



**SUBJECT:** Domestic Violence Policy, Personal Protection Orders, Crime Victim's Rights, Sexual Assault Victims, and Sexual Assault Kits

**TO:** Department Members

This Order establishes department policy and member responsibilities for the following:

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## 50.1 DOMESTIC VIOLENCE POLICY

The information in this section constitutes the department's Domestic Violence Policy as required by [MCL 776.22](#). This section provides policy and guidance for responding to and investigating domestic violence incidents. A copy of this Order shall be made available for public viewing upon request.

### 50.1.1. INVESTIGATION PROCEDURE/ARREST POLICY FOR DOMESTIC VIOLENCE

- A. Domestic violence is criminal conduct. The crime of domestic violence may occur between spouses or former spouses; individuals who have had a child in common; individuals who reside together or formerly resided together; or individuals who have had a "dating relationship" as defined in [MCL 750.81](#). Intervening into this type of criminal behavior requires certain tactical responses and prescribed services to its victims. Intervening can be potentially dangerous to responding enforcement members. The intent of this section is to reduce the risk to enforcement members and ensure compliance with statutory requirements related to domestic violence situations.

Domestic abuse perpetrated by a juvenile shall be investigated and handled in the same manner as any other domestic violence complaint. If a juvenile is taken into custody, enforcement members shall follow local procedures as authorized by law. See Official Order No. 31 for additional information on procedures regarding juvenile offenders.

B. Enforcement Authority

- (1) Enlisted Members – [MCL 764.15](#) grants an enlisted member the authority to make an arrest without a warrant when he or she has reasonable cause to believe a misdemeanor punishable by imprisonment for more than 92 days or a felony has been committed, and reasonable cause to believe the person committed it.

[MCL 764.15a](#) grants an enlisted member the authority to arrest an individual for violating [MCL 750.81](#) (domestic violence) or [MCL 750.81a](#) (aggravated domestic violence) if the enlisted member has or receives positive information that another peace officer has reasonable cause to believe that a crime of domestic violence occurred or is occurring. This arrest authority exists regardless of whether the enlisted member has a warrant and regardless of whether the violation was committed in his or her presence.

- a. An enlisted member must comply with the requirements of [MCL 764.15c](#) and this domestic violence policy when he or she is acting within the scope of his or her authority in a domestic violence matter.

- (2) Motor Carrier Officers – As described in Official Order No. 44, [MCL 28.6d](#) grants a motor carrier officer the authority to make an arrest without a warrant when he or she has reasonable cause to believe a felony has been committed, and reasonable cause to believe the person committed it.

[MCL 28.6d](#) further grants a motor carrier officer the authority to arrest an individual without a warrant for a violation of [MCL 750.81](#) (domestic violence) or [MCL 750.81a](#) (aggravated domestic violence) that is committed against another person in the presence of the motor carrier officer.

- a. A motor carrier officer must comply with the requirements of [MCL 764.15c](#) and this domestic violence policy when he or she is acting within the scope of his or her authority in a domestic violence matter.

- (3) Security Officers – [MCL 28.6c](#) grants the Director the authority to prescribe limited arrest powers for security officers on state owned or leased property. As described in Official Order No. 18, a security officer has the authority to make an arrest without a warrant when he or she has reasonable cause to believe a felony has been committed and reasonable cause to believe the person committed it.

Official Order No. 18 further grants a security officer the authority to arrest an individual for a violation of [MCL 750.81](#) (domestic violence) or [MCL 750.81a](#) (aggravated domestic violence) that is committed against another person in the presence of the security officer.

