

§ 29.12 Specified conditions under which stops may be authorized.

A motor vehicle owner may voluntarily enroll his or her vehicle(s) and give written consent to law enforcement official to stop the vehicle if it is being operated under any or all the conditions set forth in this section. For each condition, the owner(s) must grant consent and affix a separate decal, device, or license plate.

(a) *Time.* A motor vehicle owner may authorize law enforcement officers to stop the enrolled vehicle if it is being operated between the hours of 1:00 AM and 5:00 AM. By enrolling in a program with this condition, the owner must state that the vehicle is not normally operated between the specified hours, and that the owner understands that the operation of the vehicle between those hours provides sufficient grounds for a law enforcement officer to reasonably believe that the vehicle is not being operated by or with the consent of the owner, even if the law enforcement official has no other basis for believing that the vehicle is being operated unlawfully.

(b) *Border crossing or port entry.* A motor vehicle owner may authorize law enforcement officers to stop the enrolled vehicle if it crosses, is about to cross or is about to be transported across a United States land border, or if it enters a United States port. For purposes of this section, the phrase "about to cross a United States land border" means the vehicle is operated or transported within one mile of a United States land border. Participating States or localities may implement this provision in accordance with local conditions, provided that a participating State or locality may not extend the applicable geographic area beyond one mile from the United States land border. By enrolling in a program with this condition, the owner must state that the vehicle is not normally driven across a border or into a port, and that the owner understands that the operation or transport of the vehicle within a mile of a United States land border or into a port provides sufficient grounds for a law enforcement officer to believe that the vehicle is not being operated by or with the consent of the owner even if the law enforcement officer has no other basis for believing that the vehicle is being operated unlawfully.

§ 29.13 No new conditions without consent.

After the program has begun, new conditions under which a vehicle may be stopped may only be added to an existing program if the owner consents to the new condition or conditions.

Dated: July 30, 1996.

Nancy E. Gist,

Director, Bureau of Justice Assistance.

[FR Doc. 96-19778 Filed 8-5-96; 8:45 am]

BILLING CODE 4410-18-P

28 CFR Part 90

[OJP No. 1019]

RIN 1121-AA35

Grants To Encourage Arrest Policies

AGENCY: Office of Justice Programs, Justice.

ACTION: Final rule.

SUMMARY: This document announces the final rule for the Grants to Encourage Arrest Policies authorized by the Violence Against Women Act, Title IV of the Violent Crime Control and Law Enforcement Act of 1994. For Fiscal Year 1996, Congress has appropriated \$28 million to the United States Department of Justice, Office of Justice Programs, for Grants to Encourage Arrest Policies. This regulation is being published under the general statutory grant of authority to issue rules and regulations pursuant to the Omnibus Crime Control and Safe Streets Act of 1968. The purpose of this regulation is to provide a general outline of the program and its purposes as set forth in the statute.

EFFECTIVE DATE: The final rule is effective August 6, 1996.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Response Center at 1-800-421-6770 or (202) 307-1480, or Catherine Pierce, Violence Against Women Grants Office, Office of Justice Programs, at (202) 307-6026.

SUPPLEMENTARY INFORMATION: The Final Rule implements a discretionary grant program that does not impose any restrictive regulations on recipients. Grant recipients will benefit from immediate access to the funds available through this program, and it would be contrary to the public interest to delay implementation of the program. Therefore, the Final Rule is effective upon publication.

Title IV Grants To Encourage Arrest Policies

For Fiscal Year 1996, Congress authorized a federal discretionary grant program under Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 1033-22, 108 Stat. 1796, 1902-55, as amended, codified at 42 U.S.C. 3796hh *et seq.* (1994) [hereinafter the "Act"], for States, units of local government, and Indian tribal governments to encourage the

treatment of domestic violence as a serious violation of criminal law. The Act gives the Attorney General and an authorized designee, in this case the Assistant Attorney General for the Office of Justice Programs, the authority to make grants to the above mentioned entities. Omnibus Crime Control and Safe Streets Act of 1968 805, as amended, codified at 42 U.S.C. 3786 [hereinafter the "Omnibus Act"]. Section 2104 of the Omnibus Act, codified as amended at 42 U.S.C. 3796hh-3, requires that regulations be issued specifically to implement these policies and programs.

On May 14, 1996, the Office of Justice Programs published a proposed rule on the implementation of the Grants to Encourage Arrest Policies in the Federal Register (Vol. 61, No. 94, pages 24256-24261). Comments were specifically solicited regarding, but not limited to, the following issues:

(1) Other priority areas that should be considered for funding in addition to the statutory award priorities identified in Section 90.66 of Subpart D;

(2) The special needs of Indian tribal governments, underserved populations and rural communities in implementing this Program;

(3) Effective strategies to ensure that local jurisdictions, States and tribal governments will accord full faith and credit to all valid protection orders pursuant to 18 U.S.C. 2265; and

(4) Methods and approaches for conducting research on the effectiveness of arrest and other legal sanctions for domestic violence in communities that have adopted a system-wide coordinated response to the problem.

