

Model Policy

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I. PURPOSE

The purpose of this policy is to establish guidelines for law enforcement officers in response to domestic violence calls. Officers shall be expected to do the following:

- Establish arrest and prosecution as a preferred means of police response to domestic violence
- Take appropriate action for any violation of permanent, temporary, or emergency orders of protection
- Afford protection and support to adult and child victims of domestic violence
- Promote the safety of law enforcement personnel responding to incidents of domestic violence
- Provide victims or witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders in order to prevent further abuse and harassment or both
- Complete thorough investigations and effect arrest of the predominant aggressor upon the establishment of probable cause

II. POLICY

It is the policy of this department to provide a proactive, proarrest approach in responding to domestic violence. The primary focus shall be on victim safety followed closely by perpetrator accountability. The officer shall attempt to determine the *predominant aggressor* and arrest him or her. Officers should not arrest a person who acted in self-defense as defined by state statute.

III. DEFINITIONS

Abuse: the intended act of causing or attempting to

cause bodily injury or placing another person in reasonable apprehension of serious imminent bodily injury to self or other. Types of abuse include the following:

- *Physical abuse*: a wide range of behaviors that include aggressive, offensive, and threatened actions by the offender toward the victim's body.
- *Sexual abuse*: aggressive, offensive sexual behavior toward the victim's body. These are behaviors that the victim does not consent to engage in and that the offender commits without regard for the victim's desires or rights.
- *Psychological abuse*: the employment of verbal, emotional, and psychological acts rather than, or in concert with, physical attacks, verbal threats, acts of intimidation, destruction of property, animal cruelty, economic abuse, and stalking

Community stakeholders: entities in the community that are responsible for joining together to foster effective intervention in and prevention of domestic violence. Community stakeholders include, but are not limited to, law enforcement agencies, prosecutors, parole and probation officers, advocacy organizations, social service agencies, adult and child protective services, clergy, educators, government agencies, animal welfare organizations, businesses, and employers.

Domestic violence: an act or pattern of violence perpetrated by an individual not done in the defense of self or others, including but not limited to the following:

- Bodily injury or threat of bodily injury
- Sexual abuse or assault
- Physical restraint
- Property crime directed against the victim
- Stalking

- Strangulation
- Violation of a court order of protection or similar injunction
- Death threats or death (including third party)
- Domestic violence occurs when one family or household member causes, or attempts to cause, an abusive act against another family or household member.

Domestic violence supplemental report: a law enforcement reporting form designed to thoroughly capture evidence crucial to the successful prosecution of domestic violence cases.

Family or household member:

- Spouse or intimate partner
- Person living with an intimate partner
- Persons related by blood or marriage
- Persons who have a child in common
- Persons whose relationship resulted in a current pregnancy
- Persons who have, or had, a dating relationship
- Persons who reside in the same home

Full faith and credit: the requirement by the U.S. Code (U.S.C.) title 18 section 2265 that jurisdictions honor the terms and conditions of a protection order issued by another jurisdiction.

Petitioner: the person alleging abuse in a petition for an order of protection.

Predominant aggressor: the person who poses the most serious ongoing threat. *Note:* An injury resulting from a person acting in self-defense is neither abuse nor a crime.

Proarrest response: the expectation that officers shall arrest a person for committing domestic abuse unless there is a clear and compelling reason not to arrest (such as a self-defense determination or lack of probable cause).

Protection order (as defined by 18 U.S.C. 2266): any injunction or other court order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person. This includes any temporary or final order issued by a civil or criminal court (other than a support or child custody order issued pursuant to state divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other federal law) whether obtained by filing an independent action or as a *pendente lite* order in another proceeding so long as a civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

Respondent: the person alleged in a petition for order of protection to have abused another.

Self-defense: certain legal circumstances under which persons may use a reasonable amount of force to protect themselves or another based on their actual

belief that they are, or another is, in imminent danger coupled with reasonable grounds. If force has been legally used in self-defense under the law, there is an absolution of guilt or culpability.

Victim: a person who is the subject of domestic abuse and who a law enforcement officer has determined is not a predominant aggressor under the factors set out in the law.

IV. PROCEDURES

A. Domestic Violence Prevention

The department shall adhere to a proarrest policy towards domestic violence perpetrators.

1. Prevention through Collaboration

The department shall establish and maintain ongoing partnerships with local community stakeholders in general as well as victim advocacy organizations in particular to develop domestic violence curricula and train officers and call takers to enhance their abilities. The department shall provide local community stakeholders and victim advocacy organizations with copies of all domestic violence curricula, protocols, and policies for review and feedback.

