

TOPIC:
HONOLULU POLICE DEPARTMENT

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HONOLULU POLICE DEPARTMENT

POLICY LAW ENFORCEMENT OPERATIONS

June 30, 2014

Policy Number 4.18

ABUSE OF FAMILY OR HOUSEHOLD MEMBERS

POLICY

In keeping with its mission and value statement, the Honolulu Police Department (HPD) is committed to the enforcement of all state laws and city ordinances and all rules and regulations concerning crimes related to family violence. The department's purposes are the following:

- A. To prevent and investigate occurrences of domestic violence;
- B. To protect victims of domestic violence and provide them with support through a combination of law enforcement and community services; and
- C. To promote officer safety by ensuring that officers are fully prepared to respond to and effectively deal with domestic violence calls for service.

PROCEDURE

I. DEFINITIONS

Pursuant to Section 709-906, Chapter 586-1, Hawaii Revised Statutes (HRS), the definitions are as follows:

Dating Relationship: A romantic, courtship, or engagement relationship, often but not necessarily characterized by actions of an intimate or sexual nature but does not include a casual acquaintanceship or ordinary fraternization between persons in a business or social context.

Domestic Abuse: Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between family or household members; or any act which would constitute an offense under Section 709-906, or under Parts V and VI of Chapter 707, HRS, committed against a minor family or household member by an adult family or household member.

7-14-2014

Extreme Psychological Abuse: An intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs and consistently or continually bothers the individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer extreme emotional distress.

Family or Household Member: Spouses or reciprocal beneficiaries, former spouses or former reciprocal beneficiaries, persons in a dating relationship as defined under Section 586-1, persons who have a child in common, parents, children, persons related by consanguinity, persons jointly residing or formerly residing in the same dwelling unit, and persons who have or have had a dating relationship.

Malicious Property Damage: An intentional or knowing damage to the property of another, without his or her consent, with an intent to thereby cause emotional distress.

II. STATUTE

In general, Section 709-906, HRS, makes it unlawful for anyone to physically abuse a family or household member or to refuse to comply with the lawful order of a police officer to leave the premises and to initiate no contact with the victim during a cooling-off period. An officer may arrest a person if the officer has reasonable grounds to believe that the person has physically abused a family or household member or if the person fails to comply with the officer's lawful order to leave the premises and to initiate no contact with the victim during a cooling-off period. Written reports are required in all cases. Refer to the statute for specifics and further information.

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III. ABUSE INVESTIGATIONS

These procedures govern cases involving abuse of family or household members. Procedures for handling cases of endangering the welfare of a minor and dependent adult abuse are found in separate directives.

A. Communications Division

1. Abuse of family or household member calls will be given the same priority as other life-threatening incidents. Whenever possible, at least two officers will be dispatched to the scene.

2. During the initial call, the dispatcher will try to obtain pertinent information including (but not limited to) the following:
 - a. The location to which officers are to be directed;
 - b. Synopsis of what has taken place;
 - c. Injuries and need for medical assistance;
 - d. Names of parties involved;
 - e. Location of offender;
 - f. Type and location of weapons in the area;
 - g. Signs of substance or alcohol abuse;
 - h. Presence of children; and
 - i. Existence of a current restraining or protective order.

B. Patrol Officers

1. Written Reports

Officers shall prepare written reports for all incidents involving abusive relationships to include all those listed in section IV B 1 a to c below. The reports shall include the Domestic Violence Supplement, HPD-192C and HPD-192D forms, for all cases of abuse and suspected abuse or domestic violence-related crimes but not for arguments (see section IV B 1 c below).

- a. Incidents where abuse can be substantiated.
- b. Incidents where abuse cannot be substantiated but can only be inferred, e.g.,:
 - (1) A third party suspects abuse; and
 - (2) An officer suspects that abuse occurred but has insufficient grounds to classify the case as abuse of a family or household member.

- c. Arguments between parties who fall under the definition of family or household members.
- 2. Unsubstantiated abuse cases (those that fall under section IV B 1 b and c above) shall be closed as a matter of record with one exception.

The exception is that all unsubstantiated abuse cases involving victims under the age of 18 (including those cases related to discipline) shall be left open pending investigation by the Criminal Investigation Division (CID). A copy of each case shall be forwarded to the CID (see section IV H below).

