

**ST. CLOUD POLICE DEPARTMENT**  
**Law Enforcement**  
**Policies and Procedures**

Subject: Domestic Abuse	Policy Number: 240
Issue Date: 03-20-06	Revision Date: 02-06-08
Approval Authority - Title and Signature: Wm. Blair Anderson, Chief of Police	
Reviewed By: Thomas Gjemse, Commander	Review Date: 06-13-19

**POLICY**

This order defines the department's procedures in the initial response and investigation of incidents involving domestic violence. This order is in compliance with Minnesota Statutes pertaining to police authority and responsibilities in domestic abuse cases.

**PURPOSE**

The department is committed to engaging in a comprehensive approach to intervening in domestic violence incidents. An emphasis is placed on initial response, aggressive follow-up ensuring that a thorough and impartial investigation is completed. The investigation of these cases sets the foundation for almost every subsequent action by the courts and community-based agencies such as Anna Marie's. A thorough and impartial investigation is the cornerstone of an effective, coordinated interagency response. The intent of the law and this order is to protect victims from ongoing domestic violence. Further it is our desire to complement and coordinate efforts in the development of domestic abuse prosecution plans, so that law enforcement, prosecution and advocacy will be more efficient and successful. This policy requires allegations of domestic abuse be documented so there can be meaningful prosecution and delivery of victim services.

**DEFINITIONS**

- A. Domestic Violence – the establishment of control and fear in a relationship through the use of violence and other forms of intimidation. The person committing the domestic violence may use physical abuse, emotional abuse, sexual abuse, economic oppression, isolation, threats, intimidation, and maltreatment of children to control the other person. Relationships involving domestic violence may differ in terms of severity or patterns of abuse, but control is the primary goal of all abusive persons.
- B. Domestic Abuse Program - means a public or private intervention project or advocacy program, which provides support and assistance to the victims of domestic abuse.
- C. Domestic Abuse – Minn. Stat. §518B.01, subd. 2(a) defines domestic abuse, if committed against a family or household member by a family or household member, as follows: physical harm, bodily injury or assault; the infliction of fear of any of the following: imminent physical harm, bodily injury or assault; terroristic threats within the meaning of Minn. Stat. §609.713, subd. 1; criminal sexual conduct in the first through fifth degree; interference with 911 emergency calls.
- D. Family or Household Member - means spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they have been married or have lived together at any time, and persons involved in a significant romantic or sexual relationship. It also includes a man and a woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time. Minn. Stat. §518B.01, subd. 2(b).

- E. Probable Cause - A belief, based on an officer's observations and reasonable judgment, and statements by parties and witnesses involved, that a crime occurred and the subject committed the crime.
- F. Self Defense - Reasonable force used by any person in resisting or aiding another to resist an offense against the person, Minn. Stat. §609.06, subd. 1(3). The use of force must be reasonable for that person given the nature of the threat. Reasonable force to defend oneself does not include seeking revenge or punishing the other party.
- G. Evidence of Conduct - Minn. Stat. §634.20 - Evidence of similar conduct by the accused against the victim of domestic abuse, or against other family or household members, is admissible unless the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issue, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. "Similar conduct" includes, but is not limited to, evidence of domestic abuse, violation of an order for protection under section 518B, violation of harassment restraining order or domestic abuse (i.e. conviction).
- H. Qualified Domestic Violence-Related Offense. "Qualified domestic violence-related offense" includes the following offenses: sections [518B.01](#), subdivision 14 (violation of domestic abuse order for protection); [609.221](#) (first-degree assault); [609.222](#) (second-degree assault); [609.223](#) (third-degree assault); [609.2231](#) (fourth-degree assault); [609.224](#) (fifth-degree assault); [609.2242](#) (domestic assault); [609.2247](#) (domestic assault by strangulation); [609.342](#) (first-degree criminal sexual conduct); [609.343](#) (second-degree criminal sexual conduct); [609.344](#) (third-degree criminal sexual conduct); [609.345](#) (fourth-degree criminal sexual conduct); [609.377](#) (malicious punishment of a child); [609.713](#) (terroristic threats); [609.748](#), subdivision 6 (violation of harassment restraining order); and [609.749](#) (harassment/stalking); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