2. Training

All departmental personnel, both sworn and nonsworn, shall receive comprehensive mandatory instruction upon implementation of this policy and on a continuing basis.

B. Incident Response Protocols

1. Communications

Communication officers or call takers shall do the following:

- Dispatch a minimum of two officers to a domestic violence call whenever possible.
- Assign a priority response to all domestic violence calls, whether or not the assailant is known to be on the premises, including those calls that involve or appear to involve a police officer of any department.
- Immediately notify and dispatch a supervisor to any domestic violence call for service that involves or appears to involve a police officer, regardless of the involved officer's jurisdiction.¹
- Preserve documentation of the facts and circumstances of each call, including 911 tapes, for use in potential administrative and criminal investigations, as requested by the investigating officers or supervisors.
- Maintain current contact information of local domestic violence victim advocacy organizations for responding officers to provide to victims.
- Attempt to elicit any and all information

from the caller that may help the responding and investigating officers assess the situation, including the following:

- Immediate safety of the caller and others at the scene
 - Nature of the incident (verbal or physical), nature of injuries, and whether violence is ongoing
 - Weapons that are involved, or present, if applicable, and the type of weapon when appropriate
 - Hazards to responders if any, including animals
 - Whether the suspect is under the influence of alcohol and drugs or both
 - Suspect's description and presence or absence, and, if absent, direction of travel and mode of travel;
 - Other people involved or witnesses at the scene, including children
 - Number of times the department has been called to this scene because of this suspect
 - Existence of a protection order currently on file against the suspect
 - Outstanding warrants against the suspect if any exist
 - Suspect's date of birth or social security number and any previous history of domestic violence
- g. Inform the caller of an approximate time of the officers' arrival.
- h. Not cancel the original call for service even if a subsequent request to cancel the original call is received. Advise the responding officers of the second call and instruct them to continue to respond, investigate, and assess the situation to ensure that all parties are safe.
- i. Keep the caller on the telephone if the caller is a victim or witness to a domestic violence incident in progress in order to relay ongoing information provided by the caller to the responding officers and remain aware of victim's safety.
- j. Have ready access to police department records that indicate whether the parties involved in the incident have been involved previously in domestic violence incidents, whether previous incidents involved a weapon, and whether there is in effect a protection order involving the parties, and relay any relevant information to the responding officers.
- k. Make the safety of domestic violence victims a primary concern. Address threats of violence, whether immediate or remote, by working with the victim to focus on ways to enhance safety, such as waiting for officers at another location or leaving the location if the suspect returns.
2. Initial Law Enforcement Officer Response
- a. When dispatched to a domestic violence call, responding officers should do the following:
- Approach the scene of a domestic dispute with a high degree of caution
 - Obtain all available information from the dispatcher and notify the dispatcher upon arrival
 - Avoid the use of emergency lights and sirens when it is not essential so as not to alert the perpetrator to the officers' approach
 - Be alert for persons leaving the scene and for the deployment of weapons from doors, windows, or nearby vehicles.
 - Use recording devices to capture statements made by combatants and witnesses, when state law permits
- b. Upon arrival at the scene, responding officers should do the following:
- Avoid parking the police vehicle in front of the residence or other site of the disturbance when possible.
 - Identify themselves as law enforcement officers, explain their presence, and request entry in the event the incident is at a private residence, as necessary, and when exigent circumstances do not exist.
 - Make contact with all residents of the house, all potential witnesses, victims, and perpetrators. A forced entry is permissible if there is probable cause to believe that the safety of a victim may be in jeopardy. In making this decision, officers may take into account everything they personally observe, all physical evidence, and all things learned from witnesses or other persons supplying information. In evaluating the information, officers should take into account the credibility of the persons supplying the information and whether there is a reasonable basis for believing the information.
- c. Upon gaining entry, responding officers should do the following:
- Identify and secure potential weapons in the surroundings
 - Separate the parties
 - Restrain or remove the suspect, if necessary
 - Assess for injuries, make an inquiry