- a. A security officer must comply with the requirements of [MCL 764.15c](#) and this domestic violence policy when he or she is acting within the scope of his or her authority in a domestic violence matter.
- C. Intervention by enforcement members in domestic violence incidents shall be done to protect victims, arrest suspects, and to preserve the peace. Because an arrest provides immediate safety to the victim and takes control away from the suspect, the department maintains a policy of preferred arrest whenever the enforcement member has reasonable cause to believe that the crime of domestic violence has occurred or is occurring.
- D. In many domestic violence incidents, a crime may have occurred prior to the arrival of the responding enforcement members. Responding enforcement members shall determine what crimes they have reasonable cause to believe were committed and who committed them.
- E. When an enforcement member has reasonable cause to believe spouses, former spouses, individuals who have had a child in common, individuals who have or have had a dating relationship, or other individuals who reside together or formerly resided together are committing or have committed crimes against each other, the enforcement member should consider the following when determining whether to make an arrest of one or both individuals pursuant to [MCL 776.22](#):
- (1) The intent of the law to protect victims of domestic violence.
  - (2) The degree of injury inflicted on the individuals involved.
  - (3) The extent to which the individuals have been put in fear of physical injury to themselves or other members of the household.
  - (4) Any history of domestic violence between the individuals, if that history can be reasonably ascertained by the enforcement member and
  - (5) Dual arrests should be avoided. Where mutual allegations of battering exist, a thorough investigation should assist enforcement members in determining who the dominant aggressor is. Since the intent of the law is to protect victims of domestic violence, every attempt should be made to identify the victim.
- F. A decision to arrest an individual should not be based solely upon the consent of the victim to any subsequent prosecution or on the relationship of the individuals involved in the incident.
- G. An enforcement member shall not arrest an individual if they have reasonable cause to believe that the individual was acting in lawful self-defense, or in lawful defense of another individual.

- H. A decision not to arrest an individual should not be based solely upon the absence of visible injuries or impairment.
- I. If there is no reasonable cause for an arrest, enforcement members shall make every attempt to stabilize the situation, suggest a temporary separation of parties, and provide assistance with transportation when appropriate. See Official Order No. 10 for additional information on transporting non-department persons.
- J. Regardless of whether an arrest is made, enforcement members shall complete the Rights and Resources for Victims of Crimes Form (UD-030) and give it to the victim.
- K. If the suspect has left the scene prior to the enforcement member's arrival, the enforcement member shall make reasonable attempts to locate and make a warrantless arrest of the suspect if authorized as outlined pursuant to [MCL 764.15](#), provided such arrest is within the enforcement member's authority as described in Section 50.1.1.B. In addition, the enforcement member shall comply with the reporting requirements of Section 50.1.1.P, pursuant to [MCL 764.15c](#).
  - (1) Enforcement members are reminded that under the Fourth Amendment, they do not have the authority to enter a residence or other constitutionally protected area to make a warrantless arrest unless they have a valid search warrant or a judicially recognized exception to the general search warrant requirement exists (e.g. lawful consent).
- L. If the suspect has left the scene prior to the enforcement member's arrival, and the enforcement member is unable to locate and make a warrantless arrest of the suspect after reasonable attempts, the enforcement member shall comply with the reporting requirements of [MCL 764.15c](#), and seek a warrant for the suspect's arrest.
- M. If the suspect has left the scene prior to the enforcement member's arrival, and a warrantless arrest is not authorized pursuant to [MCL 764.15a](#), then the enforcement member shall comply with the requirements of [MCL 764.15c](#), and seek a warrant for the suspect's arrest.
- N. Domestic Violence Reports
  - (1) If a "domestic violence incident" is reported, enforcement members shall complete an electronic incident report, as well as the Standard Domestic Relationship Incident Report (DV-001), meeting the requirements of [MCL 764.15c](#).
  - (2) [MCL 764.15c](#) defines a "domestic violence incident" as an incident reported to a law enforcement agency involving allegations of one or both of the following:
    - a. A violation of a personal protection order (PPO) issued under [MCL 600.2950](#), or a violation of a valid foreign protection order as defined in [MCL 600.2950h](#) and [600.2950i](#).
    - b. A crime committed by an individual against his or her spouse or former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual who resides or has resided in the same household.
  - (3) A copy of the electronic incident report and Standard Domestic Relationship Incident Report (DV-001) shall be filed with the prosecuting attorney within 48 hours after the domestic violence incident is reported, which shall include at least the following information:

