “In recognition of the common goal of serving the interest of justice, the prosecutor should cooperate with all applicable federal, state, and local prosecutorial entities in the investigation, charging, dismissal, or prosecution of cases which may be of concern to such entities.” §18.3 Resource Sharing: “The prosecutor should share resources and investigative information with other prosecutorial entities commensurate with the fullest attainment of the interests of justice.”

⁷⁸ NATIONAL PROSECUTION STANDARDS § 18.2 Coordination Mechanisms (National District Attorneys Association, 2nd ed. 1991). “The prosecutor should establish and maintain mechanisms for determining the possibility of other prosecution which would avoid double jeopardy defense claims and avoid detriment to prosecution resulting from a grant of immunity.”

⁷⁹ *Domestic Violence, IX. Funding Projects through Public-Private Partnerships*, American Prosecutors Research Institute, 1997, pp. 47-51.

⁸⁰ NATIONAL PROSECUTION STANDARDS § 9.4 Funding (National District Attorneys Association, 2nd ed. 1991).