The Office of Justice Programs received 34 letters commenting on the proposed regulations: 12 from law enforcement agencies; 4 from prosecution agencies; 2 from probation agencies; 6 from other Federal, State and local governmental agencies; 1 from an Indian tribal government; 9 from non-profit, non-governmental victim service agencies; 1 from a national organization and 1 from a private citizen. The Office of Justice Programs gratefully acknowledges the agencies, organizations, and individuals who took the time to express their views. Comments are on file at OJP's Violence Against Women Grants Office.

In preparing the Final Rule, OJP is interpreting the scope of the Program as broadly as possible while adhering closely to the letter and spirit of the legislation. Language contained in the final regulations has been modified to reflect the following changes:

■ The *Statement of the Problem* has been revised to: (1) emphasize that, in

addition to police departments, probation and parole departments and other criminal justice agencies can play a vital role in jurisdictions with mandatory or pro-arrest policies by implementing complementary practices and strategies to enhance the safety of victims and hold perpetrators of domestic violence accountable for their criminal actions; (2) to encourage police departments to develop sanctions for officers who do not follow or enforce official policies and procedures mandating or encouraging arrest of domestic violence perpetrators as well as procedures that respond to the complex problem of police officers who batter; (3) to encourage victim advocates to explore new partnerships with community policing units that apply the problem-solving approach to ending violence and increasing their availability to victims by establishing an independent or agency-sponsored presence in prosecution agencies, the courts and probation and parole departments; (4) to clarify the need for specialized training for police officers on the identification of the primary aggressor, effective methods for gathering evidence at the scene of a domestic violence incident, conducting intensive follow-up investigations that incorporate lethality assessment methods and developing sensitivity to the complexity of domestic violence cases; (5) to encourage the use of lethality assessment tools by police, probation and parole departments in order to investigate cases of domestic violence and supervise perpetrators of domestic violence more effectively; (6) to encourage that specialized training and education programs for all criminal justice professionals include a component requiring them to work for a specified number of hours in a shelter for battered women; and (7) to encourage the development of multi-agency fatality review teams made up of criminal justice professionals and non-profit, non-governmental victim service providers.

■ Section 90.61 has been modified to include the definition of "unit of local government" for purposes of clarifying that eligible grantees for this Program are States, Indian tribal governments, cities, counties, townships, towns, boroughs, parishes, villages, or other general purpose political subdivisions of a State.

■ Section 90.62 has been modified to clarify that all grants awarded for the purposes of this Program must demonstrate meaningful attention to victim safety and offender accountability.

■ Section 90.62 (b) has been modified to clarify that policies and training programs that improve the tracking of domestic violence cases may be developed by all criminal justice agencies, *including* police departments in eligible jurisdictions.

■ Section 90.62 (c) has been modified to clarify that probation and parole departments also play a vital role in centralizing and coordinating the response to domestic violence cases.

■ Section 90.63 (b) has been modified to clarify that judicial education programs should be developed for all professionals responsible for judicial handling of domestic violence cases, including tribal judges.

■ Section 90.63 (a)(4) has been modified to clarify that grantees must certify that their laws, policies, or practices do not require that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena (arising from an incident that is the subject of arrest or criminal prosecution).

■ Section 90.63 (c) has been expanded to clarify that, for the purposes of this Program, a jurisdiction need not have pre-existing policies encouraging or mandating arrest to be eligible to receive a grant. However, a State, Indian tribal government, or unit of local government must identify the type of policy it intends to develop and specify the process by which the policy will be developed and enacted by the statutory deadline. In addition, the section clarifies that the policy development process must involve a coordinated effort by criminal justice personnel and non-profit, private, domestic violence or sexual assault programs, including State coalitions.

■ Section 90.64 (c) has been expanded to include examples of the types of agencies or offices that may be responsible for carrying out the project in an applicant jurisdiction (e.g., police departments, prosecution agencies, courts and probation or parole departments).

■ Section 90.66 has been expanded to clarify that priority will be given to applicants that provide evidence of meaningful attention to victims' safety and demonstrate a strong commitment to provide victims with information on the status of their cases from the time a complaint is filed through sentencing.

Two suggested modifications were not incorporated into the final regulations.

■ The jurisdictional issues related to enforcement of felony crimes raised in the comments submitted by an Indian tribal government are covered by

statutes and Supreme Court cases which are beyond the scope of the Violence Against Women Act and grants programs.

■ The suggestion that all applicants consult and coordinate with the highest court of each State was not incorporated into the regulations. However, all applicants are strongly encouraged to include State and local courts as part of a coordinated and integrated response to domestic violence.

Statement of the Problem

In the past, police departments, and the criminal justice system as a whole, generally treated domestic violence as a private, family matter unlike any other violent crime. Many police departments maintained informal non-arrest policies for domestic violence, focusing instead on alternative responses such as family crisis intervention and counseling for domestic abusers.¹ In recent years, many departments have implemented new policies and practices that encourage or mandate arrest of a perpetrator of domestic violence for probable cause or for violating a protection order.² To ensure the effectiveness of these new policies, some police departments have created special domestic violence units; train personnel on the phenomenon of domestic violence; developed guidelines and protocols for enforcing laws related to domestic violence; created sophisticated tracking and communication systems; investigated both misdemeanor and felony domestic assaults; developed accountability measures which ensure enforcement of the law by all officers in the department; and developed effective strategies to coordinate with other criminal justice agencies and victim service providers.