## PROCEDURE

- A. Driving to the Scene  
The peace officers should respond directly and without unreasonable delay to the scene of a domestic call.
- B. Initial Contact with Occupants  
Upon arriving at the scene of a domestic call, and being met, the responding officers should identify themselves as peace officers, explain their presence, and request entry into the home. The officers should ask to see the person who is the subject of the call. If the person who called the law enforcement agency is someone other than the subject of the call, the officer should not reveal the caller's name. The officer should check to make sure all of the occupants are safe and separate involved parties to ensure safety.
- C. Entry
- Refused – If refused entry, the officers should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused, the officers should personally attempt contact or request the dispatcher to contact the caller.
  - Forced Entry – If access is still refused and the officers have reason to believe that someone is in imminent danger, the officers are permitted to force entry.

- Search Warrant Entry – If the officers are refused entry and have no legal grounds for forced entry and they have reasonable grounds to believe a crime has been committed, they should contact the appropriate authority to obtain a search warrant.
- D. First Aid  
After initial contact the responding peace officers shall provide or seek the necessary medical attention.
- E. Secure Crime Scene  
Officers shall observe, protect, and collect any physical evidence that may be at the scene of a domestic assault. Standard evidence collection and preservation techniques shall be used in accordance with department policy and procedures.
- F. Interviews  
After securing the scene, officers should conduct a taped interview with all involved persons. Involved persons may include victims, suspects, and witnesses. Whenever possible multiple officers should be present to ensure involved persons can be separated for the purpose of obtaining a more thorough and accurate taped statement.

## ARREST DECISIONS

### A. Making Arrests

After securing the scene and providing any first aid, the peace officers will begin a criminal investigation to determine if there is probable cause to believe that a crime has been committed based on the evidence and **not** upon the victim's desire to make an arrest. The officers should collect relevant physical evidence, including weapons which may have been used, take photographs of the scene or any injuries, and statements from the involved parties and witnesses. Some of the evidence and statements include:

- Condition of clothing.
- Property damage.
- Excited utterances of the victim and the suspect.
- Demeanor of the victim and the suspect.
- Medical records including the victim's statements to paramedics, nurses, and doctors.
- Interviews of witnesses including the children who may have been present.
- Evidence of any prior domestic abuse – related convictions including dates.
- Any existing orders for protection or no contact orders.

### B. Factors Not to be Considered in Making the Arrest

Arrests should be made without consideration of:

- Marital status, sexual orientation, race, or cultural, social, political, or professional position.
- Ownership, tenancy rights of either party, or the fact the incident occurred in a private place.
- Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction.
- Verbal assurances that the abuse will stop.
- Denial by either party that the abuse occurred, when there is evidence of domestic abuse such as physical injuries or witnesses.

- Lack of a court order restraining or restricting the suspect.
- Concern about reprisals against the victim.
- Adverse financial consequences that might result from the arrest.
- Chemical dependency or intoxication of the parties.

C. Single Offender

1. If a person is determined to be the sole aggressor, and the persons involved meet the definition of family or household member; that person shall be arrested and taken into custody (within 72 hours for misdemeanor offenses) when an officer has probable cause to believe that person has committed an act of domestic violence.
2. At no time is an officer to leave a citation with the victim to give to the offender. A citation is not to be mailed to the offender. For misdemeanor offenses, if the offender is arrested at the scene or located within 72 hours, the officer shall issue a citation. If not located the report shall be immediately forwarded to the prosecuting attorney for a formal complaint.

D. Multiple Parties

This policy discourages dual arrests for domestic assault as supported by Minn. Stat. §629.342, subd. 2. When evidence of mutual combat is present, the situation does not necessarily dictate that a domestic assault arrest of both parties be made. The arrest of both parties often leads to the dismissal of all charges and can create an unjust result. Accordingly, if one person is arrested for domestic assault, lesser offenses such as disorderly conduct, may be applicable to the other involved party. Officers shall determine if self-defense was claimed and justified.