- about strangulation or internal injuries, administer first aid, and request medical services as necessary
 - Identify all people or witnesses on the premises
 - Separate occupants and witnesses from the victim and the accused, keeping them out of sight and hearing range of one another (as safety permits)
 - Obtain a comprehensive account of the events from all parties
- d. During the on-scene investigation, using a coordinated approach, responding officers should do the following:
- Ask the parties about injuries, including those that may be concealed by clothing or otherwise not readily apparent including strangulation. An officer of the same sex as the victim may be needed as further visual investigation continues and color photographs of these areas are taken.
 - After speaking with the victim and making a proactive assessment of the victim's physical condition, determine whether emergency medical services (EMS) should be summoned to the scene. Officers should always summon EMS if (1) the victim requests medical attention (whether the officer believes EMS should be summoned or not) or (2) if it appears that strangulation has occurred.
 - Inform the victim in advance of actions to be taken and obtain consent to search the scene or obtain a search warrant as necessary.
 - If the suspect has been arrested prior to the interview, give *Miranda* warnings before questioning the suspect. If the suspect has fled the scene, solicit information about his or her possible whereabouts.
 - Address the victim's safety and privacy by interviewing the victim in an area apart from the suspect and witnesses. Obtain information about previous incidents, including frequency and severity.
 - Ask the victim about the existence of a protection order and, if one is said to exist, ask whether the victim possesses a copy. Check for the existence of a protection order through dispatch or by whatever means available.
 - Collect, preserve, and document all physical evidence to support prosecution, including evidence substantiating the victim's injuries, evidentiary articles that substantiate the attack (weapons, torn clothing, phone cords, and so on) and evidence recording the crime scene, in accordance with departmental policy on evidence collection. Ensure that color photographs are taken of visible injuries on the victim as well as visible injuries on the suspect. Make arrangements to take follow-up photographs of the victim's injuries 24, 48, and 72 hours later in the event the injuries become more visible and pronounced.
- Interview all witnesses fully and as soon as circumstances allow. If witnesses provide information about prior incidents, document the information to establish a pattern.
 - Interview children at the scene in a manner appropriate to their age. Document any signs of trauma and any apparent wounds or healing of wounds on the children and take appropriate action, in accordance with state law, to prevent imminent harm to the children.
 - Elicit information and document all actual and suspected incidents of abuse including physical and sexual abuse, elder or child abuse, animal cruelty, and so on.
 - Offer to contact a local advocate to provide support to the victim as available and provide current contact information for local domestic violence victim advocacy organizations.
- e. The responding or investigating officers shall not do the following:
- Make any statement that would discourage a victim from reporting an act of domestic violence
 - Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel
- f. Supervisor involvement
- Field supervisors shall be responsible for monitoring any domestic violence calls dispatched to the officers under their direct supervision or within their area of responsibility.
 - Whenever possible, the supervisor should respond to the scene for the purpose of providing additional safety, monitoring the situation, and being available to offer advice.
 - In situations where the supervisor is not able to respond, he or she should perform follow-up to ensure departmental

- policy has been followed.
- g. Incidents involving a police officer as the suspect²
 - Upon arrival on the scene of a domestic violence call or an incident involving a law enforcement officer, the primary patrol unit shall immediately notify dispatch and request a supervisor of higher rank than the involved officer report to the scene, regardless of the involved officer's jurisdiction.
 - Responding officers shall be aware of the heightened risk that a suspect who is a police officer will likely possess firearms, other weapons, physical combat training, or all three.
 - Officers should be aware that the suspect might attempt to make emotional appeals to fellow officers.
3. Incident Documentation

Officers shall complete a departmental domestic violence supplemental report form following response to or investigation of an allegation of domestic violence, whether or not an arrest is made.
 4. The Arrest Decision
 - a. Officers shall make a warrantless arrest (as permitted by state law), as part of the proarrest response, if an officer has probable cause to believe that a person has committed a crime involving domestic violence.
 - b. Officers shall arrest for violation of protection orders, when applicable.
 - c. Officers shall provide a detailed explanation, if an arrest is not made, in their report as to why an arrest was not made.
 - d. When an arrest cannot be made due to lack of probable cause that a crime has been committed, or if an arrest is authorized but not made (explanation to be found in the incident report), then the officer shall do the following:
 - Explain to the victim why an arrest is not being made
 - Advise the victim of his or her rights and explain the procedures for filing a criminal complaint
 - Encourage the victim to contact the local domestic violence service provider for information regarding counseling and other services
 - e. If an officer has probable cause to believe that two or more persons committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall attempt to determine whether one party acted in self-defense and whether one party was the predominant aggressor.
 - f. An arrest should be made once the predominant aggressor had been determined.
 - g. **Dual arrests apply only** where officers find that there is no predominant aggressor and self-defense has not been used under the law.
 - h. If the officer determines that probable cause exists to arrest both parties, the arresting officer shall write and file a separate report for each arrest and include a detailed explanation of the probable cause for each arrest.
5. Arrest Procedures
 - a. The arresting officers should take the accused into custody as soon as it is determined that a warrantless arrest is appropriate. If the suspect has fled the scene, the officers should attempt to locate and apprehend the suspect as well as consider advising dispatch of the suspect's description so a lookout can be placed for the suspect. Should the suspect not be located, the officers should initiate procedures to obtain a warrant for the suspect as soon as practical.
 - b. Domestic disturbances involving prominent citizens, public officials, or police officers may present particular difficulties for the responding officers. In such circumstances, the responding officers should request that a supervisor respond to the scene and shall ensure that this incident be handled the same as any other domestic violence incident.
 - c. The officer should not put a victim in the position of stating whether or not he or she wants the suspect to be arrested.
- C. Victim Safety and Protection