- 3. The investigating officer should make reasonable efforts to have the victim and the witnesses submit an HPD Statement Form, HPD-252.
 - a. If the victim or witness is unable to personally prepare the form, the officer shall prepare the form for his or her review and signature.
 - b. The officer shall interview all parties separately, using supportive interview techniques. (Children should be interviewed in a manner appropriate to their age.)
 - c. If no HPD-252 form is obtained, the officer shall state the reasons in his or her report.
- 4. An officer responding to the hospital for a victim's injuries shall have the victim sign the Physician's Report, HPD-13 form, and make reasonable efforts to have the treating physician complete the form.

5. Unless prevented by circumstances, the investigating officer shall take color photographs of the scene, injuries, and property damage. If the officer does not have a camera, the officer shall make reasonable attempts to obtain one. If the victim has been transported to a medical facility and is not at the scene, the follow-up officer at the medical facility shall take photographs of the injuries. If photographs are not taken, officers shall notify their supervisors and document on the Incident and/or Follow-up report(s) the reason(s) photographs could not be taken.
6. If the offender is not present, the officer will obtain information from the victim and witnesses regarding the offender's possible location and initiate follow-up checks.
7. The officer's report shall include the following information (to the extent that it is available): types of follow-ups requested, names of follow-up officers, and results of the follow-up checks.

C. Arrest

1. An officer witnessing the act of physical abuse shall arrest the abuser.
2. An officer shall arrest for abuse of a family or household member whenever the abuser is at the scene and one or more of the following elements are present:
 - a. The victim has visible injuries and the identity of the culprit can be determined.
 - b. The victim complains of pain and gives a written statement to the officer.
 - c. The victim complains of pain and gives a verbal statement that is witnessed by more than one officer.
 - d. The suspect refuses to comply with the officer's lawful order to leave the premises for a cooling-off period.

- e. The suspect returns to the premises before the expiration of the cooling-off period required by Sections 709-906 (4) (b) and (c), HRS.
- f. The suspect initiates contact with the victim, either by telephone or in person, before the expiration of the cooling-off period required by Sections 709-906 (4) (b) and (c), HRS.

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- 3. If an arrest is made, the arresting officer shall (1) order the suspect to remain away from the premises and to initiate no contact with the victim, either by telephone or in person, during the cooling-off period; and (2) issue an Abuse of Family or Household Members Warning Citation, HPD-279 form, (see section III F below).

When the officer issues the order referred to in section III F below after 1200 hours on a Friday or at any time on a Saturday, Sunday, or legal holiday; the order shall be in force immediately. However, the 48-hour period covered by the order shall extend until 1630 hours on the first day following the weekend or holiday.

- 4. Delayed Arrest

In the event that an offender who could not be readily found and arrested at the initial scene turns himself or herself in or is located later, the locating officer shall review the circumstances of the case in order to determine (1) whether an arrest has already been made and (2) whether an arrest should be made at that time.

If an arrest is not made, the locating officer shall notify their supervisor and document on the incident and/or follow-up report(s) the reason(s) the offender was not arrested.

5. Opposing Complaints; Predominant Aggressor

- a. When an officer receives opposing complaints of abuse from two or more persons, the officer shall evaluate each complaint separately to determine who was the predominant aggressor in the incident. In making this determination, the officer shall consider the following:
 - (1) Prior complaints of domestic or family violence;
 - (2) The relative severity of the injuries suffered by each person;
 - (3) The likelihood of future injury to each person; and
 - (4) Whether either person acted in self-defense.
- b. Officers shall determine the predominant aggressor through investigation and effect a one-party arrest.
- c. When there is great difficulty in determining a predominant aggressor, officers shall confer with a supervisor on the facts and circumstances of the incident. The supervisor shall make the final determination.

6. Dual Arrests

As a general rule, officers should make reasonable efforts to determine a predominant aggressor and avoid dual arrests. Dual arrests should be made only when an investigation clearly shows that there were two separate incidents of abuse and that they were separated in time.

In all cases of dual arrests, officers shall apprise their supervisor, who shall submit a report articulating the facts and circumstances of each arrest.

7. In all cases, the on-scene supervisor will ensure that the reasons for arrest or nonarrest are stated in the officer's report; that the face page is properly completed, including checking the domestic violence block; and that the Domestic Violence Supplement, HPD-192C and HPD-192D forms, are completed and attached.
8. Parties arrested for abuse of family or household members shall be informed of their rights via the Warning Persons Being Interrogated of Their Constitutional Rights (adult interrogation, HPD-81 form, or juvenile interrogation, HPD-11 form). Also, they shall be afforded the opportunity to make a written statement via the HPD Statement Form, HPD-252, if they wish.
9. In felony cases, the supervisor shall make notifications and follow procedures per Policy 4.29, CRIME SCENE: INVESTIGATIVE RESPONSIBILITIES AND PROCEDURES.
10. When appropriate, people arrested for abuse of family and household members should be hospitalized in accordance with Policy 4.22, MH1: APPLICATION FOR EMERGENCY EXAMINATION AND HOSPITALIZATION (see section II E 5). When an arrestee is hospitalized, the case (including copies of all reports) shall be referred to the Victim/Witness Assistance Division, Department of the Prosecuting Attorney.

