



Approved On: Nov. 19, 2013

## DOJ POLICY STATEMENT

### FEDERAL WORKPLACE RESPONSES TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING

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- PURPOSE:** This Policy Statement aims to: (a) enhance workplace awareness and capacity to create a safe work environment for employees and contractors who are victims of domestic violence, sexual assault, and stalking, and their co-workers; (b) develop policies and procedures to assist victims and to support co-workers who may be victims of vicarious domestic violence, sexual assault, and stalking; and (c) increase awareness of policies, including disciplinary action, to address the conduct of workers who commit domestic violence, sexual assault, and stalking.
- SCOPE:** This Policy Statement applies to Department of Justice (DOJ) employees, including full-time, part-time, temporary, and probationary employees, as well as interns, detailees, fellows, and volunteers in federal workplaces, as defined below. The Policy Statement applies to contractors where they are explicitly included or when they are defined as victims.
- ORIGINATOR:** Human Resources (HR) Staff, Justice Management Division (JMD)
- CATEGORY:** (I) Administrative, (II) Human Resources
- AUTHORITY:** *Establishing Policies for Addressing Domestic Violence in the Federal Workforce*, Presidential Memorandum (April 18, 2012); *Guidance for Agency Specific Domestic Violence, Sexual Assault, and Stalking Policies*, U.S. Office of Personnel Management (Feb. 2013).
- CANCELLATION:** None

**DISTRIBUTION:** This Policy Statement is distributed electronically to all Department components as well as posted to the DOJ Directives electronic repository (SharePoint).

**APPROVED BY:**   
*James M. Cole*  
Deputy Attorney General

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## **ACTION LOG**

All DOJ directives are reviewed, at minimum, every five years and revisions are made as necessary. The action log records dates of approval, recertification, and cancellation, as well as major and minor revisions to this directive. A brief summary of all revisions will be noted. In the event this directive is cancelled, superseded, or supersedes another directive, that will also be noted in the action log.

| <b>Action</b>             | <b>Authorized by</b>                         | <b>Date</b> | <b>Summary</b>   |
|---------------------------|--|-------------|--|
| Initial Document Approval | James M. Cole,<br>Deputy Attorney<br>General | 11/19/2013  | Initial Approval of DOJ Policy Statement on Federal Workplace Responses to Domestic Violence, Sexual Assault, and Stalking |

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## GLOSSARY OF TERMS

### DEFINITIONS

| Term  | Definition  |
|---|---|
| <b>Contracting Officer</b>                  | An employee with authority to act on behalf of the federal government to enter into, administer, or terminate contracts with vendors.   |
| <b>Contracting Officer's Representative</b> | An employee designated and authorized in writing by a contracting officer to perform specific technical or administrative functions.  |
| <b>Contractor</b>                           | An employee of a private business or organization, that has a federal contract or subcontract supporting DOJ, or an individual with such a contract, and who is assigned to work in a DOJ workplace.  |
| <b>Disclosure</b>                           | A disclosure is access to or exposure of information provided by or about a victim related to incidents or concerns of domestic violence, sexual assault, or stalking, relating to the victim.  |
| <b>Domestic Violence</b>                    | Domestic violence is a pattern of coercive behavior, including acts or threatened acts, that are used by a perpetrator to gain power and control over a current or former spouse, current or former intimate partner, or person with whom the perpetrator shares a child in common. This behavior includes, but is not limited to, physical or sexual violence, emotional and/or psychological intimidation, verbal abuse, stalking, economic control, harassment, threats, physical intimidation, or injury. Domestic violence can occur in any relationship, regardless of socio-economic status, education level, cultural background, age, gender, race, ethnicity, sexual orientation, gender identity, or religion. Domestic violence can occur in heterosexual and same-sex intimate relationships, including marital, cohabiting, or dating relationships that are not dependent on the existence of a sexual relationship. |
| <b>Employee</b>                             | An employee is any person employed by the Department of Justice, including its component bureaus, offices, boards, and divisions. For purposes of this Policy Statement, the term employee includes interns, detailees, fellows, and volunteers working at the Department, but does not include contractors.  |
| <b>Employer</b>                             | For the purposes of this Policy Statement, employer is the Department of Justice, including its component bureaus, offices, boards, and divisions.  |
| <b>Federal Workplace</b>                    | An employee is considered to be in the federal workplace while in, or using the resources of, federal offices, facilities, employer-approved telework or other work sites, equipment, or vehicles, or anywhere that   |