1. Self-Defense: Officers must first determine whether any injuries were inflicted as a result of self-defense. For example, injuries inflicted on a perpetrator by a victim in the course of a strangulation attempt. Reasonable force may be used by any person in resisting or aiding another to resist an offense against the person. The use of force must be reasonable for that person given the nature of the threat and may include the use of weapons. If one of the persons acted entirely in self-defense, the situation is dealt with as if there were a single offender. (See Section V, paragraph C – Single Offender.)
2. Multiple Domestic Abuse Arrests: In situations where probable cause exists to arrest both parties, but self defense is not involved, and an arrest of the predominant aggressor alone cannot be made, both persons should be arrested. To comply with state statute all person(s) involved will be issued a citation at the police department or a place of detention. It will then be necessary to make arrangements for the care of the children.
3. A supervisor must be notified in incidents involving multiple offenders. Custodial arrests of mutual combatants in domestic situations require the approval of a supervisor. In addition, a supervisor is notified of felony assaults and incidents involving weapons. The supervisor will be required to advise the on-coming shift about the possibility of probable cause arrest within the 72-hour limit or a probable cause arrest that could be made at any time in the case of a felony.
4. Officers are discouraged from certain arrests for “domestic assault” to coincide with the spirit of the law. Examples of this would include adult relatives, such as brothers and/or sisters who are or have lived together in the past and past or current roommates. Officers should cite and/or arrest for an assault violation, not for the offense of domestic assault which can carry a higher level of sanctions and penalties.

E. Child Victims

1. If a child is a victim of domestic abuse, the previous sections of this order pertaining to arrests are applicable. The presence of children involved in any domestic abuse situation needs to be documented. Officers are mandated to report if the incident involves neglect, or potential neglect of the child. Officers must always make a determination about the safety or advisability of leaving the child in the residence.
2. Before interviewing a child as a witness of domestic abuse, the officer should consider:
  - The child's physical, emotional, or psychological ability to give a statement;
  - The child's age and ability to understand questions and formulate responses;
  - The likelihood the child will suffer adverse consequences.

F. Assistance to Non-English Speaking Victims or Victims with Communication Disabilities

The peace officer shall use the resource list established by the law enforcement agency to contact a person to assist in those cases where the participants in the domestic call, including the witnesses, are non-English speaking, are hearing-impaired, or have other communication disabilities. The officer should avoid the use of children, friends, family, or neighbors serving as the primary interpreter for the investigation.

**DETENTION AND CHARGING**

A. Misdemeanor Offenses

1. If an in-custody arrest is made officers shall recommend continued detention to jail staff when it appears additional victimization could continue prior to an initial court appearance. The officers should provide all factual information to support a decision to hold a suspect for court (see lethality assessment below VIII C). Given the dynamics of domestic abuse and the documented and accepted professionally recognized likelihood that once domestic assault occurs it is likely to reoccur. It is expected that officers will hold misdemeanor offenders for court. Exceptions to this policy must be discussed with a supervisor.
2. When a custodial arrest is mandated but cannot be made because the offender is not located, the investigating officer will dictate a priority report. All related paperwork will be given to the duty sergeant. The sergeant will be advised when the time period for the arrest expires and will attempt to have officers make the arrest. If the suspect cannot be located the portfolio will be sent over to the appropriate prosecutor requesting a formal complaint be issued. If unable to locate the suspect within 72 hours and it is a misdemeanor offense, the officer will forward the report to the City Attorney for a complaint in lieu of a citation being mailed. If officers have contact with the suspect after 72 hours has expired **and** the report has been submitted to the City Attorney's Office the officer should contact the City Attorney's Office, regarding whether to issue a citation or wait for the formal complaint. If unable to reach the City Attorney's Office continue with the long form complaint

B. Second Offenses and Gross Misdemeanor/Felony Charges

When an arrest is made, officers must determine if enhancement is appropriate by interviewing the victim and the suspect and by researching available court and local records. Officers must document sources consulted in an effort to locate enhancement information (community-based shelter, TCIS, MNCIS, CCH, counties contacted, etc.)

- On misdemeanor offenses, officers shall issue a citation for offenders taken into custody
- On gross misdemeanor/felony offenses the suspect may be held for court or summoned to court by long form complaint. Officers shall attempt to locate the suspect and take the suspect into

custody. If officers are not able to locate the suspect, the officer, as soon as practical, shall forward the report to the County Attorney for a formal complaint.

### **SEIZURE OF WEAPONS IN DOMESTIC ABUSE INCIDENTS**

Officers investigating domestic abuse incidents, who have probable cause to believe the domestic abuse incident involved weapons should, when lawfully possible, seize all weapons. Any weapon used or referred to during the incident of domestic abuse should be retained as evidence. In other instances, it may be appropriate to take weapons for safekeeping. The purpose of this is twofold; to preserve evidence and also to safeguard the welfare of the people involved.