- a. The address, date, and time of the domestic violence incident being investigated.
  - b. The victim's name, address, home and work telephone numbers, race, sex, and date of birth.
  - c. The suspect's name, address, home and work telephone numbers, race, sex, date of birth, and information describing the suspect and whether an injunction or restraining order covering the suspect exists.
  - d. The name, address, home and work telephone numbers, race, sex, and date of birth of any witness, including a child of the victim or suspect, and the relationship of the witness to the suspect or victim.
  - e. The following information about the domestic violence incident being investigated:
    - i. The name of the person that called the law enforcement agency.
    - ii. The relationship of the victim and suspect.
    - iii. Whether alcohol or controlled substance use was involved in the incident, and by whom it was used.
    - iv. A narrative describing the incident and the circumstances that led to it.
    - v. Whether and how many times the suspect physically assaulted the victim, and a description of any weapon or object used.
    - vi. A description of all injuries sustained by the victim and an explanation of how the injuries were sustained.
    - vii. If the victim sought medical attention, information concerning where and how the victim was transported, whether the victim was admitted to a hospital or clinic for treatment, and the name and telephone number of the attending physician.
    - viii. A description of any property damage reported by the victim or evident at the scene.
    - ix. A description of any previous domestic violence incidents between the victim and the suspect.
    - x. The date and time of the report and the name, badge number, and signature of the enforcement member completing the report.
  - f. In addition to the above information, the enforcement member shall document the reasonable cause for an arrest and the current disposition of the suspect in the incident report. If no arrest was made, the enforcement member shall document the reasons for not making an arrest in the incident report (e.g., suspect had left the scene).
  - g. If a dual arrest is made, the body of the report shall contain the reasonable cause for each arrest.
- (4) When an arrest is made for domestic violence, the arresting enforcement member shall act as the complainant and shall swear to the complaint and warrant as necessary

since the presence of the suspect may intimidate the victim, children, and any other witness who may be present.

- (5) If a dual arrest is made, the incident shall be reviewed by the shift supervisor to ensure the intent of the law is followed.

O. Release of Domestic Violence Incident Report

- (1) Victims of domestic violence may obtain a copy of the electronic incident report and Standard Domestic Relationship Incident Report (DV-001), for his or her case by contacting the law enforcement agency that took the original report.
- (2) Release of the electronic incident report and Standard Domestic Relationship Incident Report (DV-001), at the local work unit is prohibited.
- (3) The victim's request shall be forwarded by the post to the Records Resource Section (RRS) for processing according to Official Order No. 20.

P. Other Related Issues and Mandatory Reporting Requirements

- (1) If an enforcement member has reasonable cause to suspect "child abuse" or "child neglect" as those terms are defined in [MCL 722.622](#), the enforcement member shall immediately make an oral report of the incident, or cause an oral report of the incident to be made to the Department of Health and Human Services (DHHS) as required by [MCL 722.623](#). Within 72 hours after making the oral report, the enforcement member shall file a written report with DHHS. See Official Order No. 31 for additional information on procedures regarding abused or neglected children.
- (2) If an enforcement member suspects or has reasonable cause to believe that an adult has been subjected to "abuse," "neglect," or "exploitation" as those terms are defined in [MCL 400.11](#), the enforcement member shall immediately make an oral report of the incident to the DHHS as required by [MCL 400.11a](#). After making the oral report, the enforcement member may file a written report with the DHHS.

Q. Personal Protection Orders

The procedures for verifying a PPO, making an arrest for a violation of a PPO and for enforcing a valid Foreign PPO are set forth in Section 50.2.1.D of this Order.

R. Interim Bond

Pursuant to [MCL 780.582a](#), the person arrested shall be denied release on interim bond and shall be held until brought before a judge or district court magistrate for arraignment.

S. Victim Assistance

- (1) Enforcement members shall provide or make arrangements for emergency assistance for victims of domestic violence including, but not limited to:
  - a. Medical care.
  - b. Transportation to a shelter.

- c. Remaining at the scene of an alleged incident of domestic violence for a reasonable time until, in the reasonable judgment of the enforcement member, the likelihood of further imminent violence has been eliminated.
  - d. Reasonable transportation of the victim and children who indicate a desire to leave the scene. Reasonable arrangements for transportation may include:
    - i. Contacting other family or friends to pick up the individuals requiring transportation.
    - ii. Contacting a taxicab service.
    - iii. As a last resort, enforcement members shall provide transportation to assist individuals in leaving the scene when appropriate. Refer to Official Order No. 10 for policy regarding transporting non-department persons.
- (2) In all cases, the enforcement member shall advise the victim of the availability of local domestic violence shelter programs or other resources in the community as described in [MCL 764.15c](#). The Rights and Resources for Victims of Crimes Form (UD-030), shall be given to the victim in accordance with Section 50.3.1.A.
- (3) Enforcement members shall fully provide the victim with an explanation of the legal procedures required for criminal prosecution.