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|--|---|
|  | <p>an employee is conducting business on behalf of the Department, or while on work-related travel. The availability and character of a Department response to a workplace-related incident may be dependent upon the location at issue.</p>  |
| <b>Perpetrator</b>                     | <p>A perpetrator is an individual who commits or threatens to commit an act of domestic violence, sexual assault, and/or stalking.</p>  |
| <b>Protection or Restraining Order</b> | <p>A protection order, also called a restraining order or stay-away order, is an order issued by a court to protect a victim from a perpetrator. Such orders may also establish child custody and visitation guidelines and provide for forms of economic security, like rent or mortgage payments, which last for the duration of the order. Protection orders may issue in criminal cases as a condition of probation or condition of release, particularly in a domestic violence, sexual assault, or stalking related crime.</p>  |
| <b>Sexual Assault</b>                  | <p>Sexual assault refers to a range of behaviors, including but not limited to, a completed nonconsensual sex act (e.g., rape), an attempted nonconsensual sex act, and/or abusive sexual contact (i.e., unwanted touching). Sexual assault includes any sexual act or behavior that is perpetrated when someone does not or cannot consent. Lack of consent may be inferred when a perpetrator uses force, harassment, threat of force, threat of adverse personnel or disciplinary action, or other coercion, or when the victim is asleep, incapacitated, unconscious, or physically or legally incapable of consent. Managers should consult appropriate counsel if they have questions regarding a particular situation in which consent is an issue.</p>  |
| <b>Sexual Harassment</b>               | <p>Sexual harassment refers to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment and is generally prohibited under <a href="#">Title VII of the Civil Rights Act of 1964</a>. Sexual assault is a form of sexual harassment prohibited by Title VII, but most sexual harassment does not rise to the level of sexual assault. This Policy Statement only addresses sexual assault. For sexual harassment that does not rise to the level of sexual assault, components should follow the Department of Justice Sexual Harassment Policy (<a href="http://www.justice.gov/jmd/eeos/sexual-harassment.html">http://www.justice.gov/jmd/eeos/sexual-harassment.html</a>) and guidance from the EEOC (<a href="http://www.eeoc.gov/laws/types/sexual_harassment.cfm">http://www.eeoc.gov/laws/types/sexual_harassment.cfm</a>).</p> |

|                                    |   |
|------------------------------------|---|
| <b>Stalking</b>                    | Stalking refers to harassing, unwanted or threatening conduct that causes a victim to reasonably fear for his or her safety or the safety of a family member. Stalking conduct can include, but is not limited to: following or spying on a person; appearing uninvited and unwanted at a person's home or work; waiting at places in order to make unwanted contact with a person or to monitor a person; leaving undesired items (e.g., presents or flowers) for a person; and posting information or spreading rumors about a person on the Internet, in a public place, or by word of mouth. It also includes "cyberstalking": following a person's Internet activity with malicious intent, hacking into someone's email, making anonymous contact with someone over the Internet or by email, or otherwise using technology to make unwanted contact. Stalking may occur through use of technology including, but not limited to, e-mail, voice-mail, text messaging, and use of GPS and social networking sites. |
| <b>Workplace-related Incidents</b> | Workplace-related incidents of domestic violence, sexual violence, and stalking include acts, attempted acts, or threatened acts by or against employees or contractors, and/or against victims' families or property, that occur in the federal workplace or that occur outside the workplace but have an impact on the workplace, including making the victim feel unsafe in the workplace.   |
| <b>Workplace Safety Plan</b>       | A workplace safety plan is a strategy developed in collaboration with a victim to implement workplace safety options, including but not limited to: handling of court protection orders, procedures for alerting security personnel, temporary or permanent adjustments to work schedules and locations, change in parking spots, and requests for escorts around workplace facilities.   |
| <b>Victim</b>                      | For purposes of this Policy Statement, the term victim means an employee or contractor who has experienced, or discloses information related to, incidents or concerns related to domestic violence, sexual assault, or stalking for himself or herself. A victim may know the perpetrator, such as a co-worker or supervisor, and/or may be involved in a dating or marital relationship with perpetrator, or the perpetrator may be unknown to the victim.  |

