

Domestic Abuse

310.1 PURPOSE AND SCOPE

The department is committed to engaging in a comprehensive approach to intervening in domestic abuse incidents. The investigation of these cases sets the foundation for almost every subsequent action by the courts and community-based agencies. It is the cornerstone of an effective, coordinated inter-agency response. The intent of the law and this order is to protect victims from ongoing domestic abuse.

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

310.2 DEFINITIONS

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, second, third, fourth, or fifth degree (Minn. Stat. § 609.342, 609.343, 609.344, 609.345, and 609.3451)
- interference with an emergency call within the meaning of Minn. Stat. § 609.78, Subd. 2

Family or Household Members: Minn. Stat. § 518B.01 Subd. 2 defines household members as:

- spouses and former spouses
- parents and children
- persons related by blood
- 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
- 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
- persons involved in a significant romantic or sexual relationship. (In determining whether or not a significant romantic or sexual relationship exists, the court shall consider the length of time of their relationship, type of relationship, frequency of interaction between the persons,

and if the relationship has terminated, the length of time since the termination.)

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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.

Self Defense: Reasonable force used by any person in resisting or aiding another to resist an offense against the person (M.S. 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.

Felony Domestic Assault by Strangulation: Unless a greater penalty is provided elsewhere, whoever assaults a family or household member by strangulation is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both. Strangulation is defined as "intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person." (Minn. Stat. § 609.2247)

310.3 PROCEDURES

310.3.1 SINGLE OFFENDER

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** within 72 hours and taken into custody when an officer has probable cause to believe that the person has:

- Has committed a misdemeanor assault against a family or household member which may include a physical assault or placed the victim in fear of immediate bodily harm.
- Has threatened a family or household member with dangerous weapons.
- Interference with an emergency call.
- Has made terroristic threats within the meaning of Minnesota Statute 609.731 Subd. 1
- Has committed criminal sexual conduct in the first, second, third, or fourth degree within the meaning of Minn. Stat. § 609.342, 609.343, 609.344, or 609.345.
- Juveniles may be arrested for domestic assault after considering self-defense, predominant aggressor and consultation with a supervisor.

When an officer determines that probable cause exists to make an arrest under the above conditions, the officer should make diligent efforts to ensure that the offender is arrested within 72 hours of the incident. If the officer is unable to make an arrest by the end of his/her shift, the officer shall meet all reporting requirements as explained in section VIII and complete a patrol log indicating:

- the ICR, victim's name, date, time and location of the incident
- the name of the offender and any pertinent information that may aid in the offenders arrest

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- that probable cause exists to arrest the offender and when the time period for the arrest expires

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At no time is an officer to leave a citation with the victim to give to the offender or mail a citation to the offender. If a citation cannot be personally served, refer the case to DVRT.

310.3.2 MULTIPLE OFFENDERS

Minn. Stat. § 629.342, Subd. 2 discourages dual arrest. When evidence of mutual combat is present, the situation does not necessarily dictate the arrest of both parties.

Self Defense: Officers must first determine whether any injuries were inflicted as a result of self-defense. 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.

Predominant Aggressor: If the officer determines that neither party acted in self-defense and both parties have committed an act of domestic abuse, then the officer must make a custodial arrest of the predominant aggressor considering the totality of the circumstances, including:

- the relative severity of the injuries and fear inflicted in this incident
- the relative use of force and intimidation used in this incident
- information available to officers involving prior incidents involving either party
- the likelihood of either party to commit domestic abuse in the near future

The disposition of the predominant aggressor should be determined using the criteria for "Single Offenders" (Section IV.A.) The rationale for determining self-defense or predominant aggressor must be documented in the report along with supervisory consultation on the arrest. The reports are forwarded by the patrol supervisor to the Domestic Violence Response Team (DVRT). The DVRT is responsible for referring the case to the appropriate prosecutor along with a recommendation concerning whether or not charges are appropriate for the non-dominant aggressor. The prosecutor is responsible for determining disposition involving the non-dominant aggressor.

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. In situations warranting a dual arrest, if there are children present in the home, officers may make a determination about who is best able to care for the children and issue that person a citation rather than making a custodial arrest. If neither person is able to care for the children, custodial arrests of both can be made and arrangements made for the care of the children.

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310.4 NOTIFICATION RESPONSIBILITIES

A patrol supervisor must be consulted in domestic incidents involving: multiple offenders, juveniles, self-defense, predominant aggressor or mutual combatants.

A patrol supervisor shall be notified of felony assaults and incidents involving weapons.

310.5 CHILDREN EXPOSED TO DOMESTIC ABUSE

If a child is a victim of domestic abuse, the previous sections of this order pertaining to arrests are applicable.

The presence of children, their location and any injuries, involved in any domestic abuse situation needs to be fully documented. Officers may be mandated to report if the incident involves neglect, or potential neglect, of the child whether or not an arrest is made. Officers must always make a determination about the safety or advisability of leaving the child in the residence.

