



MICHIGAN
DOMESTIC VIOLENCE
PREVENTION &
TREATMENT BOARD



August 2002

Re: State of Michigan Standard Domestic Relationship Incident Report Form

Public Act 207 of 2001 requires the Michigan Department of State Police to develop a standard incident report form for use by law enforcement officers investigating or intervening in a domestic violence incident. We are pleased to provide to you the enclosed **State of Michigan Standard Domestic Relationship Incident Report Form**. This form has been developed in consultation with prosecutors, law enforcement officers, and domestic violence service providers who have extensive experience effectively responding to, investigating, reporting or prosecuting domestic violence cases.

As of October 1, 2002, this form, or a substantially similar form, must be used by all law enforcement officers to report a domestic violence incident. See MCL 764.15c.

To assist with implementing the standard domestic relationship incident report form in your community, the enclosed memorandum describes the circumstances under which the standard report form must be used, options for local implementation, and the purpose of the standard report form.

We appreciate your efforts to provide accountability for perpetrators of domestic violence and safety and stability for the victims.

Sincerely,

Stephen D. Madden, Col.
Director
Michigan Department of State Police

James A. Fink
Chair
Michigan Domestic Violence Prevention and Treatment Board

Raymond W. Beach, Jr.
Executive Director
Michigan Commission on Law Enforcement Standards

Joseph K. Sheeran
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IMPLEMENTING THE STANDARD DOMESTIC RELATIONSHIP INCIDENT REPORT FORM IN YOUR COMMUNITY

Effective October 1, 2002, the enclosed *State of Michigan Standard Domestic Relationship Incident Report Form*, developed by MSP, or a "substantially similar form," must be used by all law enforcement officers to report a domestic violence incident. See 2001 PA 207, amending MCL 764.15c.

<p>Circumstances under which the Standard Report Form Must be Used: "Domestic Violence Incident"</p>

The standard domestic relationship incident report form, or a substantially similar form, must be used by an officer *after investigating or intervening in a domestic violence incident*. MCL 764.15c(2). "Domestic violence incident" means an incident reported to a law enforcement agency involving

- *allegations of a violation of a domestic relationship PPO; or*
- *allegations of a violation of a foreign protection order; or*
- *allegations of any crime committed by an individual against a person with whom the individual has a domestic relationship: i.e. spouse, former spouse, person with whom he/she has had a child in common, person with whom he/she has or has had a dating relationship, person who resides or has resided in same household. MCL 764.15c(5).*

The law enforcement agency shall retain the completed domestic relationship incident report in its files. The law enforcement agency also shall file a copy of the completed domestic relationship incident report with the prosecuting attorney within 48 hours after the domestic violence incident is reported to the law enforcement agency. MCL 765.15c(3).

Local Implementation: Duplication of Reports is Not Required

Local implementation of the requirement to use the standard domestic relationship incident report form, or a substantially similar form, will vary depending upon the reporting practices of the local law enforcement agency. Officers are not expected, for example, to list witnesses on two different forms, or write narratives for two different forms. The bottom line, however, is that *all of the information in the State of Michigan Standard Domestic Relationship Incident Report Form* must be captured by the responding law enforcement officer and provided to the prosecutor. This may be accomplished in a variety of ways.

- Some law enforcement agencies may use *the State of Michigan Standard Domestic Relationship Incident Report Form* as a replacement for the incident report form used by officers responding to domestic violence incidents.
- Some law enforcement agencies, to accommodate computer formatting, may use the agency's usual incident report form as the "cover sheet" for domestic violence incidents, and attach the *State of Michigan Standard Domestic Relationship Incident Report Form* as a supplement.
- Some law enforcement agencies may work with the local prosecutor to devise a domestic relationship incident report form supplement to the agency's usual incident report form, as long as the domestic relationship incident report form supplement, together with the agency's usual incident report form, capture and provide to the prosecutor *all of the information in the State of Michigan Standard Domestic Relationship Incident Report Form*.

Prosecutor's Role in Local Implementation

Prosecutors are encouraged to take the lead in their counties to assist law enforcement agencies to comply with this important reporting requirement. Prosecutors are uniquely situated in their communities to provide the leadership and direction necessary for consistent implementation of this reporting requirement in each of Michigan's counties.