## ACRONYMS

| <b>Acronym</b> | <b>Meaning</b>                          |
|----------------|---|
| <b>C.F.R.</b>  | Code of Federal Regulations             |
| <b>DOJ</b>     | Department of Justice                   |
| <b>EAP</b>     | Employee Assistance Program             |
| <b>EEO</b>     | Equal Employment Opportunity            |
| <b>EEOC</b>    | Equal Employment Opportunity Commission |
| <b>FPS</b>     | Federal Protective Service              |
| <b>NSI</b>     | National Security Information           |
| <b>SPM</b>     | Security Programs Manager               |
| <b>JMD</b>     | Justice Management Division             |
| <b>OVW</b>     | Office on Violence Against Women        |



## I. Policy

- A. Statement of Purpose.** Domestic violence, sexual assault, and stalking are serious problems that can affect individuals, families, and communities. The impact of such incidents of violence can spill over to the workplace. As the nation's largest employer, the federal government seeks to be a model in its response to such violence and its effects. The Department of Justice aspires to promote a safe and healthy work environment, and to improve workplace responses to domestic violence, sexual assault, and stalking experienced by its workforce. The Department recognizes that incidents of these forms of violence include those that occur at work, as well as those that occur outside of work but still impact the workplace (e.g., through decreased productivity and increased risk for violence). Existing Department policy does not tolerate violence, threats, harassment, intimidation, or other disruptive behavior in the workplace. The Department seeks to increase awareness among employees, supervisors, and contractors of the options available to assist victims so that victims can take advantage of the options best-suited to their needs. Above all, each victim presents unique circumstances that should be addressed with utmost respect and sensitivity by Department personnel. This Policy Statement identifies existing policies and resources available within the Department to address domestic violence, sexual assault, and stalking. The attached Appendix provides further guidance.
- B. Responding to Employees and Enhancing Workplace Safety.** The Department's policy is to offer appropriate and timely support to employees to address violence in the workplace. Workplace support, as elaborated in further detail below, will be available to employees who are victims of domestic violence, sexual assault, and stalking in order to minimize the impact of violence on the victim and others in the workplace and to facilitate victim and workplace safety. The Department is committed to making these supportive resources available to employees who disclose incidents of domestic violence, sexual assault, and stalking through supervisors, designated persons in human resources divisions, or other persons designated by the agency, and the Department's Employee Assistance Program (EAP).
- C. Protection and Restraining Orders.** If a victim chooses to disclose the existence of a protection or restraining order to Department management, to the extent practicable, the Department's policy is to assist the victim to enforce his or her order within the workplace. **Such assistance does not create an actionable duty or indicate acceptance by the Department of the jurisdiction of the court issuing the order.** It may be necessary to consult with component human resources staff and/or the component's legal counsel regarding this assistance.
- D. Addressing Employee Work Performance and Conduct.** Once a supervisor becomes aware that an employee suffers from declining performance or conduct issues that may be the result of domestic violence, sexual assault, or stalking (e.g., an

employee may be charged with AWOL for absences arising from domestic violence, sexual assault, or stalking), the impact of domestic violence, sexual assault, and stalking should be taken into consideration as a mitigating factor in determining any appropriate discipline in misconduct cases involving a victim. Components should work to make sure that workplace policies do not re-victimize victims to the extent possible, while maintaining appropriate workplace standards.

- E. Non-Discrimination and Non-Retaliation.** As per the Department's EEO Policy, no applicant or employee will be denied equal employment opportunity because of race, color, religion, national origin, sex, gender identity, age, disability (physical or mental), genetic information, status as a parent, sexual orientation, marital status, political affiliation, or any other non-merit factor. In addition, the Department will maintain policies to allow all employees to work in an environment that is free from discrimination and harassment and in which employees may exercise their rights without fear of reprisal. Depending on the particular circumstances, Federal and Departmental EEO policy may apply to incidents or reports of domestic or dating violence, sexual assault, or stalking that occur in the workplace. However, whether discrimination has actually occurred in a particular instance must be determined through an investigation of the facts alleged.