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.

Strangulation

Strangulation behavior is potentially lethal, and it is a common action used by an abuser to dominate a victim. Any incident in which an offender places his or her hand or arm or another object around the victim's neck or throat and squeezes is potentially lethal behavior and creates a grave risk of injury and death. An offender's use of strangulation may foreshadow escalating use of violence and homicidal intent.

- If the victim has any of the symptoms of strangulation, talk with the victim of the potential lethality and the need to request emergency medical services. See training memo: Law Enforcement Response to Strangulation regarding medical care.
- Conduct an initial interview of the victim regarding the method of strangulation and its impact, e.g., difficulty breathing, loss of consciousness, etc.
- If possible, talk with the suspect before making a probable cause determination. Take caution to not inadvertently arrest a person acting in self-defense.
- Document all evidence of strangulation in the written report. Refer to the training memo: *Law Enforcement Response to Strangulation* for interview and report writing tools.

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Stalking-Investigation and Evidence Collection

- Be alert to the possibility that any single report of domestic abuse could be part of a pattern of stalking behavior. Pay particular attention to repeated violations of the protection orders and no contact orders.
 - Ask questions of the victim to determine if the current incident is an isolated event or part of a pattern of behavior.
 - Be aware of the possibility that actions that would not otherwise be illegal or might not cause alarm in another context could be examples of stalking behavior and respond according to the training memo, *Law Enforcement Response to Stalking*.
 - When conducting an investigation into alleged stalking, consider that evidence to the crime might be present in the suspect's vehicle. *See policy on search and seizure (add Policy # and Title of actual policy)*. Consider tools or implements used to commit stalking, kidnapping, or related crimes such as floral deliveries, emails, notes, cards, letter, gifts, cell phones, cameras, computers, etc. Note the information from the victim regarding previous acts of stalking and harassment for follow-up by officer.
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GOA Gone On Arrival-Policy Addition

Domestic violence incidents where the suspect leaves the scene before police arrive often involve dangerous suspects hoping to evade consequences for their actions. When an officer makes a determination that probable cause exists for an arrest but the suspect is not present, officers should prioritize apprehension of the suspect. See training memo on GOA for cautions in interviewing GOA suspects.

Take the following actions when the suspect has left the scene (GOA) prior to patrol officers' arrival:

- Search for the suspect on the premises
- Search for the suspect in the immediate area and the direction and area where the suspect might have fled
- Check with 911 for other addresses where the suspect might be located. Issue an attempt to Locate (ATL)
 - Request that 911 issue an ATL on all active dispatch channels.
 - Suspect's name, date of birth, and physical description, including clothing
 - Suspect's direction and mode of travel upon leaving the premises
 - Description of the suspect's vehicle, if applicable
 - Where the suspect might have gone
 - Where the suspect stays when not with the victim.
- Encourage the victim to call 911 if the suspect returns
- Provide information to the victim about restraining orders, how to request that the prosecutor file a criminal complaint, advocacy services, and shelter.
- Offer to transport the victim or arrange for transport to shelter or another safe place if needed.
- Provide whatever assistance is reasonable to help the victim to secure broken doors or windows.
- Collect and process evidence in the same manner as when an arrest has taken place.
- Remain at the scene until the officer believes the likelihood of further violence has been eliminated.
- After leaving the scene, when possible, drive by the residence over the next few hours and return to look for the suspect.

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Sexual Assault

Recognizing the crossover between domestic violence and sexual assault allows us to have a more comprehensive victim-centered response. Consider this co-occurrence when interviewing the victim and if an allegation of sexual assault is disclosed follow **Policy 602 Sexual Assault Investigation by Patrol Officers**

310.6 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 used in the assault. In other instances, it may be appropriate to take weapons for safe keeping. The purpose of this is twofold, to preserve evidence and also to safeguard the welfare of the people involved.

310.7 REPORTS

Minn. Stat. § 629.341 Subd. 4 requires an officer investigating any alleged incident of domestic abuse to complete a written report. CAD notes do not constitute a report. Per department policy an officer must complete the Risk Questions and document the responses in the narrative. Arrest CALs are required on all domestic arrests. DVRT CALs are required on all GOA cases regardless of the level of offense. Officers must also refer all incident and arrest referrals to Safe Haven Shelter.

Officers should include information related to the following in a report, as applicable (Minn. Stat. § 629.341 and 611A.0311), and see Policy 325 Preliminary Investigation/Required Reports for additional report information:

- (a) Names, addresses, telephone numbers of all involved persons
- (b) Condition of clothing
- (c) Description of the scene, including any property damage
- (d) Do not seize a phone if it would leave the victim without a working phone. Photographs and audio will suffice as evidence from the phone.
- (e) Evidence of physical injury, including strangulation
- (f) Presence of elderly victims, persons with disabilities, people with limited English proficiency and whether interpreter services were used.
- (g) Facts related to any person who may have been the predominant aggressor/ document any determination made regarding self-defense or predominant aggressor.

