VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Prusiner, S. B. , ''Novel Proteinaceous Infectious Particles Cause Scrapie,'' *Science*, 216:136–144, 1982.

2. Stahl, N. and S. B. Prusiner, ''Prions and Prion Proteins,'' *FASEB Journal*, 5:2799–2807, 1991.

3. Will, R. G. et al., ''A New Variant of Creutzfeldt-Jakob Disease in the UK,'' *Lancet*, 347, 921–925, 1996.

4. WHO press release, April 3, 1996, ''International Experts Propose Measures to Limit Spread of BSE and Reduce Possible Human Risk from Disease.''

Dated: May 8, 1996.

David A. Kessler,

Commissioner of Food and Drugs.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 96–12081 Filed 5–9–96; 2:16 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 90

[OJP No. 1019]

RIN 1121–AA35

Grants To Encourage Arrest Policies

AGENCY: U.S. Department of Justice, Office of Justice Programs.

ACTION: Proposed rule.

SUMMARY: This notice announces a proposed 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.

DATES: All comments must be received by June 13, 1996. The length of the comment period has been limited to thirty days in order to provide States timely access to the available program funds. It would be contrary to the public interest to delay implementation of the program.

ADDRESSES: All comments should be addressed to Kathy Schwartz, Violence Against Women Grants Office, Office of Justice Programs, Room 446, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

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:

Title IV Grants To Encourage Arrest Policies

For Fiscal Year (FY) 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. 103–22, 108 Stat. 1796, 1902–55, codified as amended 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, codified as amended at 42 U.S.C. § 3768 (1994) [hereinafter the ''Omnibus Act'']. Section 2104 of Title IV of the Act, codified as amended at 42 U.S.C. § 3796hh-3, requires that regulations be issued specifically to implement these policies and programs.

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 departments have created special domestic violence units that train personnel; develop guidelines and protocols for enforcing laws related to domestic violence; create sophisticated tracking and communication systems; investigate both misdemeanor and felony domestic assaults; develop accountability measures which ensure enforcement of the law by all officers in the department; and coordinate with other criminal justice agencies and victim service providers. Despite these very significant accomplishments, many more police departments require the tools and resources necessary to implement similar innovations in their own communities.

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 proarrest 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 judges impose appropriate sentences; if batterers remain in custody after they are arrested; if probation and parole departments devise ways to effectively supervise batterers; and 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 honor certain protection orders issued by other jurisdictions. Act § 4022(a), 18

[1] Liebman, 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.

[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.

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 proarrest 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 proarrest policies go a step further by directing responding officers to arrest 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 victim, the family and the community that domestic violence is a serious crime that will not be tolerated. Mandatory or proarrest policies also offer the potential benefit of deterring future abuse if the offender is separated from the victim and held publicly accountable for his[5] actions. Arrest 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 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 and tracking 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. These advanced information systems also could provide a description of the alleged perpetrator and places he historically has frequented if the offender 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 Role of Prosecutors, Judges, Victim Advocates and Other Criminal Justice Professionals

If arrest policies are to be effective, pre-trial service agents, prosecutors, judges, probation officers, and parole officers need to respond with effective supervision and prosecution strategies, safety plans for victims, and appropriate sentences for offenders. In addition, prosecutors, judges and other criminal justice professionals need tools and resources to respond to domestic violence as a serious crime. For example, in those jurisdictions where mandatory or proarrest 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 have begun to work with victim advocates during both the pending prosecution and the sentencing phase of a case. In many jurisdictions, victim advocates are critical to domestic violence prosecution. In addition to being effective legal advocates, victim advocates assist in safety planning with the victim, providing the court with information needed to determine risk assessment and proposed conditions of probation or parole for the offender.

Prosecutors, judges, victim advocates and other criminal justice professionals need specialized education and training on the phenomenon of domestic

[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).