The Department's EEO policy is located at <http://www.justice.gov/jmd/eeos/policy.htm>. For information about how the equal employment opportunity laws may apply to a situation of domestic violence, please see the Equal Employment Opportunity Commission's publication

["Questions and Answers: The Application of Title VII and the ADA to Applicants or Employees who Experience Domestic or Dating Violence, Sexual Assault, or Stalking."](#)

- F. Victim Autonomy, Confidentiality, and Recordkeeping.** The Department recognizes its Privacy Act obligation not to disclose information about individuals contained in systems of records absent written consent of the individual or a disclosure made pursuant to a statutory exception. The Department also recognizes the importance of victim autonomy and confidentiality. The confidentiality of employee or third-party information and records related to domestic violence, sexual assault, and stalking is critical. The Department's policy is to only maintain written records if required to do so, and it will make every effort to protect written information. Department employees shall keep information regarding victims of domestic violence, sexual assault, and stalking confidential, except as limited herein and by other laws, regulations, and Department policies, such as when the Department is investigating an incident occurring in the workplace. Department employees covered by child abuse reporting mandates must follow such mandates and inform the victim of the scope of such mandates. The Attorney General Guidelines for Victim and Witness Assistance ([http://www.justice.gov/olp/pdf/ag\\_guidelines2012.pdf](http://www.justice.gov/olp/pdf/ag_guidelines2012.pdf)) include

information on child abuse reporting mandates applicable to Department personnel at Article III, L, 1, c.

- G. Reporting Conduct of Contractors.** Concerns regarding the conduct of contractors, such as perpetration of domestic violence, sexual assault, or stalking, shall be promptly brought to the attention of the relevant contracting officer or contracting officer's representative and/or Department security personnel.
- H. Additional Guidelines and Procedures.** The Department will develop and implement additional guidelines, policies, and procedures necessary to implement this Policy Statement.
- I. Disclaimer.** This Policy Statement is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities; its officers, employees, or agents; or any other person.

## **II. Roles and Responsibilities**

**A. Component Heads.** Component Heads are responsible for addressing the following in their components.

- 1. Investigating Incidents.** It is the policy of the Department to provide a safe work environment for its employees and contractors. The Department will not tolerate violence, threats, harassment, intimidation, and other disruptive behavior. *See* <http://dojnet.doj.gov/jmdmemos/memo112508.pdf>. Department components will take immediate steps to investigate incidents perpetrated in the workplace by employees or contractors, and brought to the attention of Department management and, if Department employees are involved, take appropriate disciplinary action.
- 2. Resources, Referrals, and Points of Contact for Victims.** As described in the Appendix, one way of addressing the needs of victims is to have a Domestic Violence, Sexual Assault, and Stalking Response group to provide resources, referrals and points of contact for victims. Component Heads shall clearly notify employees and contractors of how to access the following resources and points of contact.
  - a. Resources for Victims.** Each Department component shall maintain a list of resources for victims of domestic violence, sexual assault, and stalking, and shall provide employees and contractors with applicable information regarding local and/or national service providers, and EAPs for employees, that can support victims. This shall also include information on how victims can contact the Justice Protective Service, Federal Protective Service (FPS), or

other appropriate security or law enforcement personnel, if victims wish to have a police report taken about incidents occurring in the workplace.