#### T. Training

The Training Division shall provide job-related training to members, coordinate training programs, and assist in maintaining records of job-related training pursuant to Official Order No. 78.

#### U. Discipline for Non-Compliance with the Policy

The disciplinary procedures for non-compliance with this policy may be found in the disciplinary procedures set forth in Official Order No. 1, Article 5.

#### V. Annual Evaluation of the Policy

This policy shall be subject to an annual review as set forth in Official Order No. 2.

#### W. Post Commander Responsibilities

Where department personnel are dispatched through a centralized dispatch operation, the post commander, or his or her designee, shall make every effort to incorporate the provisions of this policy into the operating procedures of the dispatching entity.

### **50.2. PERSONAL PROTECTION ORDERS (PPOs)**

The information in this section constitutes the department's policy and guidance for the service and enforcement of Personal Protection Orders (PPOs).

#### 50.2.1 Personal Protection Orders (PPOs)

##### A. Types of PPOs

- (1) Domestic PPOs – An individual may petition the family division of the circuit court to enter a PPO to restrain or enjoin a spouse, a former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual residing or having resided in the same household as the petitioner, from doing one or more of the acts described in [MCL 600.2950](#).
- (2) Non-Domestic PPOs - An individual may petition the family division of the circuit court to enter a PPO to restrain or enjoin an individual from engaging in stalking or other prohibited conduct provided the petition alleges facts that constitute such stalking or prohibited conduct. If granted, a non-domestic PPO would restrain or enjoin an individual from doing one or more of the acts described in [MCL 600.2950a](#).

#### B. Post Responsibilities

- (1) Whether received from the petitioner or the circuit court, the first true copy of a PPO received shall be entered into the Law Enforcement Information Network (LEIN) immediately by persons authorized to make LEIN entries, including both enlisted and civilian post members. Post members shall not wait until they receive the court copy if they already possess a true copy from the petitioner. The law enforcement agency that receives a true copy of the PPO shall immediately enter it into LEIN without requiring proof of service.
- (2) Once actual notification of the restrained or enjoined individual has occurred, the entering law enforcement agency shall indicate that notification has been made on the LEIN entry.

Untimely delays entering the PPO into the LEIN system, and failure to make timely modifications, thereafter, may result in department liability. Therefore, post members shall enter PPOs immediately upon receipt.

#### C. Service of PPOs

- (1) Enforcement members may at any time serve a PPO in person or by registered or certified mail, return receipt requested, or delivery restricted to the addressee at the last known address of the individual restrained or enjoined.
- (2) Enforcement members may also give oral notification of the existence of the PPO to an individual who has not been served at any time, including during a traffic stop.
- (3) Enforcement members responding to a call alleging a violation of the PPO where the individual restrained or enjoined has not been served shall either serve the individual with a true copy of the PPO or give oral notification of the existence of the PPO.
- (4) Oral notification must include the following information:
  - a. The existence of the PPO.
  - b. The specific conduct prohibited by the PPO.
  - c. The penalties for violating the PPO (93 days and/or a \$500.00 fine in Michigan, or the specific penalties identified from other jurisdictions).
  - d. Where the individual can obtain a copy of the PPO.

- (5) An enforcement member who serves or orally notifies an individual of a PPO shall advise the issuing court by way of a LEIN message of the service or oral notification.
- (6) A report regarding the service or oral notification of a PPO is not required unless there is an allegation of a PPO violation or requested by the division, district, or post commander. Should a commander request a report, the file class of 9900-9, General Non-Criminal, shall be used.
- (7) The enforcement member shall complete the Proof of Service on the backside of the PPO or complete the Proof of Service/Oral Notice Regarding Personal Protection Order form (CC-386), upon service or oral notification to a respondent.
- (8) The enforcement member providing the service or oral notification shall file, or cause to be filed, a Proof of Service or Proof of Oral Notice with the clerk of the court issuing the PPO.