When there is probable danger of further physical abuse or harm being inflicted on the victim by the arrestee after leaving the medical facility, the arresting officer shall issue a warning citation. (see section III C 3 above).

D. Felony Cases

1. The following circumstances shall be classified as felony cases:
 - a. For a third or subsequent abuse of a family or household member offense that occurs within two years of a second or subsequent conviction; or

- b. Incidents where the physical abuse consists of intentionally or knowingly impeding the normal breathing or circulation of the blood of the family or household member by applying pressure on the throat or the neck.
2. Abuse of family or household member incidents shall be upgraded to assault in the second degree if the person:
- a. Intentionally or knowingly causes substantial bodily injury to another;
 - b. Recklessly causes serious or substantial bodily injury to another;
 - c. Intentionally or knowingly causes bodily injury to another with a dangerous instrument; or
 - d. Intentionally or knowingly causes bodily injury to a person who:
 - (1) The defendant has been restrained from by order of the court, including an ex parte order, contacting, threatening, or physically abusing pursuant to Chapter 586 of the HRS; or
 - (2) Is being protected by a police officer ordering the defendant to leave the premises of that protected person pursuant to Section 709-906(4), HRS, during the effective period of that order.

E. Cases Involving Children and Dependent Adults

1. Discipline Versus Abuse of Children

- a. Officers responding to abuse cases involving children as victims must evaluate each situation in light of Section 703-309, HRS, which allows a parent, guardian, or other person similarly responsible for the general care and supervision of a minor to employ force under certain circumstances.

In general, force is permissible as long as due regard is given to the age and size of the minor, the force is reasonably related to the purpose of safeguarding or promoting the welfare of the minor, and the force is not designed or known to create a risk of substantial bodily injury or other specified harm to the minor.

- b. Full investigation of such cases requires the officer to determine the circumstances of the discipline, the kind of force used, and the degree of injury. All these elements shall be documented in the officers' written reports.
2. In accordance with Section 350-1.1, HRS, all cases of actual or suspected nonaccidental harm to children (i.e., abuse, neglect, or discipline) shall be reported to Child Welfare Services (CWS), Department of Human Services, at the number listed on the attachment.
3. In cases where the injuries sustained by the child constitute serious harm, the scene supervisor shall also notify the on-duty CID lieutenant.
4. Officers shall report cases of actual or suspected abuse of dependent adults to Adult Protective Services, Department of Human Services, at the number listed on the attachment.

F. Cooling-off Period and Warning Citation

1. As provided in Section 709-906, HRS, an officer may lawfully order a person to leave the premises and to initiate no contact with the victim during a cooling-off period of 48 hours when both of the following conditions are present:
 - a. The officer has reasonable grounds to believe that there was recent physical abuse or harm inflicted by one person upon a family or household member, whether or not such abuse or harm occurred in the officer's presence; and

- b. The officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member.

It is not necessary that the acts of prior abuse have been documented previously via police report in order to substantiate the officer's "reasonable grounds." However, the officer should have the victim articulate the past acts of abuse on the HPD Statement Form, HPD-252.

2. If the incident occurs after 1200 hours on any Friday, Saturday, Sunday, or legal holiday, the order to leave the premises and to initiate no contact shall commence immediately and be in full force. However, the 48-hour period shall be enlarged and extended until 1630 hours on the first day following the weekend or legal holiday.
3. A person ordered to leave the premises and to initiate no contact during the cooling-off period of 48 hours shall be issued an Abuse of Family or Household Members Warning Citation, HPD-279 form. However, the person is allowed to enter the premises with a police escort to collect any necessary personal effects.
4. If the person refuses to comply with the order to leave, returns to the premises before the expiration of the cooling-off period, or initiates contact with the victim (either by telephone or in person) before the expiration of the cooling-off period, the person shall be arrested for abuse of family or household member in order to prevent further physical abuse or harm to the victim.
5. Copies of the HPD-279 form shall be distributed as follows:
 - a. The original copy shall be attached to the police report.
 - b. The yellow copy shall be given to the complainant.
 - c. The pink copy shall be given to the suspect.