- b. Referral for Employees.** Department components shall create a list of designated supervisors, component personnel, and EAP contacts to whom employees may disclose domestic violence, sexual assault, or stalking concerns. This list shall include procedures to be used when an employee is concerned that his or her supervisor will not be sufficiently responsive to such a disclosure. Employees may resort to these alternative contacts in cases where they do not feel comfortable discussing the concern with the supervisor (e.g. when an employee feels victimized in the workplace, the supervisor is a friend or co-worker of an alleged abuser, the supervisor is the alleged abuser etc.). Components may use a Domestic Violence, Sexual Assault, and Stalking Response Group as discussed in the appendix to provide this support to employees.
- c. Referral for Contractors.** Component Heads shall identify points of contact for contractors to report incidents of domestic violence, sexual assault, and stalking perpetrated against them in the federal workplace. At least one point of contact shall be an employee who does not supervise the contractor's work.
- d. Departmental Point of Contact for Victims.** At a victim's request, Department components will offer a point of contact with whom the victim can stay in touch regarding ongoing needs. Such contact will increase the likelihood that the Department will receive critical updates on the alleged perpetrator's whereabouts, the status of legal proceedings, and will increase the overall safety of the workplace and the victim.
- 3. Safety Planning.** At a victim's request, the employing component will assist in safety planning. An adequate response includes the development of a workplace safety plan that includes and respects the views and preferences of affected employees and may also involve Department security personnel, FPS, and EAPs. The Appendix contains more detail on the development of such safety plans.
- 4. Workplace Flexibilities for Employees.** Consistent with the interests of the Department, Component Heads should provide employees with options that permit them to continue to perform their jobs while providing, to the extent possible, a safe environment for them and their co-workers. Where Department management determines that such options are feasible and applicable, these workplace flexibilities may include, but are not limited to, new or revised telework agreements, additional security at work sites, work schedule adjustments, relocation of workspace, telephone extension changes, or approved absences. Whether specific arrangements are appropriate in an individual instance will be determined on a case-by-case basis, at the discretion of Department management. Component heads shall develop guidelines and training

that describe options available to employees to maintain employment and to address concerns in ways that employees deem safe and appropriate.

- 5. Workplace Awareness and Outreach.** Department components shall distribute this Policy Statement to all current employees and contractors. New employees and contractor staff shall receive this Policy Statement upon commencement of employment.
- 6. Training.** Beginning during Fiscal Year 2015, all Department components shall require supervisors, human resources personnel, internal or external Employee EAPs, employees, interns and volunteers to complete training coordinated by the Justice Management Division (JMD), about the effects of domestic violence, sexual assault, and stalking impacting the workplace. This training shall be repeated at a minimum on a biennial basis.
- 7. Monitoring and Evaluating Department Responses.** Department components must conduct annual reviews of their procedures, policies, training and practices under this Policy Statement, including number of employees trained, and reviews of incident reports to evaluate the quality of the response. Each component shall send a report to JMD Human Resources describing the result of its annual review.

#### **B. Justice Management Division and Office on Violence Against Women.**

- 1. Training.** The JMD Human Resources Staff, in consultation with the Office on Violence Against Women (OVW), will develop and coordinate training for employees on domestic violence, sexual assault, and stalking, including understanding the dynamics of these crimes and resources available for victims. The JMD Human Resources Staff and OVW will also develop supplemental training for supervisors, human resources personnel, and EAPs, which will include topics such as how to talk to employees about domestic violence, sexual assault, and stalking, and how to respond appropriately to victims. Basic employee training and supplemental training will be available on an electronic portal accessible to all components.
- 2. Monitoring and Evaluating Department Responses.** The JMD Human Resources Staff will compile the results of the annual component reviews described above into an annual report to the Assistant Attorney General for Administration.
- 3. Technical Assistance.** OVW will be available for on-going technical assistance to implement this Policy Statement.

- C. Employees.** All employees are expected to become familiar with this Policy Statement and are required to participate in initial and ongoing training associated with this Policy Statement.

**D. Contractors.** All contractors are expected to become familiar with this Policy Statement.

## **APPENDIX**

### **GUIDANCE ON IMPLEMENTING FEDERAL WORKPLACE RESPONSES TO DOMESTIC VIOLENCE, SEXUAL ASSAULT, AND STALKING**

This Appendix provides Department components with guidance to assist them in implementing this Policy Statement. The resources, authorities, and related Departmental policies identified in this Appendix are available to address domestic violence, sexual assault, and stalking in the workplace.