D. Enforcement of PPOs

- (1) A PPO is civil in nature; however, a violation of a PPO may result in the imprisonment of the individual restrained or enjoined for up to 93 days and a fine of up to \$500.00.
- (2) A PPO is effective immediately after a judge signs it, even without written or oral notice to the individual against whom the PPO has been issued. However, an enforcement member shall not act on a PPO presented to him or her without first verifying it through LEIN and the entering agency. Doing so will allow the enforcement member to determine what type of order has been presented, PPO or Civil Injunction, and the type of notification required prior to enforcement. Further, it will allow the enforcement member to ensure that the order has not been rescinded or modified by the court.
- (3) If an enforcement member arrives at the scene of a domestic disturbance and the individual restrained or enjoined has been notified of the PPO prior to the enforcement member's arrival, and the individual is currently violating or has violated the PPO, the enforcement member shall verify that the PPO is still valid as noted above in Section 50.2.1.D.(2). If the PPO is valid and LEIN verifies that the individual has received notice of the PPO, the enforcement member shall immediately arrest the restrained/enjoined individual.
- (4) If an enforcement member arrives at the scene of a domestic disturbance and the individual restrained or enjoined has not been notified of the PPO, the enforcement member shall serve or give oral notification of the PPO to the individual at the scene and shall enter or cause to be entered into LEIN that actual notice of the PPO has been given. If the individual has not received prior notice, he or she will be given an opportunity to comply with the PPO before the enforcement member makes a custodial arrest. If the individual fails to immediately comply with the PPO, the enforcement member has grounds for an immediate custodial arrest of the restrained/enjoined individual.
- (5) Serving notice of a PPO is not a requirement prior to an immediate custodial arrest for other violations of the criminal law such as assault, stalking, or home invasion.
- (6) An arrest for a violation of a PPO shall be carried out like an arrest for all other injunctive orders.

- a. An enforcement member who makes an arrest for a violation of a PPO shall carry a misdemeanor arrest. The arrest charge is Violation of PPO - Criminal Contempt of Court.
  - b. An enforcement member shall carry a fugitive arrest when making an arrest on a warrant for a violation of a PPO for which another post or law enforcement agency has obtained the warrant.
- (7) Valid protection orders issued by a court of another state, an American Indian tribe, or a U.S. Territory that prevent a person's violent or threatening acts against, harassment of, contact with, communication with, or physical proximity to another person shall be accorded full faith and credit by Michigan courts.  
[MCL 600.2950h through 600.2950k.](#)
- a. [MCL 764.15](#) permits an enforcement member to make a warrantless arrest on reasonable cause to believe an individual has violated a condition of a conditional release order or probation order imposed by a court in Michigan, in another state, an Indian tribe, or a U.S. Territory.
  - b. [MCL 764.15b](#) authorizes an enforcement member to make a warrantless arrest on reasonable cause to believe an individual has violated a valid protection order issued in another jurisdiction.
  - c. Enforcement members shall enforce foreign protection orders, conditional release, or probation orders in the same manner they would enforce a Michigan PPO, conditional release, or probation order. See [MCL 600.2950l and 600.2950m.](#)
- (8) Enforcement members who arrest an individual for a violation of a PPO or an order of protection from another jurisdiction shall fingerprint the suspect at the time of arrest.
- E. Procedures for Processing PPOs
- (1) When a circuit court judge signs the PPO, a true copy is forwarded to the law enforcement agency designated by the court. Once received by this department, PPOs shall be stamped with the time and date.
  - (2) Enforcement or civilian members of a post shall immediately enter the PPO into LEIN. If notice of the PPO has not been made to the restrained or enjoined individual, an "N" shall be entered on scan line 69. If service has been made, a "Y" shall be entered.
    - a. Proof of service shall be made by the circuit court that issued the PPO or by the law enforcement agency having contact with the restrained or enjoined individual.
    - b. When proof of service is received subsequent to the original LEIN entry, the entering post member shall immediately modify the LEIN entry with a "Y" on scan line 69.
    - c. When a PPO is rescinded, modified, or extended by court order subsequent to the original LEIN entry, the entering post member shall immediately modify the LEIN entry as indicated by the court order.
    - d. PPOs shall be entered even if information regarding the date of birth or physical description of the restrained/enjoined individual is incomplete. There is no

statutory requirement for this information. LEIN will accept an approximate age on scan line 7.

