MISSING PERSONS REPORTS AND DOMESTIC VIOLENCE VICTIMS

Quick reference guide for advocates and law enforcement agencies

In cases of domestic violence it is common for the abuse victim to go to a confidential location away from the abusive partner. This might be at a shelter, a hotel, or a friend or family member's home. Sometimes the abusive partner will make a report to law enforcement agencies that the victim is missing and/or that the child they have in common has been kidnapped by the other parent. In these situations, law enforcement agencies may contact the local domestic violence program for information related to the missing person and to establish that the person is safe; however, programs are constrained in their ability to provide information to law enforcement agencies. This reference guide identifies relevant laws and provides some practice tips for advocacy organizations and law enforcement agencies in dealing with these situations.

Guidelines for Law Enforcement Agencies

Relevant laws/policies	Response guidelines
Brandon's Law: The Minnesota Missing Children and Endangered Persons Program, or "Brandon's Law," provides guidelines for responding to and investigating reports of missing children and endangered persons. Minn. Stat. § 299C.52 **Amber Alert:** The Amber Alert is used in those circumstances of (1) an abducted child 17 years of age or younger when there is reason to believe the victim is in imminent danger of serious bodily injury or death. and, (2) there is information available to disseminate to the general public which could assist with the safe recovery of the victim and/or the apprehension of the suspect. **Parental Kidnapping:** Under this statute, the concealment of a child or failure to return the child in violation of a court order must be done with the intent to substantially deprive the other parent of their parental rights. Depriving Another of Custodial or Parental Rights, Minn. Stat. § 609.26. **POST Model Policy:** See also Model Policy: Response to Reports of Missing and Endangered Persons, Minn. Stat. §§ 299C.51-299C.5655, 390.25 and 626.8454.	**Background:** Review history of law enforcement contacts with reporting party and person reported missing, and review MNCIS for any convictions for either party. **Communicate with domestic violence program:** Contact the domestic violence program and request that they convey a message to the missing person, if she is being served by the organization, that she has been reported missing and to contact the law enforcement agency to confirm her welfare. Inform the domestic abuse program of any court orders that are known to exist for the person such as a child custody/visitation order. *Note: In order to release identifying information about anyone working with the program, the program must secure consent from the individual or have a specific court order.* **Minnesota Missing and Unidentified Persons Clearinghouse:** Consult with the clearinghouse to determine if the situation meets Minnesota Missing Persons' Act (Brandon's Law) criteria, as well as for additional guidance and suggestions on responding to the missing persons report. **Bureau of Criminal Apprehension:** If situation meets criteria for Amber Alert, request activation of the alert from the Minnesota BCA. **Safe at Home program:** Check the missing persons name and address under DVS records. A person participating in the Safe at Home program (address confidentiality program) will have PO Box 17370, St. Paul, Lot ### for an address, which indicates that the person is a Safe at Home program participant. In addition, new participants who have not yet gotten a new drivers license can provide their lot number to a law enforcement officer who can then verify participation in the program by contacting the Safe at Home program directly and providing the potential participant's name and Lot #. **County attorney:** Consult with county attorney about need for a court order to obtain information from a domestic abuse program.

Guidelines for Domestic Violence Agencies

Relevant laws	Response guidelines
Data privacy: Domestic abuse programs that are state or federally funded are prevented by federal and state laws from disclosing information about the victim/client unless they have victim consent, are required to disclose under mandatory reporting laws, or there is a court order compelling disclosure. **State law:** *Funded programs:* Personal history information and information from which the identity or location of a victim can be determined are private data protected by Minnesota Statutes sections 611A.32, subd. 5 (victim of domestic abuse), 611A.371, subd. 3 (battered women), and 611A.46 (any crime victim). *Mandated reporters*: Advocates in domestic abuse programs are mandated reporters under section 626.556 and are required to make a report to law enforcement regarding suspected child abuse including deprivation of parental rights and kidnapping under sections 609.25 and 609.26. **Federal law:** Family Violence Prevention & Service Act, 42 USC 10402(a)(2)(E). Victims of Crime Act, 42 USC 10604(d). Violence Against Women Act, 42 USC 13925 (2007). **For further guidance on state and federal laws that apply to domestic abuse programs, see:** Minnesota Department of Administration Advisory Opinion 17-008 (2017). Minnesota Coalition for Battered Women, *Advocates Confidentiality Guide: When Can I Share Survivor's Information?*, Last updated: April 2017	**Response to law enforcement agency:** Organization staff should inform the agency making the inquiry that they cannot confirm or deny that the person in question is currently receiving or has received services from the organization. They should also state that it is the program's practice to convey any message requested by law enforcement to that person if she is, indeed, a client, but it is up to the client to determine whether or not she will contact the agency. **Communicate with client:** Inform the client about the inquiry from the law enforcement agency about its request to determine that the reported missing person is safe. **Welfare status to law enforcement:** Discuss alternative strategies with the client for communicating to the law enforcement agency that the client is safe, including: (1) Client asks domestic abuse program to contact the law enforcement on her behalf and confirm that she is safe. Advocate should explain the consent to release information process and secure a signed consent form from the client. (2) Client contacts the law enforcement agency directly. (3) Client contacts the Minnesota Missing and Unidentified Persons Clearinghouse and requests that the clearinghouse acts as intermediary. (4) Client goes to another law enforcement agency in person and asks that her welfare status be conveyed to original agency. **Mandated reporting:** Domestic abuse program staff will make a report to law enforcement in cases of suspected kidnapping or deprivation of parental rights. Domestic abuse program staff members are also mandatory reporters of child abuse and neglect. **General practice regarding court orders:** Clients entering a shelter with children come with a variety of legal scenarios. In some cases a parental relationship with the abusive partner has not been established, in other cases, there may be a court order that specifies legal custody and parenting time. Given the serious implications for the client, program staff should inform incoming clients with children about seeking legal assistance with establishing or modifying court orders.