Likewise, other criminal justice agencies have implemented complementary practices and strategies which prioritize the safety of victims and hold the perpetrators of domestic violence accountable for their criminal actions. In particular, several probation and parole departments have instituted methods of supervision designed to enhance victim safety by vigorously

¹ Lieberman, D.A., and Schwartz, J.A., *Police Programs in Crisis Intervention: A Review*, (J.R. Snibbe and H.M. Snibbe eds. 1973). See also Charles C. Thomas, *The Urban Policeman in Transition: A Psychological and Sociological Review* (1973).

² Garner, J., Fagan, J., and Maxwell, C., *Published Findings from the Spouse Assault Replication Program: A Critical Review*, *Journal of Quantitative Criminology*, 11(1), 3-28, 1995.

Fagan, J., *The Criminalization of Domestic Violence: Promises and Limits*, Presentation at the 1995 National Institute of Justice Conference on Criminal Justice Research and Evaluation, January, 1996, available through the National Criminal Justice Reference Service, 1-800-851-3420.

enforcing the terms of protection orders, thereby promoting coordination with the courts. A number of prosecution agencies have established domestic violence teams that work closely with legal advocates and advocates affiliated with non-profit, non-governmental victim service organizations. Together, prosecutors and advocates alike keep victims informed about the progress of their cases as well as the status and known whereabouts of the offenders. They also provide assistance in preparing long-and short-term safety plans for victims and their children. Additionally, courts are beginning to recognize the need for continuing education for judges. They also are implementing improved case processing procedures with designated dockets to better manage domestic violence cases and expedite scheduling of trials.

To enhance these very significant accomplishments and encourage the adoption of similar innovations in additional communities throughout the country, agencies throughout the criminal justice system require more tools and resources. *Furthermore, for arrest to be an effective domestic violence intervention, it must be part of a coordinated and integrated response to the problem on the part of the entire criminal justice system.*³ That is, mandatory or pro-arrest policies will be effective only if police departments implement clear guidelines and protocols for the arrest of domestic violence perpetrators; if police and prosecutors alike conduct thorough and careful investigations of domestic violence cases; if the courts institute improved management techniques to process domestic violence cases more efficiently; if judges impose appropriate sentences; if batterers remain in custody after they are arrested; if probation and parole departments enforce protection orders and devise improved ways to effectively supervise batterers; and, *most importantly, if victims feel confident that all professionals in the system are committed to their safety and the safety of their children.*

Policies That Mandate or Encourage Arrest

Laws and policies that encourage or mandate the arrest of a domestic violence perpetrator based on probable cause are not new. Currently, at least 27 States and the District of Columbia have

adopted laws that mandate or encourage arrest of a person who assaults a family member, or of a person who violates a domestic violence protection order.⁴ Federal law also requires all states to honor certain protection orders issued by other jurisdictions. Act § 40221(a), 18 U.S.C. 2265(a). Domestic violence incidents are among the most difficult and most sensitive calls requesting police assistance. For this reason, many police departments with mandatory or pro-arrest policies inform their officers that, when responding to a domestic violence call, they must anticipate the unexpected, be carefully impartial and be primarily concerned for the needs and safety of the victim or victims. Some mandatory or pro-arrest policies go a step further by directing responding officers to arrest only the primary aggressor in a domestic violence incident. These policies warn that dual arrests may trivialize the seriousness of domestic violence and potentially increase danger to its victims. Most importantly, arrest of the batterer conveys a message to the batterer, the victim, the family and the community that domestic violence is a serious crime that will not be tolerated. Mandatory or pro-arrest policies also offer the potential benefit of deterring future abuse if the offender is separated from the victim and held publicly accountable for his⁵ actions. Arrest, accompanied by a thorough evidentiary investigation and an intensive follow-up investigation, demonstrates to the offender that he has committed a serious crime and communicates to the victim that she does not have to endure the offender's abuse. Moreover, arrest of the offender sends a broader public message—that violent behavior, even between intimates, is criminal.

Orders of Protection

An order of protection is the legal instrument many victims of domestic violence initially seek to protect themselves from further abuse. For protection orders to be effective, the terms of the order must be strictly and

consistently enforced, and abusers violating the terms of the order must be punished. To ensure a consistent response, departmental policies specifying the violations for which an abuser is subject to arrest must be communicated clearly to police officers who respond to domestic violence calls. Furthermore, there must be consistent enforcement between same-State jurisdictions (e.g., county to county or city to city) or between communities under the jurisdiction of the same tribal government. In addition to intrastate enforcement, States and tribal governments must also take steps to ensure the interstate (i.e., State to State) enforcement of protection orders as required by Section 40221(a) of the Act.

Prior to the enactment of the Violence Against Women Act, a woman who obtained a protection order in her home state often could not use that order as the basis for protection if she worked, traveled, or moved to most other states. Under the Violence Against Women Act, a victim does not have to wait for abuse to occur in the new state, nor does she have to meet the new jurisdictional requirements. A woman may now seek enforcement of the out-of-state order in the new state.