#### **CONFIDENTIALITY AND RECORDS**

The Department recognizes that a victim may have concerns regarding privacy, confidentiality, and autonomy in relation to the victim's disclosure of information regarding violence, including stalking, cyberstalking, attempts, threats, harassment, intimidation, sexual assault and physical violence. Department personnel should make every effort to honor the victim's preferences regarding the extent of disclosure, unless to do so could result in physical harm to any person, jeopardize safety within the workplace, or there is another compelling need to disclose without the victim's consent, including the need for an administrative or other investigation, or discipline and/or removal of the perpetrator from the workplace.

Whenever possible, Department personnel should inform the victim regarding further disclosures that may be necessary in order to implement workplace safety options or otherwise assist the victim. Department personnel should provide the victim with the name and title of the person with whom the Department intends to further disclose the victim's information, and should explain the necessity and purpose of the disclosure. Such further disclosures, for example, might be necessitated if a victim discloses imminent harm to a child. Components should observe federal and state laws governing mandatory disclosure of abuse of vulnerable persons (children, the elderly, and victims of domestic violence).

When information provided by a victim must be disclosed within and/or external to the Department (such as due to security reasons), the Department will limit the breadth and content of such disclosure to information reasonably necessary to meet the purpose of the disclosure (such as preventing physical harm to a person).

Any type of monitoring or evaluation depends, in part, on written or electronic records. It is crucial that any records relevant to domestic violence, sexual assault, and stalking incidents be kept in a confidential place and only shared, as necessary, with appropriate personnel, such as those involved in security or management roles.

See page 18 of [The Office of Personnel Management Guidance for Agency-Specific Domestic violence, Sexual Assault, and Stalking Policies](#) for further discussion on confidentiality.

## RESOURCES, REFERRALS, AND POINTS OF CONTACT

### **Domestic Violence, Sexual Assault, and Stalking Response Group**

Each Department component should create a Domestic Violence, Sexual Assault, and Stalking Response Group to assess incidents of domestic violence, sexual assault, and stalking impacting the workplace. This Response Group should be trained to address the needs of domestic violence, sexual assault, and stalking victims. As appropriate, it should include representatives such as those from each component's security, human resources, employee assistance, or other relevant offices.

Taking into consideration the confidentiality section (above), Department personnel who identify a situation governed by this Policy Statement may consider contacting Response Group members to consult with a victim and to develop and recommend to management elements of a plan to enhance the safety of the victim and the workplace, and to support the victim to the extent practicable consistent with the needs of the workplace. The victim's wishes regarding how much information is made available to others, as well as the victim's own assessment of the threat, should be respected to the extent practicable. Domestic violence, sexual assault, and stalking situations do not always need to be escalated to the Response Group level. In many instances, a victim can effectively handle the situation with his or her supervisor.

As part of the Response Group, each component shall have a point of contact for contractors to report incidents of domestic violence, sexual assault, and stalking perpetrated against them in the federal workplace. At least one point of contact will be someone who does not supervise the work of a reporting contractor.

## SAFETY PLANNING

Developing a workplace safety plan that includes and respects the views and preferences of victims is an essential element of threat management.

Component supervisors, human resources staffs, EAPs, and security personnel are encouraged to assist employees in developing safety plans. Where feasible and appropriate, this planning may involve temporary changes, such as moving the employee to a more secure location or instituting a variable work schedule. Relevant Department security personnel should be made aware of any restraining orders and should be provided with photographs of the alleged perpetrator, if available.

In addition, Department security personnel can advise victims on the following types of issues:

- Dealing with telephone, internet, or mail harassment;



- Addressing safety when entering or leaving a worksite, including walking between parking lots and worksite buildings;
- Using technology to enhance safety (e.g., cellular phones);
- What to do if confronted in the workplace by perpetrator who is a co-worker and an alleged abuser; and
- What to do if the victim sees an alleged abuser trying to enter the workplace.

Department security personnel should also refer victims to appropriate Department employee assistance programs (EAPs), as well as the Federal Protective Service (FPS), local law enforcement and community resources. These resources can assist victims with navigating the criminal justice system, obtaining a temporary restraining order and legal representation, and other victim concerns.