Purpose of the Standard Domestic Relationship Incident Report Form

Each year in Michigan scores of domestic violence victims are murdered by their abusers. Thousands more suffer physical violence, sexual violence, home invasion, property damage, stalking, or other criminal violations perpetrated by their abusers. Abusers escape accountability for the crimes and victims are not adequately protected when the prosecutor does not have the information and evidence necessary to effectively proceed with the prosecution.

The *State of Michigan Standard Domestic Relationship Incident Report Form* is designed to assist law enforcement officers to conduct thorough investigations and report information necessary for successful prosecution of domestic violence cases.

By providing prompts, checklists, diagrams, and other aids, the standard report form will promote improved, effective, and consistent criminal justice system response to domestic violence in Michigan in the following areas.

- **Arrest Decisions**

Thorough investigations are necessary to avoid unlawful arrests of persons acting in lawful self-defense, or lawful defense of another individual, and to prevent inappropriate dual arrests. Michigan's domestic violence laws provide that an officer shall not arrest an individual if the officer has reasonable cause to believe the individual was acting in lawful self-defense or in lawful defense of another individual. MCL 776.23. Michigan's domestic violence laws further provide that when an officer has probable cause to believe individuals who share a domestic relationship have committed crimes against each other, the officer shall determine whether to arrest one or both individuals by considering the intent of the law to protect victims of domestic violence, the degree of injury inflicted, the extent of the individual's fear of injury to themselves or other members of the household, and any history of domestic violence between the individuals. MCL 776.23. The narrative checklist, victim/suspect injuries diagrams, evidence checklist, risk factor checklist, and prior domestic violence history checklist, will facilitate the officer's appropriate assessment of whether an individual has acted in lawful self-defense, or lawful defense of another, or whether the legal criteria for a dual arrest are satisfied.

- **Warrant Issuance**

Prosecutors deny warrant requests when the information and evidence presented are not adequate to proceed with prosecution. Incident reports containing the information prompted by the narrative checklist, evidence checklist, medical information checklists, prior domestic violence checklist, victim/suspect injuries diagrams, and risk factor checklist will enable prosecutors to charge offenders without unnecessary delay.

- **Charging Decisions**

Prosecutors charge repeat offenders as first offenders if prosecutors are unaware of prior convictions. The prior domestic violence history checklist will alert prosecutors to look for prior convictions that can be used as the basis for charging crimes that carry enhanced penalties for repeat offenders. The narrative checklist and evidence checklist will provide prosecutors with information that may support charges for crimes such as malicious destruction of property; stalking; obstruction of justice; preventing, obstructing, or delaying telephone communications (MCL 750. 540); preventing, retaliating for, or interfering with crime report (MCL 750.483a); posting communications that promote violent or harassing conduct (MCL 750.411s), and other offenses commonly committed by perpetrators of domestic violence.

- **Evidence-Based Prosecution**

As you are aware, victims of domestic violence crimes often are unwilling to participate in the prosecution of their abusers for safety and other reasons. Domestic violence crimes are successfully prosecuted in many jurisdictions in

Michigan, even when the victim of the crime is unwilling to participate in the prosecution. When the case is carefully and thoroughly investigated, reported, prepared, and presented, juries in Michigan do convict, even when the victim recants or fails to appear. Michigan's higher courts have upheld these convictions. The Michigan Court of Appeals also has made it clear that the prosecutor has the authority to proceed with such prosecutions because the crimes are offenses against the state and the prosecution is for the public good. See *People v. Morrow*, 214 Mich App 158 (1995) and *People v. Williams*, 244 Mich App 249 (2001).

Use of the *State of Michigan Standard Domestic Relationship Incident Report Form* will provide prosecutors with information and evidence necessary for successful evidence-based prosecution, even when the victim is unwilling to participate in the prosecution. Such information and evidence includes additional witnesses, admissible hearsay and foundations for admissibility, photographs, 911 tapes, medical evidence, defendant's admissions, MRE 404(b) other acts evidence, and expert witness testimony.

The Prosecuting Attorneys Association of Michigan (PAAM) provides specialized training and assistance for prosecutors handling domestic violence cases. Instruction and demonstration are provided in voir dire, motion practice, examination of witnesses, use of expert witnesses, opening and closing arguments, and trial strategy for domestic violence cases. Prosecutors are encouraged to contact PAAM for information about these programs and assistance with evidence-based prosecution of domestic violence cases at telephone (517) 334-6060.