Although there is no universal approach to effective implementation of the full faith and credit provisions of the Act, State and tribal law enforcement agencies, courts, prosecutors, non-profit, non-governmental victim services agencies and private attorneys are encouraged to collaborate on efforts and strategies for bolstering and implementing enforcement of out-of-state protective orders. The state administrative office of the court and state law enforcement agencies, in consultation with victim advocates, should devise and publicize widely a state plan for according full faith and credit to protection orders.

Centralized Communication, Information and Tracking Systems

Regardless of whether there is a particular jurisdictional domestic violence arrest policy in place, police must have probable cause to make an arrest. Police often are dispatched, however, without any information regarding the domestic violence or criminal history of the people involved in an altercation. The officers frequently do not know if there is an outstanding order of protection against the offender, whether the offender has previously been arrested for assaulting the victim, or if charges are pending against the perpetrator for prior alleged domestic violence. Knowledge of this information clearly would help guide the discretion

³ Hart, B.J., Coordinated Community Approaches to Domestic Violence, presented at the Strategic Planning Workshop on Violence Against Women sponsored by the National Institute of Justice in Washington, D.C., March 31, 1995, available through the National Criminal Justice Reference Service, 1-800-851-3420.

⁴ Layden, J., Domestic Violence, Headliners, 1994.

⁵ Men can be the victims of abuse, and women can be perpetrators. However, the vast majority of victims of domestic violence are women. In addition, it is much less common for men to receive injuries as a result of their abuse and less likely for men to become entrapped in relationships where they cannot leave for fear of extreme bodily harm to themselves or their children. For these reasons, victims are referred to as women and perpetrators as men throughout these proposed regulations. See Stets, J.E. and Straus, M.A., Gender Differences in Reporting Marital Violence and its Medical and Psychological Consequences (Physical Violence in American Families: Risk Factors and Adaptations to Violence in 8,145 Families, Straus, M.A. and Gelles, R.J. eds. 1990).

of an officer who is trying to determine whether to make an arrest, and help him or her ensure the safety of the victim and other family members.

Beyond providing information about the criminal history of the perpetrator, responding officers also would benefit greatly from communication systems that could inform them about the frequency of past calls to the same location, prior weapons use, the presence of children at the residence and past need for medical emergency services. Tracking and other advanced information systems also could provide responding officers with a description of the alleged perpetrator and places he historically has frequented if he is not found at the scene.

Just as police officers need more information to respond effectively, so do prosecutors, judges and other criminal justice professionals. Access to centralized information on prior incidents or convictions, prior issuance of protection orders, other matters involving the same family pending before the court, and the availability of community resources and services for the victim would be extremely beneficial to prosecutors seeking convictions, to judges who must impose a sentence and to probation and parole officials responsible for providing community supervision. *Interstate* and *intrastate* communication and tracking systems for use by police officers and criminal justice professionals throughout a state or region of the country also would contribute to enhancing the safety of victims.

The Need for a Coordinated, Integrated Approach Involving All Criminal Justice Professionals

If arrest policies are to be effective, police, pre-trial service professionals, prosecutors, judges, probation officers, parole officers and victim advocates need to respond with effective collaborative strategies that will enhance the safety of victims and result in appropriate sanctions for offenders. Specifically, prosecutors, judges and other criminal justice professionals need the training, tools and resources that will enable them to respond to domestic violence as a serious crime. For example, in those jurisdictions where mandatory or pro-arrest policies have been instituted, individual prosecutors may be overwhelmed with domestic violence cases, resulting in a severe lack of resources and time needed to prosecute each case effectively. To help alleviate the backlog of domestic violence cases, many prosecutors work with victim advocates during both the pending prosecution and the sentencing

phase of a case. These advocates are critical to the effective prosecution of domestic violence cases. In addition to being effective legal advocates, they assist in safety planning with the victim, providing the court with information needed to determine risk and lethality assessment as well as proposed conditions of probation or parole for the offender.

Training for all criminal justice professionals should include informative and experiential continuing education sessions designed to provide insight into the phenomenon of domestic violence and information on community resources available to assist the victim and respond appropriately to the batterer. Prosecutors need to understand the psychology of domestic violence victims (e.g., why they may be reluctant to prosecute and the risks to their safety if they decide to prosecute). Judges need to craft effective protection orders and they need the information and skills necessary to tailor sentences to individual perpetrators (e.g., ordering protective conditions for victim safety, incarceration, community service, restitution, intensive probation or parole, mandatory participation in batterer intervention programs and/or drug and alcohol treatment, or all of the above, as appropriate). Victim advocates need to acquire an enhanced understanding of how the criminal justice system works. They also need to learn how they can be more effective in working directly with all criminal justice professionals, exploring new partnerships with community policing units that apply the "problem-solving" approach to ending violence; increasing their availability to victims by establishing a presence (as independent and/or agency-sponsored advocates) in prosecution agencies, the courts and probation and parole departments. All professionals in the system need to work together to explore and develop new, innovative and coordinated approaches to reduce and prevent domestic violence.