### **REPORTS**

- A. Whenever a peace officer investigates an allegation that an incident of domestic abuse has occurred, whether or not an arrest is made, the officer shall make a written police report of the alleged incident. The report must contain at least the following information: the name, address and telephone number of the victim, if provided by the victim, a statement as to whether an arrest occurred, the name of the arrested person, and a brief summary of the incident. In cases when there is some indecision about whether the incident is a domestic abuse situation, check with an advocate at a community-based shelter for prior contacts or arrest information. Whenever probable cause is established, whether a physical arrest is made or not, officers will contact a community-based shelter by telephone and report the incident. In addition, a copy of all domestic related reports will be routed to a community-based shelter. The officer shall submit the report to the officer's supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made. (M.S. 629.341 Subd.4)

Reports should be completed before the end of the officer's shift:

- When a custodial arrest is made; or
- When there is probable cause for a custodial arrest but the subject was not located and physically taken into custody.

B. Domestic Abuse Arrest / Incident Report Writing Checklist

The following is information that should be obtained, whenever possible, to assist in the completion of all mandated reports:

1. Name, address, and phone number(s) of victim.
2. Include any emergency contact information where the victim can be contacted safely.
3. Did arrest occur? Include name of arrested party.
4. State times (incident, arrival, and statement).
5. Identify parties present.
6. Describe emotional state of victim and suspect.
7. Describe injury to victim.
8. Describe injury to suspect.
9. Describe scene.
10. State relationship of victim and suspect.
11. State if children present, not present, witnessed, or involved. Describe involvement.
12. Take pictures (document).
13. Collect evidence (document).
14. Describe medical attention and identify facility.
15. Obtain signed medical release and medical records.
16. Note the presence of any of the following: OFP, probation, victim/suspect intoxicated.
17. Determine past history of crimes of violence and location of occurrence.

18. State witnesses' names, addresses, phone, and workplaces.
19. State how victim can be reached safely in the next 24 hours.
20. State name, address, and phone of person who will always know how to reach victim.
21. Include in narrative: victim statement, suspect statement, witness statement, probable cause for each arrested party. Who initiated? Self-defense?

C. Lethality Assessment

Ask the victim several questions to get at the history and context of violence (see definition of domestic violence on page 1) in the relationship. In your narrative try to give specific examples from the victim interview. Also include your impressions which would be useful in determining the level of danger a suspect poses. If possible, record any indications that:

1. The suspect owns or has access to guns.
2. The suspect is likely to use a weapon against a family member or others.
3. The violence is getting more severe or more frequent. How?
4. Is suspect less fearful of consequences? (Example) has violence gone from private to public?
5. The victim believes suspect could seriously injure or kill her/him.
6. The suspect seems obsessed or is stalking the victim? (following, constant phone calling, having others check on whereabouts)
7. There has been a recent separation, OFP or divorce in the past six months?
8. The suspect appears to be reacting to the OFP or divorce in a dangerous way.
9. The suspect has threatened to commit suicide, or to kill victim, or others.
10. The suspect strangled or smothered the victim?

**MANDATED VICTIM ASSISTANCE**

- A. In all domestic abuse incidents officers will provide the victim with the St. Cloud Police Crime Victim Information Card, which contains the ICR number and the officer's name. Officers shall advise victims of the availability of services at a community-based shelter and that an advocate will attempt contact the victim to explain all legal rights and options including the proper procedure for applying for an Order for Protection (MS 629.341 Subd. 3). This advisory must be given prior to clearing from the incident. If an arrest does not occur, peace officers should remain at the scene of the disturbance until they believe that the likelihood of imminent abuse has been eliminated. In some cases it may be advisable to contact a community-based shelter from the scene to determine the best course of action including placement in emergency housing at a community-based shelter or other temporary safe housing. If the victim needs transportation, the responding officer shall offer to transport the victim, or make arrangements for transportation to a safe place.
- B. Officers shall contact an advocate from a community-based shelter following the booking procedure or prior to the end of the shift for the purposes of completing a Law Enforcement Contact Report (See Appendix A) and advise them how, and where, to contact the victim.
- C. The officer shall attempt to obtain phone numbers of person(s) who can reach the victims in emergencies to enable notification concerning the suspect's release and other safety issues. These numbers are to be recorded on the back of the booking form.