### **Addressing Computer Technology Concerns**

In consultation with the victim, the Department's security personnel should coordinate with their components' computer technology personnel to address victim safety concerns. These concerns include the alleged perpetrator's use of computer technology to harass or stalk a victim, as well as using information on the Department's website about the victim that could potentially be used to harm the victim. As appropriate, the above-described safety plan should address these concerns, including removing identifying information, such as the victim's telephone number and office location, from the Department and its components' public websites.

### **Working with Local Law Enforcement**

Appropriate Department personnel may determine that local law enforcement agencies should be contacted when there is a reasonable risk that an incident of violence may occur impacting the victim or the workforce. Local police may have information that could be helpful in assessing the level of threat against the employee while he or she is at work; for example, they may have dealt with the alleged perpetrator in the past and be familiar with his or her patterns of behavior. Taking into consideration the confidentiality concerns discussed earlier, it is critical that victims be informed that the police will be notified.

### **Protection and Restraining Orders**

A victim may seek an order of protection, or may receive a restraining order, as part of his or her efforts to become safe and as part of his or her workplace safety plan. A Department workplace may or may not be included on an order as a location from which an alleged perpetrator must remain away.

Department components should maintain such orders in a confidential and separate file from employees' personnel files.

### **Other**

Components should respond to employee requests for information and documentation from the workplace, such as e-mail or voice-mail messages, that could support their efforts in the justice system or to obtain and maintain safety from an alleged perpetrator, to the greatest extent possible on a case-by case basis, subject to the scope of the Freedom of Information Act and applicable privacy laws.

## FLEXIBILITIES

### **Leave**

The Department recognizes that employees may require work schedule adjustments and time off in order to secure medical or legal assistance or counseling, attend court proceedings, relocate, or make other safety arrangements. These responsibilities may also include caring for family members who have been impacted by the abuse or violence. Employees should work with their servicing personnel office to determine the most appropriate form of leave available. [The Office of Personnel Management Guidance for Agency-Specific Domestic Violence, Sexual Assault, and Stalking Policies](#) provides information on the different types of leave that may be available and how they may be used for victims of domestic violence, sexual assault, and stalking.

### **Addressing Physical Layout of Worksite**

To the extent practicable, Department security personnel, supervisors, and other appropriate Department staff should work with victims to assess the physical layout of the worksite, identify possible threats to victim safety, and changes that can be made to enhance safety. Whether changes will be made will be assessed on a case-by-case basis, at management's discretion. For example, victims who work in locations that are accessible to the general public or where their view of people coming and going is obstructed may have an increased sense of safety with a change in the physical placement or layout of their offices. Public service environments may present challenges requiring a component's Domestic Violence, Sexual Assault, and Stalking Response Group to come up with alternative plans with the assistance of law enforcement, if necessary, and in consultation with victims.

If the component has workplaces in multiple locations, it may be helpful, and potentially lifesaving, to offer to relocate a threatened victim to an alternate worksite unknown to the alleged perpetrator. This relocation should be handled with the strictest confidentiality and respect for victim autonomy related to worksite relocation.

## EMPLOYEES AS ALLEGED OFFENDERS

### **Zero Tolerance for Violence in the Workplace**

Employees are reminded of the Department's policy on violence in the workplace. See <http://dojnet.doj.gov/jmdmemos/memo112508.pdf>. Incidents of domestic violence, sexual assault, and stalking in the workplace should immediately be reported to a supervisor or manager. Individuals committing such acts in the workplace may be removed from the premises, subject to disciplinary or other adverse action (up to and including removal from Federal service), and subject to arrest and/or prosecution.

### **Firearms and Workplace Safety**

Relevant to domestic violence, employees are reminded of federal law prohibiting possession of firearms. Specifically, under certain provisions of the Federal Gun Control Act, persons subject to a qualifying protection order ([18 U.S.C. § 922 \(g\)\(8\)](#)) or convicted of a qualifying misdemeanor crime of domestic violence ([18 U.S.C. § 922\(g\)\(9\)](#)) are prohibited from possessing firearms or ammunition. For more information about these provisions, see <http://www.atf.gov/files/publications/download/i/atf-i-3310-3.pdf> and <http://www.atf.gov/files/publications/download/i/atf-i-3310-2.pdf>.