Conclusion

While strong, clear arrest policies are needed to guide the actions of police officers, the rest of the criminal justice system also must be directed to respond similarly in ways that will break the cycle of violence. Without aggressive, system-wide coordination, arrest alone will not stop domestic violence. Most importantly, as a jurisdiction assesses its response to domestic violence, prioritizing victim safety within the policies and practices of the entire criminal justice system is essential. In conclusion:

■ Police departments need to develop clear policies and procedures mandating or encouraging arrest for perpetrators of domestic violence and for the violation of protection orders, including protocols, procedures, and firearms policies that respond to the complex problems with respect to police officers against whom protection orders have been issued or who have been arrested for probable cause of domestic violence.

■ Specialized education and training programs for police, prosecutors, judges, probation and parole officers, victim advocates and other criminal justice professionals need to be developed and implemented or replicated from existing curricula. Components of these programs might encourage criminal justice professionals to obtain direct experience with victims by providing opportunities for them to work in shelters for battered women or in a comparable setting.

■ Police departments should be encouraged to develop specialized training on domestic violence which: provides guidance on the implementation of departmental arrest policies and related federal, state and local law; instructs officers on how to identify the primary aggressor in a domestic violence incident; provides information on improved techniques for gathering evidence at the scene of a domestic violence incident; explains how to conduct more thorough follow-up investigations that incorporate lethality assessment methods; and develops sensitivity to the complexity of domestic violence cases and the diverse cultural values, language barriers, and experience that influence the response of the victim.

■ Police departments need resources to develop guidelines for the arrest of perpetrators and investigation of domestic violence. They also need to establish sanctions for officers and officials who do not follow or enforce official protocols. In addition, they need to establish special investigation or detective units, and procedures to ensure coordination with other parts of the criminal justice system.

■ Police, probation and parole departments need access to lethality assessment tools (developed collaboratively by victim service and law enforcement agencies) in order to investigate cases and supervise perpetrators of domestic violence more effectively.

■ Prosecutors need to develop effective strategies for working with the police. They also need the tools and resources to investigate domestic violence cases aggressively and

thoroughly in collaboration with the police.

■ Police departments need the resources to develop advanced communication, information and tracking systems to enable them to respond more effectively to domestic violence incidents, to track the history of perpetrators (including outstanding orders of protection, previous arrests and pending charges) and to prevent future violence that could result in aggravated assault and homicide.

■ Jurisdictions need to develop methods and technologies that will promote improved communication and coordination among law enforcement, prosecution, the judiciary and other parts of the criminal justice and social service systems to improve the entire system's response to domestic violence. In addition, jurisdictions need to develop centralized, automated information systems that will track the domestic violence history of involved parties, including outstanding orders of protection, previous arrests and pending charges against perpetrators.

■ Procedures to expedite requests for protection orders need to be developed by police departments, prosecution units, and the courts.

■ Judges need to convey clearly to batterers the gravity of their offenses by imposing appropriate sentences.

■ Probation and parole departments need to establish protocols and procedures for the intensive supervision of batterers.

■ Victims and their children need access to a full range of services, including legal advocacy and assistance in planning for their long- and short-term safety, that ensures they will be kept informed about the progress of their case.

■ Multi-agency fatality review teams made up of criminal justice professionals and non-profit, non-governmental victim service providers need to be established to determine where and how death may have occurred in a domestic violence case and to examine what constructive steps can be taken to prevent future fatal incidents.

■ Research needs to be conducted to assess the effectiveness of arrest and other legal sanctions for domestic violence in communities that have adopted a system-wide, coordinated response to domestic violence.

The Violence Against Women Act of 1994

The Violence Against Women Act reflects a firm commitment towards working to change the criminal justice system's response to violence that

occurs when any woman is threatened or assaulted by someone with whom she has or has had an intimate relationship, with whom she was previously acquainted, or who is a stranger. By committing significant Federal resources and attention to restructuring and strengthening the criminal justice response to women who have been, or potentially could be, victimized by violence, the safety of all women can be more effectively ensured.

Fiscal Year 1996 Grants To Encourage Arrest Policies

For FY 1996, Congress has appropriated \$28 million to the United States Department of Justice Office of Justice Programs for Grants to Encourage Arrest Policies. Additionally, Part U of the Violence Against Women Act of 1994 authorizes \$33 million for FY 1997 and \$59 million for FY 1998. States, Indian tribal governments, and units of local government are eligible to receive grants subject to the requirements of the statute and these regulations, as well as assurances and certifications specified in the application kit.

Section 2101 of the Violence Against Women Act, 42 U.S.C. 3796hh (1994), enumerates the following six purposes for which Grants to Encourage Arrest Policies may be used:

(1) To implement mandatory arrest or pro-arrest programs and policies in police departments, including mandatory arrest programs and policies for protection order violations;

(2) To develop policies and training programs in police departments to improve tracking of cases involving domestic violence;

(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges;

(4) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts;

(5) To strengthen legal advocacy service programs for victims of domestic violence; and

(6) To educate judges in criminal and other courts about domestic violence and improve judicial handling of such cases.