- (3) Once entered into LEIN, post members shall attach the LEIN entry printout to the PPO and place them in an envelope with the restrained or enjoined individual's name and date of birth, or approximate age, clearly written on the envelope. The envelope shall be filed alphabetically in a PPO file.
- (4) All activity concerning an active PPO, such as previous arrests or prohibited contacts, shall be recorded to enable post members to provide accurate information to all agencies as they call for information and/or confirmations. Journal entries shall be initialed and dated by the person making the journal entry.
- (5) If an arrest is made for a violation of the PPO, post members shall fax a copy of the PPO to the arresting law enforcement agency for circuit court arraignment because the arresting agency is responsible for arraignment.
- (6) When a PPO is canceled per court order or by an automatic purge through the LEIN system, post members shall make a copy of the LEIN cancellation, the LEIN entry, and the PPO. Copies shall be distributed as follows:
  - a. The original true copy of the PPO, a copy of the LEIN cancellation, a copy of the LEIN entry shall be returned to the circuit court.
  - b. A photocopy of the PPO, the original LEIN cancellation, the original LEIN entry, and the envelope containing the PPO, shall be placed in the PPO file.
- (7) The PPO cover envelope shall not be discarded after the PPO is canceled. It shall be filed in the PPO file for documentation purposes and future reference.
- (8) Canceled PPOs shall be retained at the post with the LEIN cancellation message until the first annual report that reflects the LEIN message has been canceled.

### **50.3 MICHIGAN CRIME VICTIM'S RIGHTS ACT**

The information in this section constitutes the department's policy regarding its responsibilities to victims of crimes pursuant to the William Van Regenmorter Crime Victim's Rights Act (CVRA), [MCL 780.751 et seq.](#), and the Michigan Constitution, [Const 1963, art I, § 24.](#)

Enforcement members shall familiarize themselves with these statutory and Constitutional provisions.

It is the policy of the department to treat every victim of a crime or other personal tragedy with as much dignity, sensitivity, and compassion as is professionally possible. Enforcement members shall be alert to the personal trauma being experienced by the victims of a crime or other personal tragedy. Frequently associated with personal trauma are the emotions of anguish, grief, confusion, and frustration. Enforcement members shall be vigilant for the presence of these emotions and shall be prepared to deliver that extra measure of patience, sensitivity, understanding, and assistance as may be necessary and appropriate.

#### **50.3.1. REQUIRED LAW ENFORCEMENT DUTIES**

- A. Initial Contact – Distribution of the UD-030: The Rights and Resources for Victims of Crimes Form (UD-030), shall be utilized by enforcement members following the initial contact with the victim of a reported crime, juvenile offense or serious misdemeanor as required under [MCL 780.753](#), [MCL 780.782](#), [MCL 780.813](#).

- (1) The UD-030 should be given to a crime victim by the investigating enforcement member during the initial contact but shall be given to the victim no later than 24 hours after the initial contact.
  - (2) When the victim is a corporation, sole proprietorship, partnership, or other business, the UD-030 should be given by the investigating enforcement member to the owner, manager, or designated person in charge during the initial contact, but shall be given to the victim no later than 24 hours after the initial contact.
  - (3) The form may be mailed to the reporting victim, but it shall be placed in the mail within 24 hours from the time of the initial contact.
  - (4) Members of this department shall encourage a victim to call whenever a question or concern arises.
- B. Arrestment for a Crime: Not later than 24 hours after the arraignment of the defendant for a crime, the victim shall be given all of the information required by [MCL 780.755](#).
- C. Arrest for Serious Misdemeanor: Not later than 72 hours after the arrest of the defendant for a serious misdemeanor, the victim shall be given all of the information required by [MCL 780.815](#).
- D. Preliminary Hearing for a Juvenile: If the juvenile has been placed in a juvenile facility, the victim shall promptly be given all of the information required by [MCL 780.785](#).
- E. Section 50.3.1.A would generally be handled by the investigating enforcement member. Sections 50.3.1.B, 50.3.1.C and 50.3.1.D, however, may be handled by other members and/or through appropriate procedures designated by the work site commander.
- F. Return of Victim's Property: The property belonging to the victim of a crime, juvenile offense, or serious misdemeanor may be returned as provided in [MCL 780.754](#), [MCL 780.783](#), and [MCL 780.814](#).

#### 50.3.2. VICTIMS OF DOMESTIC VIOLENCE

As required by [MCL 764.15c](#), victims of domestic violence shall also be provided with the written "Information for Victims of Domestic Violence" contained on the UD-030.

#### 50.3.3. VICTIMS OF SEXUAL ASSAULT

As required by [MCL 752.953](#), victims of sexual assault shall also be provided with written "Information for Victims of Sexual Assault" contained on the UD-030.