The provision relating to misdemeanor crimes of domestic violence, also known as the "Lautenberg Amendment," does not have an official use exemption. This means that if a person is convicted of a qualifying misdemeanor crime of domestic violence, he or she may not possess firearms even for official use, such as during duty as a law enforcement officer.

In addition, federal law prohibits the knowing possession of, or the causing to be present, firearms or other dangerous weapons in federal facilities and federal court facilities by all persons not specifically authorized by [18 U.S.C. § 930\(d\)](#). (See, [41 C.F.R. § 102-74.440](#).)

### **Self-Reporting**

Employees are reminded of the Department's policy regarding self-reporting of arrests and allegations of misconduct. See [http://dojnet.doj.gov/jmd/seps/pdf/policy\\_self\\_reporting.pdf](http://dojnet.doj.gov/jmd/seps/pdf/policy_self_reporting.pdf). Any employee who is arrested must immediately self-report in writing the fact of an arrest to his or her supervisor or a higher-level official in the chain of command, and to the relevant component Security Programs Manager (SPM). Those employees who have access to national security information (NSI), are in high-risk positions (Risk Level 6), or carry weapons in their official capacity are also required to report in writing any on or off-duty allegations of misconduct. Such misconduct would include incidents of domestic violence, sexual assault, or stalking.

## **Nexus and Scope of Discipline**

When taking an adverse action against an employee, a government agency must show some direct “nexus” between the misconduct involved and the employee’s ability to perform his or her duties or some other legitimate governmental interest that promotes the efficiency of the service. When misconduct happens in the workplace or during duty hours, a nexus is implied, but a nexus would have to be shown for off-duty misconduct that, in this context, involves domestic violence, sexual assault, and stalking. Department components are strongly encouraged to contact their servicing Human Resources Offices and Offices of General Counsel for advice and guidance on this issue. The particular facts and circumstances of each case heavily affect the determination of whether discipline for off-duty misconduct is appropriate.

If the conduct fits the definition of “sexual harassment,” there is a separate Attorney General Memorandum ensuring that “Immediate and appropriate corrective action will be taken to address any form of harassment.” (See <http://www.justice.gov/jmd/eos/agmemo.html>.)

This topic is discussed in more depth in [The Office of Personnel Management Guidance for Agency-Specific Domestic violence, Sexual Assault, and Stalking Policies](#) at pages 15-16.

## **TRAINING**

Training on domestic violence, stalking and sexual assault for employees may involve partnering with local domestic and sexual violence experts to offer employees immediate access to people with critical expertise. Also, domestic and sexual violence content may be incorporated into general work/family seminars, EAP orientations, basic manager training, and other educational programs addressing workplace violence prevention, health and safety, and sexual harassment. If such additional training is undertaken, components should coordinate with OVW on the content.

## **CONTRACTORS**

The Department workplace also includes contractor employees of vendors or independent contractors. Such personnel are not Department employees. [Executive Order 11246](#), as amended, sets requirements for Federal contractors on non-discriminatory practices and prohibits contractors from discriminating against their employees on the basis of sex, including by engaging in or allowing their employees to engage in sexual harassment. Contractors are also required to comply with [Title VII of the Civil Rights Act of 1964](#), including its prohibition on sex discrimination. Prohibited behavior could occur in conjunction with domestic violence, sexual assault, or stalking. Contractors who believe they are victims of domestic violence, sexual assault, or stalking in the federal workplace should bring such conduct to the attention of a component point of contact. Contractors who are victims of domestic violence, sexual assault, or stalking outside of the federal workplace, but who are concerned for their safety while in the federal workplace, may consult with Department security personnel for safety planning assistance.

## MONITORING

Without adequate feedback, the Department cannot assess the effectiveness of its policies and practices. Department components should ensure that simple checks are implemented to assess how consistently new procedures are being implemented. Department components should monitor, over time, the usage rate of employees accessing services to address domestic violence, sexual assault and stalking. Higher usage may indicate enhanced connection of services with employee needs.

Department components should review incident reports for the quality of security responses and the quantity of actions taken. It may help to develop a review group for this purpose, that would include representatives from security, human resources, employee assistance, and other relevant offices, as appropriate.