A Coordinated and Integrated Approach to the Problem

By definition, a coordinated and integrated approach suggests a partnership among law enforcement, prosecution, the courts, victim advocates and service providers. The goal of this Program is to treat domestic violence as a serious violation of the

criminal law. A consistent criminal justice system response to domestic violence requires that professionals in the various components of the system have a shared vision that prioritizes the safety and well-being of the victim. The creation and implementation of that vision necessitates collaboration among police, prosecutors, the courts, and victim service providers. Thus, the Program requires that jurisdictions incorporate the experience of nonprofit, nongovernmental domestic violence service providers into the project planning and implementation process as well as police, prosecutors, and the courts. Examples of innovative approaches include:

■ Creating centralized units of police officers, prosecutors, judges and probation and parole officers to investigate and handle domestic violence cases, based on a comprehensive plan developed by representatives from the criminal justice system and the advocacy community.

■ Implementing and testing the effectiveness of domestic violence arrest policies for violations of protection orders in the context of a coordinated criminal justice and community response to domestic violence by forming a multi-disciplinary coordinating council that assigns priority to the safety of the victim and by holding the offender accountable for his violent actions.

■ Delivering comprehensive, experiential training programs for police officers, prosecutors, probation and parole officers and the judiciary that address the technical issues associated with policies that encourage or mandate arrest for domestic violence; address the phenomenon of domestic violence; stress collaboration and shared responsibility for ensuring the safety of the victim; seek to change attitudes that have traditionally prevented professionals in the criminal justice system from responding to domestic violence as a serious violation of criminal law; and provide information on improved methods for tracking domestic violence cases.

■ Developing information systems, automated registries, education and training programs and technical assistance efforts that facilitate enforcement of protection orders within a single jurisdiction; within a single State; and from State to State.

■ Linking automated information and tracking systems to enhance communication among police departments, prosecution agencies, and criminal and family courts to ensure that all of the system components have access to consistent and complete

information about an individual's domestic violence history.

■ Establishing and expanding advocacy services for domestic violence victims from the time an abuse report is filed through the post-sentencing of the offender, including any time during which the offender is subject to probation or parole supervision.

Eligibility Requirements

To be eligible to receive grants under this Program, States, Indian tribal governments, and units of local government must certify that their laws or official policies (1) encourage or mandate arrest of domestic violence offenders based on probable cause that an offense has been committed and (2) encourage or mandate arrest of domestic violence offenders who violate the terms of a valid outstanding protection order. Omnibus Act § 2101(c), 42 U.S.C. 3796hh(c) (1994). A jurisdiction need not have pre-existing policies encouraging or mandating arrest to meet this eligibility requirement. However, in its application for funding through this Program, a State, Indian tribal government, or unit of local government must identify the type of policy that it intends to develop, and specify the process by which the policy will be developed and enacted by the statutory deadline. The policy development process must involve a coordinated effort by criminal justice personnel and non-profit, private, domestic violence or sexual assault programs, including State coalitions.

Eligible applicants also must demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of an offender and victim. Omnibus Act § 2101(c)(2), 42 U.S.C. 3796hh(c)(2) (1994).

In addition, States, Indian tribal governments, and units of local governments seeking grant funds through this Program must certify that their laws, policies, or practices prohibit the issuance of mutual restraining orders of protection, except in cases in which both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense. Omnibus Act § 2101(c)(3), 42 U.S.C. 3796hh(c)(3) (1994).

Eligible applicants also must certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges or the service of such charges on an abuser, or costs associated with the issuance or

service of a warrant, protection order, or witness subpoena (arising from the incident that is the subject of arrest or criminal prosecution). Omnibus Act § 2101(c)(4), 42 U.S.C. 3796hh(c)(4) (1994).

If the laws, policies, or practices required by Section 2101(c) of the Violence Against Women Act are not currently in place, States, Indian tribal governments, and local units of government must provide assurances that they will be in compliance with these requirements by the date on which the next session of the State or Indian Tribal legislature ends, or September 13, 1996, whichever is later. Omnibus Act § 2102(a)(1) (A)–(B), 42 U.S.C. 3796hh–1(a)(1) (A)–(B) (1994).

Award Priority

The Office of Justice Programs is required by the Violence Against Women Act to give priority to applicants that (1) do not currently provide for centralized handling of cases involving domestic violence by police, prosecutors, and courts; and (2) demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence. Omnibus Act § 2102(b) (1)–(2), 42 U.S.C. 3796hh–1(b) (1)–(2) (1994). Commitment may be demonstrated in a number of ways including: strict enforcement of arrest policies; clear communication from top officials and managers throughout the criminal justice system that domestic violence prevention is a priority; innovative approaches to supervision of police officers, prosecutors, probation officers and other criminal justice professionals who handle domestic violence matters; acknowledgment of police officers who consistently enforce domestic violence arrest policies and sanctions for those who do not; implementation of procedures that respond to the complex problem of police officers who batter; education and training for all criminal justice professionals on enforcement of domestic violence arrest policies and the phenomenon of domestic violence; and creation of special units within criminal justice agencies which collaborate to investigate and monitor spousal and partner abuse cases.