G. Departmental Personnel

See Policy 3.26, EMPLOYEES INVOLVED IN DOMESTIC VIOLENCE.

H. Firearms and Ammunition

1. In accordance with Sections 709-906(4) (f) and 134-7.5(a), HRS, an officer who has reasonable grounds to believe that a person has recently assaulted or threatened to assault a family or household member may seize all firearms and ammunition that the officer has reasonable grounds to believe were used or threatened to be used in the commission of the offense.

The officer may also seize firearms and ammunition that are in plain view of the officer or were discovered pursuant to a consensual search, as necessary for the protection of the officer or any family or household member.

2. In such cases, the officer shall document the seizure via his or her case report and an evidence report. The officer shall also give the owner or person in lawful possession of the firearm(s) or ammunition a Property Receipt, HPD-83 form, identifying the seized property and inform the owner or person in lawful possession that it can be retrieved from the Firearms Unit, Records and Identification Division, if it is not needed as evidence.
3. In addition, the officer shall notify the victim of the alleged or threatened assault of remedies and services available to victims of domestic violence, including the right to apply for a restraining order.
4. The Firearms Unit, Records and Identification Division, shall make seized firearms and ammunition available to the owner or person in lawful possession in accordance with the provisions of Section 134-7.5(d), HRS.

I. Follow-up Investigation

1. The Child and Family Violence Detail of the CID, is primarily responsible for follow-up investigation and disposition of all open abuse of family and household member cases.
2. Copies of all reports of abuse cases in which there was no arrest will be forwarded without delay to the CID.

J. Victim Assistance/Referral

Officers shall inform victims of domestic violence of the community resources available to them. Such efforts include, but are not limited to, the following:

1. Handing out the referral cards known as the Victim Assistance and Resource Card (these cards are available at all stations) or other available brochures/cards.
2. Providing information on the availability of shelters and about other community violence projects and shelters that are known to the police.
3. The Victim/Witness Assistance Division of the Department of the Prosecuting Attorney may be contacted for appointments for the following:
 - a. Processing misdemeanor criminal complaints; and
 - b. Obtaining assistance when there has been a violation of a Family Court Temporary Restraining Order (TRO) whereby the respondent has left the scene and the investigation has been completed.
4. The Adult Services Branch of the Family Court may be contacted for a prescreening appointment and for assistance in the following:
 - a. Obtaining a Family Court TRO; and
 - b. Completing necessary documents and scheduling a court hearing.

Prearranged appointments are required and will be limited to those who meet minimum qualifications.

5. The Crime Victim Compensation Commission may be contacted for information regarding assistance in the monetary compensation of victims of violent crime, including victims of family and household abuse. See Policy 5.11, VICTIM ASSISTANCE AND RESOURCE CARD.

IV. BAIL FOR ABUSE VIOLATIONS

Posting Bail

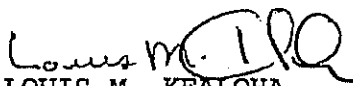
8-29-2014

- A. When a person arrested for alleged physical abuse posts bail, he or she shall be instructed to report to the District Court of the First Circuit, Courtroom 8D, 1111 Alakea Street, at 0830 hours according to the following:
 1. Misdemeanor Abuse
Two weeks from the date of release; or
 2. Felony Abuse
Three working days from the date of release.
- B. The date, time, and location for the arraignment shall be noted on the bail receipt.
- C. All necessary documents related to the case (arrest reports, police reports, connecting cases, etc.) shall be forwarded to the Central Receiving Division (CRD) as soon as possible for the preparation of petitions necessary for the case.

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- D. Bail money shall be transferred to the First Circuit Court via the CRD.


LOUIS M. KEALOHA
Chief of Police

Attachment

Post on bulletin
board for one week

Policy first issued
October 20, 1997

TELEPHONE CONTACT NUMBERS

Department of Human Services

Adult Protective Services 24-Hour Hotline 832-5115

Child Welfare Services 24-Hour Hotline 832-5300

Department of the Prosecuting Attorney

Victim/Witness Assistance Division 768-7401

Legal Assistance

Domestic Violence Clearinghouse and Legal Hotline 531-3771

Legal Aid Society of Hawaii 536-4302

Projects

Domestic Violence Drop-in Center (Puuhonua) 585-7944

Restraining Orders

Adult Service Branch, Family Court 538-5959

Civil Division, District Court 538-5151

Shelters

Honolulu and Leeward Shelters 841-0822

Military Shelter 590-7719

Windward Shelter 528-0606

Other Assistance

Criminal Injuries Compensation Commission,
Department of Public Safety 587-1143