#### 50.3.4. INVESTIGATIVE REPORT REQUIREMENTS

- A. A paragraph heading, Advice of Victim's Rights, shall be included in the body of the investigative report for those crimes, juvenile offenses, and serious misdemeanors identified in the CVRA.
- B. The narrative contained under this paragraph heading should document the action taken according to this Order, such as to whom and when the UD-030 was given.

#### 50.3.5. RELEASE OF VICTIM INFORMATION

- A. The Michigan Constitution, [Const 1963, art I, § 24](#), guarantees crime victims the right to be treated with respect for their dignity and privacy.

- B. Specific identifying information and visual representations of a victim are exempt from disclosure under the Freedom of Information Act, [MCL 15.231 et seq](#) pursuant to [MCL 780.758](#), [MCL 780.788](#), and [MCL 780.818](#).
- C. Requests for release of reports and records shall be handled according to Section 20.3 of Official Order No. 20.
- D. Requests for the Traffic Crash Report (UD-010), for those crimes, juvenile offenses, or serious misdemeanors identified in the CVRA shall be handled according to Official Order No. 52.

#### **50.4 SEXUAL ASSAULT VICTIM'S ACCESS TO JUSTICE ACT**

The information in this section constitutes the department's policy regarding its responsibilities to victims of sexual assault pursuant to the [Sexual Assault Victim's Access to Justice Act](#) (SAVAJA), MCL 752.951 through MCL 752.957. Enforcement members shall familiarize themselves with these statutory provisions.

##### **50.4.1. REQUIRED LAW ENFORCEMENT DUTIES**

- A. Initial Contact – Distribution of the UD-030: The Rights and Resources for Victims of Crimes Form (UD-030) shall be utilized by enforcement members following the initial contact with a sexual assault victim as required under MCL 752.953.
  - (1) The UD-030 should be given to a sexual assault victim by the investigating enforcement member during the initial contact but shall be given to the victim no later than 24 hours after the initial contact.
  - (2) The UD-030 may be mailed to the sexual assault victim, but it shall be placed in the mail within 24 hours from the time of the initial contact.
  - (3) Members of this department shall encourage a victim to call whenever a question or concern arises.
- B. Work site commanders are responsible for finalizing a UD-030 for their enforcement members by identifying local resources available to sexual assault victims and including that information on the UD-030 with the required law enforcement and prosecuting attorney contact information.
- C. Work site commanders are responsible for providing copies of the completed UD-030 to their enforcement members.

##### **50.4.2. SEXUAL ASSAULT VICTIM'S REQUEST FOR INFORMATION**

- A. Upon request by a sexual assault victim, the investigating enforcement member shall provide general case information detailed in [MCL 752.955](#) if available, and if the disclosure does not impede or compromise an ongoing investigation.
- B. Upon request by a sexual assault victim, the investigating enforcement member shall provide information about forensic testing results detailed in [MCL 752.956](#) if available, and if the disclosure does not impede or compromise an ongoing investigation.
  - (1) If a sexual assault victim is provided with information about forensic testing results, the investigating enforcement member shall also provide the sexual assault victim with a copy of the Informational Handout on Possible Forensic Testing Results, which was created by the Michigan Domestic and Sexual Violence Prevention and Treatment

Board to explain the meaning of possible DNA testing results as required by [MCL 752.956](#).

- C. If a sexual assault victim has requested information as provided in Section 50.4.2.A and Section 50.4.2.B, [MCL 752.954](#) requires the investigating enforcement member to respond by telephone, in writing, by mail, or by email, as specified by the victim.
- (1) If the sexual assault victim does not specify a preferred method of communication, the law enforcement agency may respond using any of the listed methods.
  - (2) A sexual assault victim may designate an alternate person to receive the requested information and the law enforcement agency must direct any requested information to the designated person.
  - (3) To receive information under this section, the sexual assault victim shall provide the investigating enforcement member with the name, address, telephone number, and email address of the person to whom the information should be provided.
  - (4) The investigating enforcement member may require the initial request for information by a sexual assault victim to be in writing. If a sexual assault victim has submitted a written request for information, subsequent requests for updated information are not required to be in writing.
  - (5) All requests for information concerning a sexual assault investigation shall be documented in the enforcement member's electronic incident report.