Technical Assistance and Training/Evaluation

The Office of Justice Programs will set aside a small portion of the funds provided through this Program to provide specialized training and technical assistance to help grant recipients develop and implement effective arrest policies in the context of an integrated and coordinated criminal

justice and community response to domestic violence.

In addition, the Office of Justice Programs will set aside a small portion of the overall funds authorized for this Program to enable the National Institute of Justice (NIJ) to conduct evaluations and studies of projects funded through this Program. Past research on the effectiveness of arrest policies for domestic violence has focused primarily on the police response and has not measured the response of victim service agencies and other parts of the criminal justice system, such as pretrial services agencies, prosecution units, the courts, and probation and parole departments. Additional research is needed to assess the effectiveness of arrest and other legal sanctions for domestic violence in communities that have adopted a system-wide, coordinated response to domestic violence. Recipients of funds for this Program must agree to cooperate with NIJ-sponsored research and evaluation studies of their projects. Grant recipients also are required to report to the Attorney General on the effectiveness of their project(s). Omnibus Act § 2103, 42 U.S.C. 3796hh–2 (1994). Recipients therefore are strongly encouraged to develop a local evaluation strategy to assess the impact and effectiveness of their programs. Applicants therefore should consider entering into partnerships with research organizations that are submitting simultaneous grant applications to the National Institute of Justice for this purpose.

Regulatory Flexibility Act

The Assistant Attorney General, Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this Final Rule and, by approving it, certifies that the Final Rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

This Final Rule has been drafted and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. The Office of Justice Programs has determined that this Final Rule is not a "significant regulatory action" under Executive Order 12866, § 3(f), Regulatory Planning and Review, and accordingly this Interim Rule has not been reviewed by the Office of Management and Budget.

List of Subjects in 28 CFR Part 90

Crime, Grant programs, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Title 28, Chapter 1, Part 90 of the Code of Federal Regulations is amended as follows:

PART 90—VIOLENCE AGAINST WOMEN

1. The authority continues to read as follows:

Authority: 42 U.S.C. 3711 et. seq.

2. A new Subpart D, consisting of §§ 90.60—90.67 is added to read as follows:

Subpart D—Arrest Policies in Domestic Violence Cases

Sec.

- 90.60 Scope.
- 90.61 Definitions.
- 90.62 Purposes.
- 90.63 Eligibility.
- 90.64 Application content.
- 90.65 Evaluation.
- 90.66 Review of applications.
- 90.67 Grantee reporting.

§ 90.60 Scope.

This subpart sets forth the statutory framework of the Violence Against Women Act's sections seeking to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law.

§ 90.61 Definitions.

For purposes of this subpart, the following definitions apply.

(a) *Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the eligible State, Indian tribal government, or unit of local government that receives a grant under this subchapter.

(b) *Protection order* includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

(c) *Unit of local government* means any city, county, township, town, borough, parish, village, or other

general-purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia, and the Trust Territory of the Pacific Islands.

§ 90.62 Purposes.

(a) The purposes of this program are:

(1) To implement mandatory arrest or pro-arrest programs and policies in police departments, including mandatory arrest programs or pro-arrest programs and policies for protection order violations;

(2) To develop policies and training programs in police departments and other criminal justice agencies to improve tracking of cases involving domestic violence;

(3) To centralize and coordinate police enforcement, prosecution, probation, parole or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, probation and parole officers or judges;

(4) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts;

(5) To strengthen legal advocacy service programs for victims of domestic violence; and

(6) To educate judges, and others responsible for judicial handling of domestic violence cases, in criminal, tribal, and other courts about domestic violence and improve judicial handling of such cases.

(b) Grants awarded for these purposes must demonstrate meaningful attention to victim safety and offender accountability.

§ 90.63 Eligibility.

(a) Eligible grantees are States, Indian tribal governments, or units of local government that:

(1) Certify that their laws or official policies—

(i) Encourage or mandate the arrest of domestic violence offenders based on probable cause that an offense has been committed; and

(ii) Encourage or mandate the arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

(2) Demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

(3) Certify that their laws, policies, or practices prohibit issuance of mutual

restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense; and

(4) Certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with filing criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena (arising from the incident that is the subject of arrest or criminal prosecution).

(b) If these laws, policies, or practices are not currently in place, States, Indian tribal governments, and units of local government must provide assurances that they will be in compliance with the requirements of this section by the date on which the next session of the State or Indian Tribal legislature ends, or September 13, 1996, whichever is later. Omnibus Act 2102(a)(1) 42 U.S.C. 3796hh-1(a)(1).

(c) For the purposes of this Program, a jurisdiction need not have pre-existing policies encouraging or mandating arrest to meet the eligibility requirements listed in this section. However, in its application for funding through this Program, a State, Indian tribal government, or unit of local government must identify the type of policy that it intends to develop, and specify the process by which the policy will be developed and enacted. The policy development process must involve a coordinated effort by criminal justice personnel and non-profit, private, domestic violence or sexual assault programs, including State coalitions.

§ 90.64 Application content.