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 the sentence to the individual perpetrator (e.g., ordering protective conditions for victim safety, incarceration, community service, restitution, intensive probation or parole, batterer intervention services, drug and alcohol treatment, or all of the above, as appropriate). Victim advocates and all criminal justice professionals need to work together to explore and develop 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.
- Police officers need specialized training on domestic violence, on implementing departmental arrest policies and related federal, state and local law.
- Police departments need resources to develop guidelines for arrest and investigation of domestic violence, specialized training programs, special investigation or detective units, and procedures to ensure coordination with other parts of the criminal justice system.
- Police departments need the resources to develop advanced communication, information and tracking systems to enable them to respond more effectively to domestic violence incidents and prevent future incidents that could result in aggravated assault and homicide.
- Jurisdictions need to develop methods and technologies that will promote improved communication and coordination between 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.
- Police and prosecutors need the tools and resources to investigate domestic violence cases aggressively and thoroughly.
- Specialized education and training programs for prosecutors, judges, victim advocates and other criminal justice professionals need to be developed or replicated and adapted from existing curricula.
- 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.
- 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 final program guidelines and application materials that will be available in early FY 1996.

Section 2101 of the Violence Against Women Act, codified as amended at 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 proarrest 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.
- 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 that assigns priority to the safety of the victim and holds the offender accountable for his violent actions.
- Delivering comprehensive training programs for the police, 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, prosecutors, 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)(2), 42 U.S.C. § 3796hh(c)(2) (1994). 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. 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).

For the purposes of this Program, a jurisdiction need not have pre-existing policies encouraging or mandating arrest to meet the eligibility requirements listed above. However, a State, Indian tribal government, or unit of local government must specify the policy that it intends to enact by the statutory deadline in its application for funding through this Program.

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: 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 creation of special units to investigate and monitor spousal and partner abuse cases.

Technical Assistance and Training/ Evaluation

The Office of Justice Programs intends to assist States, Indian tribal governments, and units of local government in meeting the Program goal of treating domestic violence as a serious violation of criminal law. The Office of Justice Programs therefore hopes to 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 National Institute of Justice will 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, including pretrial services agencies, prosecution units, the courts, probation and parole. 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. The Office of Justice Programs hopes to set aside a small portion of the overall funds authorized for the Program for this purpose. Recipients of funds for this Program 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). 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 should consider entering into partnerships with research organizations that are submitting simultaneous grant applications to the National Institute of Justice for this purpose.

Request for Comments

The Office of Justice Programs seeks to fulfill Congressional intent by soliciting, encouraging and incorporating comments on all aspects of this program while ensuring that the statutory limitations are applied appropriately to all recipients. Comments are welcome on a broad range of issues, including but not limited to:

(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.

Administrative Requirements

This regulation has been drafted and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. This rule is not a ''significant regulatory action'' under Executive Order 12866, § 3(f), Regulatory Planning and Review, and, accordingly, this rule has not been reviewed by the Office of Management and Budget.

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

List of Subjects in 28 CFR Part 90

Grant Programs, Judicial Administration.

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

PART 90—VIOLENCE AGAINST WOMEN

1. The authority citation for part 90 continues to read as follows:

Authority: 42 U.S.C. § 3711 et seq (1994).

2. A new Subpart D, consisting of §§ 90.60–90.67 is proposed to be 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 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.

§ 90.62 Purposes.

The purposes of this program are:

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

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

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

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

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

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

§ 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.

(b) If these laws, policies, or practices 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), 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, a State, Indian tribal government, or unit of local government must specify the policy that it intends to enact by the statutory deadline in its application for funding through this Program.

§ 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 444, 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; 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 2101(c) of the Omnibus Act, codified as amended at 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 subpart.

(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.

The National Institute of Justice will conduct evaluations and studies of programs funded through this Program. The Office of Justice Programs hopes to 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). Omnibus Act § 2103, 42 U.S.C. 3796hh–2. 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, 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 creation of special units to investigate and monitor spousal and partner abuse cases.

(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.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5504–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Extension of Public Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the RSR Corporation Superfund Site from the National Priorities List; notice of extension of the public comment period.

SUMMARY: As requested by some members of the public, the United States Environmental Protection Agency (EPA) Region 6 is extending the public comment period on the intent to delete the residential portions of the RSR Corporation Superfund Site (RSR Site) known as Operable Unit (OU) Nos. 1 and 2 from the National Priorities List (NPL). The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

EPA bases its proposal to delete OU Nos. 1 and 2 on the determination by EPA and the State of Texas, through the