Police officers shall make victim safety and protection a priority, recognizing the important role they play in supporting the safety of victims and enabling them to make informed decisions.
 - D. Postincident Follow-Up
 1. The chief of police, chief executive officer (CEO), or CEO designee shall do the following:
 - a. Designate a person to make follow-up contact with victims of domestic violence and inquire whether subsequent violence or intimidation has occurred. Subsequent incidents shall be treated in accordance with this policy and assigned a new case number.
 - b. Notify victims, following an arrest, of any conditions of bail and advise the victims of their right to request revocation of bail from the state, county, or city attorney's office if the conditions are violated.
 - c. Assign a trained person to assess the level

of danger posed to the victim in order to inform perpetrator release decisions.

Endnotes

¹ International Association of Chiefs of Police, National Law Enforcement Policy Center, "Domestic Violence by Police Officers," policy and discussion paper, by the IACP Police Response to Violence Against Women Project (July 2003).

² International Association of Chiefs of Police, National Law Enforcement Policy Center, "Domestic Violence by Police Officers," policy and discussion paper, by the IACP Police Response to Violence Against Women Project (July 2003).

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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Addendum

Determining a Domestic Violence Arrest

1. Predominant Aggressor

When trying to determine the predominant aggressor, officers shall consider the following questions:

- Who uses threats and intimidation in the relationship?
- Who isolates his or her partner?
- Who is emotionally abusive?
- Who minimizes, denies, and blames in the relationship?
- Who uses the children to get his or her way in the relationship?
- Who is sexually abusive?
- Who engages in economic abuse?
- Who uses coercion and threats?
- Who carries out any threats (if any threats have been made)?
- Who has a history of committing violent crimes?
- What does the premise history tell you about calls for service to the residence?
- Is there a history of domestic violence between the parties?
- Is there a physical size difference between the parties?
- Who has a protection order in effect against him or her or a history of protection orders against him or her?
- Who appears to be more capable of assaulting the other?
- What is the severity of injuries to the parties?
- Who uses self-defense?
- Is there potential for violence in the future?
- What types of injuries do the parties have? Are they offensive or defensive in nature?
- Who fears whom?
- Is there a likelihood of further abuse? If so, by whom?
- What type of evidence has been gathered from witness accounts?

2. Self-Defense

To determine whether self-defense was used legally, officers shall determine whether the individual's **actual belief** that they or another person (for instance, a child) were in **imminent danger** is based on **reasonable grounds**. The officers' belief that force was necessary is not relevant in making this determination.

3. Dual Arrest

If the officer determines that in fact both parties have used equal violence, that no self-defense was involved, and that there was not a predominant aggressor, after a thorough investigation of all the

factors involved, then the officer shall notify a supervisor.

4. Factors Not to Use in Determining Arrest

Although the following facts may be used as background information to complete a domestic violence investigation for prosecution, the investigating officers should not consider the following factors in making arrest decisions:

- Marital status
- Ownership or tenancy rights
- Verbal assurances that the violence will stop
- Emotional status of victim
- Reluctance of the victim to have the suspect arrested
- Visible or nonvisible injuries
- Accusations by either party
- Denial of domestic violence by either party
- Previous law enforcement response to domestic violence calls at location
- Belief that the arrest may not lead to conviction
- Existence of current protection order
- Financial consequences of an arrest to either party
- Location where incident occurred (private property, for instance)
- Racial, cultural, social, political, or professional status, or the sexual orientation of either the victim or the suspect
- Use of alcohol or drugs or both by either or both parties
- Perception of the willingness of any party to testify or participate in a judicial proceeding