(a) *Format.* Applications from States, Indian tribal governments and units of local government must be submitted on Standard Form 424, Application for Federal Assistance, at a time designated by the Office of Justice Programs. The Violence Against Women Grants Office of the Office of Justice Programs will develop and disseminate to States, Indian tribal governments, local governments and other interested parties a complete Application Kit which will include a Standard Form 424, a list of assurances to which applicants must agree, and additional guidance on how to prepare and submit an application for grants under this subpart. To receive a complete

Application Kit, please contact: The Violence Against Women Grants Office, Office of Justice Programs, Room 442, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Telephone: (202) 307-6026.

(b) *Programs.* Applications must set forth programs and projects that meet the purposes and criteria of the Grants to Encourage Arrest program set out in §§ 90.62 and 90.63 of this part.

(c) *Requirements.* Applicants in their applications shall, at a minimum:

(1) Describe plans to further the purposes stated in § 90.62 of this part;

(2) Identify the agency or office or groups of agencies or offices responsible for carrying out the program. Examples of these agencies or offices include police departments, prosecution agencies, courts and probation or parole departments; and

(3) Include documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and explain how these groups will be involved in the development and implementation of the project.

(d) *Certifications.* (1) As required by Section 2102(a) of the Omnibus Act, 42 U.S.C. 3796hh-1(a), each State, Indian tribal government or unit of local government must certify in its application that it has met the eligibility requirements set out in § 90.63 of this part.

(2) Each State, Indian tribal government or unit of local government must certify that all the information contained in the application is correct. All submissions will be treated as a material representation of fact upon which reliance will be placed, and any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

§ 90.65 Evaluation.

(a) The National Institute of Justice will conduct evaluations and studies of programs funded through this Program. The Office of Justice Programs will set aside a small portion of the overall funds authorized for the Program for this purpose. Recipients of funds must agree to cooperate with such federally-sponsored research and evaluation studies of their projects. In addition, grant recipients are required to report to the Attorney General on the effectiveness of their project(s). Section 2103, codified at 42 U.S.C. 3796hh-2.

(b) Recipients of program funds are strongly encouraged to develop a local evaluation strategy to assess the impact and effectiveness of their programs.

Applicants should consider entering into partnerships with research organizations that are submitting simultaneous grant applications to the National Institute of Justice for this purpose.

§ 90.66 Review of applications.

(a) *Review criteria.* (1) The provisions of Part U of the Omnibus Act and of the regulations in this subpart provide the basis for review and approval or disapproval of applications and amendments in whole or in part.

Priority will be given to applicants that

(i) Do not currently provide for centralized handling of cases involving domestic violence by police, probation and parole officers, prosecutors, and courts; and

(ii) Demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence. Omnibus Act § 2102(b)(1)-(2), 42 U.S.C. 3796hh-1(b)(1)-(2) (1994).

(2) Commitment may be demonstrated in a number of ways including: Clear communication from top departmental management that domestic violence prevention is a priority; strict enforcement of arrest policies; innovative approaches to officer supervision in domestic violence matters; acknowledgment of officers who consistently enforce domestic violence arrest policies and sanctions for those who do not; education and training for all officers and supervisors on enforcement of domestic violence arrest policies and the phenomenon of domestic violence; and the creation of special units to investigate and monitor spousal and partner abuse cases.

(3) Priority also will be given to applicants who provide evidence of meaningful attention to victims' safety and those who demonstrate a strong commitment to provide victims with information on the status of their cases from the time the complaint is filed through sentencing.

(b) *Intergovernmental review.* This program is covered by Executive Order 12372 (Intergovernmental Review of Federal Programs) and implementing regulations at 28 CFR part 30. A copy of the application submitted to the Office of Justice Programs should also be submitted at the same time to the State's Single Point of Contact, if there is a Single Point of Contact.

§ 90.67 Grantee reporting.

Each grantee receiving funds under this subpart shall submit a report to the Attorney General evaluating the effectiveness of projects developed with funds provided under this subpart and

containing such additional material as the Assistant Attorney General of the Office of Justice Programs may prescribe.

Dated: July 30, 1996.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 96-19758 Filed 8-5-96; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 203

RIN 1010-AC13

Royalty Relief for Producing Leases and Certain Existing Leases in Deep Water

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Extension of comment period for interim rule.

SUMMARY: This notice extends to September 30, 1996, the deadline for the submission of comments on the interim rule governing royalty relief for producing leases and certain existing leases in deep water that was published May 31, 1996.

DATES: MMS will consider all comments we receive by September 30, 1996. We will begin reviewing comments at that time and may not fully consider comments we receive after September 30, 1996.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Mail Stop 4700; 381 Elden Street; Herndon, Virginia 20170-4817; Attention: Chief, Engineering and Standards Division.

FOR FURTHER INFORMATION CONTACT: Dr. Marshall Rose, Economic Evaluation Branch, telephone (703) 787-1536.

SUPPLEMENTARY INFORMATION: The MMS has been asked to extend the deadline for respondents to submit comments to the interim regulations governing royalty relief on producing and certain existing leases in deep water that were published May 31, 1996 (61 FR 27263). The request explains that more time is needed to allow respondents time to work on certain aspects and problem areas of the interim rule and guidelines for royalty relief for existing deep water leases.