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- (h) Excited utterances of the victim and the suspect
- (i) Demeanor of the victim and the suspect
- (j) Medical records, including the victim's statements to paramedics, nurses and doctors
- (k) Detailed statements of interviews of witnesses, including children, who may have been present, noting any language barriers
- (l) A detailed explanation of the reasons for the officer's decision not to arrest or seek an arrest warrant
- (m) Evidence of any prior domestic abuse, related convictions, including dates
- (n) Any existing orders for protection, harassment restraining order or no contact orders
- (o) Identifying information of a specific court order violated, including county of origin, the file number and the provision allegedly violated

When a custodial arrest is mandated, but cannot be made because the offender is not located, the investigating officer will dictate a "RUSH" report. If it is a misdemeanor the officer will also complete a citation. The paperwork will be given to the district sergeant, or in their absence the Watch Commander. The sergeant will be advised when the time period for the arrest expires and will attempt to have officers make the arrest. If the offender has not been arrested within the mandatory arrest period, the original responding officer shall deliver a citation to the offender. In the event the offender cannot be located, the DVRT Unit Leader should be consulted for alternatives. In instances where a citation does not apply (GM or Felony) and an arrest has not been made by the end of the shift, reports must be forwarded to DVRT. The sergeant must ensure that the disposition is recorded in the case activity log.

Computer Aided Dispatch (CAD) notes are acceptable for documenting a code change, i.e. it was not an incident or allegation of domestic abuse. For example, It was a loud, verbal argument without threats, without fear, and without physical contact.

Officers conducting all criminal investigations will, whenever possible, record oral victim and witness statements in lieu of written statements. Statement evidence obtained during an initial investigation can be very powerful evidence in determining the course of an investigation; ultimately impacting charging decisions and convictions.

It is not necessary to advise a victim or witness that their statement is being recorded. If victim requests not to be recorded, Officers shall turn off recording device. Officers should use discretion when determining the best method of recording depending on the circumstances of the event. For example with cases of domestic or sexual violence, a discrete and low profile approach to recording would be appropriate in an effort not to add to the distress the victim may already be experiencing. Utilize the training memo, "**Victim Engagement Guidelines for Patrol Officers and Investigation**" when interacting with victims.

310.8 MANDATED VICTIM ASSISTANCE

In all domestic abuse incidents, officers will provide the victim with the Duluth Police Crime

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Victim Information Card which contains the ICR number and the officer's name. Officers shall

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Notify victims of the availability of services of Safe Haven Shelter and the Domestic Abuse Intervention

Project (DAIP). Incidents involving child victims require notification of the Initial Intervention Unit.

Following a domestic abuse arrest, officers shall advise victims that an advocate will be contacting them. The arresting officer will also contact Safe Haven Shelter and advise them how, and where, to contact the victim. This advisory must be given prior to clearing from the incident.

If the victim needs transportation, the responding officer shall offer to transport the victim, or make arrangements for transportation to a safe place.

The officer shall obtain at least two phone numbers of persons who can reach the victims in emergencies to enable notification concerning the offender's release and other safety issues. These numbers are to be recorded on the back of the booking form and provided to Safe Haven Shelter.

310.9 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 offender and by researching available court and local records. Officers must document sources consulted in an effort to locate enhancement information (MNCIS, CCH, counties contacted, etc.).

310.10 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic abuse cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

Probation

Patrol Officers should determine if suspect is currently on probation and inform probation of any incident, investigation and/or detention of suspect.

310.11 DOMESTIC VIOLENCE RESPONSE TEAM (DVRT)

The DVRT Unit conducts follow up investigation on domestic arrests and reported incidents. Patrol officers will submit arrest and incident reports to their supervisor. The patrol supervisor will forward the necessary reports to the DVRT Unit. Submitted reports will include statement forms, signed medical releases, MNCIS, criminal histories, and citations when one is issued. Referrals to the DVRT Unit are made through, and documented in the Case Activity Log.

The DVRT Unit will process the reports necessary for custodial arrests and ensure that the charges are appropriate. The unit will also follow up on investigations that do not result in an arrest when they believe the offender or family needs intervention not available from the Patrol Division.

The DVRT Unit will follow the training memo, **“Conducting Investigations/Supervision in**

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Domestic-Related Cases.”

Addendum

Risk Questions

1. Do you think he/she will seriously injure or kill you, your children, or someone else close to you? What makes you think so? What makes you think not? Does he/she have access to guns?
2. How frequently does he/she assault you? Describe the time you were the most frightened or injured by him/her.
3. Does he/she initiate unwanted contact either electronically or in person? Describe the unwanted contact. How often?
4. How frequently does he/she intimidate or threaten you? Has he/she intimidated or threatened you regarding talking to police or seeking help from the court?
5. Has he/she ever forced you to do things sexually you didn't want to?