## **50.5 SEXUAL ASSAULT KIT EVIDENCE SUBMISSION ACT**

The information in this section constitutes the department's policy regarding its responsibilities pursuant to the [Sexual Assault Kit Evidence Submission Act](#) (SAKESA), [MCL 752.931](#) through [MCL 752.935](#). Enforcement members shall familiarize themselves with these statutory provisions.

### **50.5.1. RELEASE OF SEXUAL ASSAULT KIT EVIDENCE**

- A. The requirements for the release and storage of sexual assault kit (SAK) evidence by a health care facility are found in [MCL 752.933](#).
- B. If the department receives notice from a health care facility that SAK evidence has been released to the department and the department was already the law enforcement agency with the primary responsibility for investigating the alleged sexual assault, then the investigating enforcement member shall take possession of the SAK evidence from the health care facility within 14 days after receiving notice of release as required in [MCL 752.934](#) and comply with duties described in Section 50.5.2 as the investigating law enforcement agency.
- C. If the department receives notice from a health care facility that SAK evidence has been released to the department and the department was not already the law enforcement agency with the primary responsibility for investigating the alleged sexual assault, then prior to taking possession of the SAK evidence, the enforcement member receiving the notice shall take immediate steps to determine if there is a local law enforcement agency with the primary responsibility for investigating the alleged sexual assault or there is a local law enforcement agency with jurisdiction in that portion of the local unit of government where the facility is located.

- (1) If there is a local law enforcement agency with the primary responsibility for investigating the alleged sexual assault or there is a local law enforcement agency with jurisdiction in that portion of the local unit of government where the facility is located, reasonable steps should be taken to immediately communicate that fact to the facility and/or the local law enforcement agency to ensure that SAK evidence is released to the appropriate local law enforcement agency within the required time periods.
- D. If the SAK evidence is not released directly to a local law enforcement agency with jurisdiction or the department is known to be the investigating law enforcement agency, the department shall take possession of the SAK evidence from the health care facility within 14 days after receiving notice of release as required in [MCL 752.934](#) and comply with duties described in Section 50.5.2 as the investigating law enforcement agency.
  - E. Work site commanders or their designees shall identify the health care facilities in their work site area where authorized sexual assault medical forensic exams are most likely to be performed and identify the local law enforcement agencies, if any, with jurisdiction in that portion of the local unit of government where the facility is located.

#### 50.5.2. DUTIES AFTER TAKING POSSESSION OF SAK EVIDENCE

- A. When the department is required under the SAKESA to take possession of SAK evidence, the work site commander, or his or her designee, shall assign an enforcement member to take possession of the SAK evidence from the health care facility within 14 days after receiving notice of release as required by [MCL 752.934](#).
- B. [MCL 752.934\(2\)](#) requires the department to notify another law enforcement agency within 14 days after taking possession of SAK evidence from a health care facility if it determines that the alleged sexual assault occurred within the jurisdiction of the other law enforcement agency *and* it does not otherwise have jurisdiction over that assault. If notified, [MCL 752.934\(3\)](#) requires the other law enforcement agency to take possession of the SAK evidence within 14 days after receiving such notice.
- C. Except when another law enforcement agency is notified under Section 50.5.2.B, the work site commander or his or her designee shall assign an enforcement member to do the following within 14 days after taking possession of SAK evidence as described in Section 50.5.2.A:
  - (1) Assign a criminal complaint number to the SAK evidence.
  - (2) Submit the SAK evidence with the assigned criminal complaint number to the Michigan State Police (MSP) Forensic Science Division for analysis.

#### 50.5.3. DESTRUCTION OR DISPOSAL OF SAK EVIDENCE

- A. [MCL 752.935](#) requires that if the department intends to destroy or otherwise dispose of any SAK evidence in a sexual assault offense case before the expiration of the applicable statute of limitation under [MCL 767.24](#), and its destruction does not otherwise conflict with the requirements of [MCL 770.16](#), the enforcement member with the primary responsibility for investigating the case shall notify the victim of that intention in writing at least 60 days before the evidence is destroyed or otherwise disposed of.
- B. The department work site with the primary responsibility for investigating the case shall obtain the consent of the appropriate prosecuting official prior to the disposal or destruction of any SAK evidence pursuant to [MCL 752.935](#) or this section.

**50.6 REVISION RESPONSIBILITY**

Responsibility for continuous revision and review of this Order lies with the Field Operations Bureau, in cooperation with Executive Operations.

DIRECTOR