



SUN PRAIRIE POLICE DEPARTMENT
POLICY AND PROCEDURE

F-04
Domestic Abuse
Field Operations

POLICY NUMBER: F-04	DATE: July 6, 2015
SUBJECT: Domestic Abuse	APPROVED BY: Sgt. Jason Lefeber
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[POLICY](#) | [OBJECTIVE](#) | [DEFINITION](#) | [PROCEDURE](#) | [ATTACHMENTS](#) | [HISTORY](#)

Policy

[BACK TO TOP](#)

The Sun Prairie Police Department recognizes the serious and devastating consequences domestic violence has on individuals, the family, and society. The department believes law enforcement intervention is critical in the effort to break the pattern of violence troubled families experience. Realizing the role law enforcement has in preventing domestic violence and taking into consideration the intent of Wisconsin Statutes, the department has adopted a domestic abuse policy which reflects:

1. A mandatory arrest attitude.
2. A commitment to investigate thoroughly and professionally all domestic abuse cases and to treat them as serious crimes.

Objective

[BACK TO TOP](#)

To provide department members with guidelines for investigating domestic abuse incidents and assure the requirements under Wisconsin law are met.

Definitions

[BACK TO TOP](#)

Domestic Abuse - 968.075 (1)(a):

Means any of the following actions:

1. Intentional infliction of physical pain, injury or illness.
2. Intentional impairment of a victim's physical condition.
3. 1st, 2nd or 3rd degree sexual assault, ss. 940.225(1), (2) or (3).
4. Causing a victim to fear that he or she was about to be physically harmed or assaulted.
5. Committed by an adult person against:
 - Their spouse.
 - Their former spouse.
 - An adult with whom they reside.
 - An adult with whom they formerly reside.
 - An adult with whom they have a child in common.

Predominant Aggressor - 968.075(1)(c):

Predominate aggressor means the most significant, but not necessarily the first, aggressor in a domestic abuse incident.

Procedure

[BACK TO TOP](#)

A. INVESTIGATING DOMESTIC ABUSE INCIDENTS:

1. Procedure for initial response to incident:
 - Officers will respond to a domestic abuse complaint keeping in mind this is a dangerous situation to law enforcement officers and due caution must be used.
 - If possible, parties involved will be separated to prevent physical altercations and to expedite the investigation.

- Before the investigation is underway, officers should check the area for potential hazards. If possible, interviews should not be conducted in areas where weapons are easily accessible.
- Officers will attempt to defuse the situation.
- Officers shall determine if a crime has occurred and, if it has, will conduct a complete investigation.
- If no crime has occurred, officers will attempt to ensure the safety of all the participants. This may include helping to arrange transportation for one or more of the participants to allow time for the situation to calm down.

2. Preliminary Investigation:

- Determine if there is probable cause to believe a crime has occurred.
- Determine if this is a domestic relationship.
- Statements should be obtained from victims, witnesses and suspects. Also note any excited utterances, admissions, and other informal statements.
- A specific description of the victim's injuries should be recorded.
- Evidence should be collected and photos taken of visible injuries.
- The victim's statement of non-consent must be included in the report.
- If medical attention is sought by the victim, it should be noted in the report and a medical release form should be obtained.
- Determine if there is a history of police calls/threats/abuse incidents involving the parties. If time allows, check for restraining orders, injunctions, or conditions of bail.

3. Arrest Disposition - Mandatory Arrest

- The officer will arrest and take a person into custody if ALL of the following apply:
 - The officer, after investigating the incident, has probable cause to believe that the person is committing or has committed domestic abuse and the person's actions constitute the commission of a crime, and
 - Either or both of the following circumstances are present:
 - i. The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim(s) is likely, or
 - ii. There is evidence of physical injury to the alleged victim(s).
 - The parties involved are in a domestic relationship as defined by State Statute.
 - The report is made within 28 days of the incident.
- An arrest will be made under the above requirements even though the victim expressly indicates a desire not to prosecute, or indicates an unwillingness to cooperate if the officer reasonably believes that the victim will suffer further injury if an arrest is not made.
- This decision to arrest will not be affected by the relationship of the parties. (Note: Marriage is not a bar to prosecution for sexual assault.)
- If the above circumstances exist, and the suspect is not present, a reasonable effort will be made to locate and take the suspect into custody.
- The issuance of a misdemeanor citation for a domestic abuse crime meeting the requirements for a mandatory arrest is prohibited.

4. Arrest Disposition - Discretionary Arrest:

- In most circumstances, which do not meet MANDATORY arrest requirements, an officer should arrest and take a person into custody if the officer has probable cause to believe that the person is committing or has committed domestic abuse and the person's actions constitute the commission of a crime.

- An officer's decision not to arrest under this section may not be based solely upon the absence of visible indications of injury or impairment.
- If an officer is acting on the basis of a domestic abuse report which is received more than 28 days after the alleged incident occurred, the provisions mandating arrest do not apply. However, all other provisions would still apply. For instance, if the officer makes an arrest, though not mandated to do so, the no contact provisions would apply.