- **Implementation of New Laws**

The *State of Michigan Standard Domestic Relationship Incident Report Form* prompts officers to report information necessary for full implementation of new domestic violence laws, including the following.

- Out-of-state convictions can be used to enhance penalties for domestic assault/battery and domestic aggravated assault. 2001 PA 190, amending MCL 750.81, 81a.
- Dating and former dating relationships are included in domestic relationships for purposes of enhanced penalties for repeat offenders, 2001 PA 190, amending MCL 750.81, 81a; prohibition against issuance of appearance tickets, 2001 PA 208, amending MCL 764.9c; deferral of adjudication of guilt, 2001 PA 208, amending MCL 769.4a; and denial of interim bond, 2001 PA 198, amending MCL 780.582a.
- Violation in Michigan of a bond order with protective conditions or a probation order with protective conditions, issued by the criminal court of another state, Indian tribe, or U.S. territory, is a 93 day misdemeanor. 2001 PA 197, adding MCL 600.2950m; 2001 PA 212, amending MCL 764.15.

- Civil protection orders issued by other states, Indian tribes, or U.S. territories, that are violated in Michigan, are to be enforced using Michigan PPO enforcement procedures and penalties. 2001 PA 206, adding MCL 600.2950h-k; 2001 PA 209, amending MCL 764.15b; 2001 PA 211, amending MCL 712A.1 et. seq.; 2001 PA 202, amending MCL 600.2529.
 - Law enforcement agencies must report data to the Michigan State Police, and they in turn must collect data for reports of all crimes where the victim/offender relationship is a domestic relationship. 2001 PA 191, amending MCL 28.257.
- **Bond Decisions**
Information contained in the risk factor checklist, prior domestic violence history checklist, narrative checklist, evidence checklist, and alcohol/controlled substance checklist will assist prosecutors to recommend, and courts to make, bond determinations that protect the safety of the public, including the victim.
 - **Compliance with Victim Assistance Laws**
The victim assistance checklist prompts officers to provide domestic violence victims with the information and referrals required under MCL 764.15c.
 - **Compliance with Report Writing Laws**
For several years, Michigan law has required law enforcement officers responding to domestic violence incidents to include in their incident reports specific information delineated in MCL 764.15c. Compliance with the report writing requirements is inconsistent throughout the state. The *State of Michigan Standard Domestic Relationship Incident Report Form* contains prompts for all information required under MCL 764.15c and therefore will assist law enforcement officers to report information mandated by law.
 - **Reduce Liability Exposure of Law Enforcement Agencies and Officers**
Consistent and proper utilization of the standard domestic relationship incident report form demonstrates an agency's and an individual officer's compliance with investigation and reporting standards and policies, reducing exposure to liability, including agency and an individual administrator's liability for failure to institute, promulgate, publish, and enforce domestic violence policy.
 - **Referrals to Federal Authorities**
Information regarding court orders and prior domestic violence incidents from other states and tribal jurisdictions will alert prosecutors about potential federal prosecution for federal domestic violence crimes. Local prosecutors may consider referrals/consultation with federal authorities regarding federal offenses such as Interstate Domestic Violence, 18 U.S.C. Sec. 2261(a); Interstate Violation of a Protection Order, 18 U.S.C. Sec. 2262(a); Possession of Firearm After Misdemeanor Domestic Violence Conviction, 18 U.S.C. Sec. 922(g)(9); and Possession of Firearm While Subject to a Protection Order, 18 U.S.C. Sec. 922(g)(8).

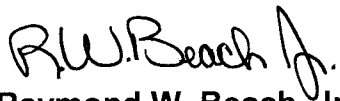
Consistent compliance with the requirement to use the ***State of Michigan Standard Domestic Relationship Incident Report Form***, or a substantially similar form, will assist you, and the criminal justice system throughout Michigan, to more effectively provide accountability for perpetrators of domestic violence, and safety and stability for the victims.



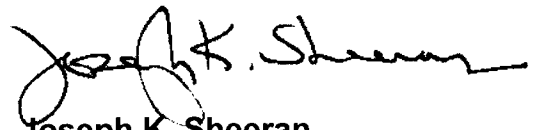
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