5. Mutual Domestic Abuse:

- When the officer has probable cause to believe that persons in a domestic relationship are committing or have committed domestic abuse against each other, the officer does not have to arrest both persons, but should arrest the person whom the officer believes to be the "predominant aggressor".
- In order to protect victims from continuing domestic abuse, a law enforcement officer shall consider all of the following in identifying the predominant aggressor:
 - The history of domestic abuse between the parties, if it can be reasonably ascertained by the officer, and any information provided by witnesses regarding that history
 - Statements made by witnesses.
 - The relative degree of injury inflicted on the parties.
 - The extent to which each person present appears to fear any party.
 - Whether any party is threatening or has threatened future harm against another party or another family or household member.
 - Whether either party acted in self-defense or in defense of any other person under the circumstances described in s. 939.48.
- Officers are strongly discouraged but not absolutely prohibited from arresting more than one party in a domestic abuse incident.

6. Report Required Where No Arrest:

- If an officer does not make an arrest when the officer has reasonable grounds to believe that a person is committing or has committed domestic abuse and that person's acts constitute the commission of a crime, the officer shall prepare a written report stating why the person was not arrested.
- The report shall be sent to the District Attorney's office immediately for review after investigation of the incident has been completed. The review will determine whether the person involved in the incident should be charged with the commission of a crime. This is required under 968.075 (4) of Wisconsin statutes.

7. Restraining Orders and Injunctions:

- The violation of a domestic abuse temporary restraining order (TRO) or injunction is a misdemeanor under Wisconsin law, State Statute number 813.12.
- A victim may have obtained a TRO or injunction, which orders another person to avoid certain premises and to avoid contacting, or causing others to contact, the victim.
- Determine if the order has been served on the suspect.
- The officer will make an arrest for a violation of the order when there is an order in existence, the order has been served, and there is probable cause to believe that it was knowingly violated.

8. Children:

- Note the names and ages of children and whether they were present when the incident occurred.
- Children should be interviewed about the current incident, history of abuse and abuse toward any other members of the household.
- Because of the correlation between domestic violence and child abuse, the officer should always be alert for evidence of child abuse.

- In the event that a minor child appears to be the victim of physical and/or sexual abuse, it is the responsibility of the officer to take immediate action, including notifying the Dane County Department of Human Services within 12 hours of the report of the incident per WI Statute 48.981(3).

9. Victim Notification of No Contact Provision:

- The victim can either choose to enforce or to waive the right of protection of the 72-hour no-contact provision.
- Under the domestic abuse arrest law, unless there is a waiver by the alleged victim, during the 72-hours immediately following an arrest for a domestic abuse incident, the arrested person is required to:
 - Avoid the residence of the alleged victim of the domestic abuse incident and, if applicable, any premises temporarily occupied by the alleged victim; and
 - Avoid contacting or causing any person, other than law enforcement officers and attorneys for the arrested person and alleged victim, to contact the alleged victim.
- A law enforcement officer is required to arrest and take a person into custody, if the officer has probable cause to believe the person has violated the "no-contact" requirements. Charging would fall under Statute 968.075(5)(a).
 - Any violation of an enforced 72 hr no contact prohibition will be treated as a new case and a new case number will be generated.
 - If the violator is located in another county, e.g. Marquette County, the District Attorney's Office would like an arrest. In this situation, our probable cause can be given to the local jurisdiction to have the suspect arrested and held. Our department is responsible for the transport from the jurisdiction of arrest to the Dane County Jail. If this situation should occur, the OIC should be consulted before proceeding. Decisions to have the other agency make the arrest will be made on a case-by-case basis.
- At any time during the 72-hour period specified above, the alleged victim may change the status of the 72-hour no-contact provision. This will be accomplished by the completion of a "Victim Notification of No Contact Provision Change of Status" form.
- If the victim refuses to make a decision on the 72-hour no-contact provision, it will automatically be enforced.
- If the 72-hour no-contact provision has been enforced, the victim shall be notified if an arrested subject is released from the Dane County Public Safety Building (or similar facility). This notification should occur as soon as possible. How the notification was made shall at a minimum be documented in the CAD, but may also be documented in the case report.

10. Victim Services:

The following resources are available to eligible victims. Officers may make referrals as appropriate.

- Cellular 911 phone service administered by Domestic Abuse Intervention Services (608) 251-4445 or 1-800 747-4045.
- ADT alarm service administered by the Dane County District Attorney's Office.
- Emergency shelter for victims provided by Domestic Abuse Intervention Services.
- Victim support resources as listed on the Sun Prairie Police Department Victim Information form.

11. Domestic Violence Lethality Assessment

Prior to completion of the initial investigation, the investigating officer shall conduct an initial lethality assessment using the Domestic Violence Lethality Assessment Form (attached to this policy) to identify victims who appear to be at the greatest risk of escalated domestic violence. The results of the Lethality Assessment will be most useful if it is obtained immediately following the precipitating domestic incident.

The questions on the Domestic Violence Lethality Assessment Form are intended to identify the most common precursors of deadly violence. For example, victims who are threatened with a gun are more likely to be murdered at some point than are other victims. The questions on the Domestic Lethality Assessment Form should be asked of the victim regardless if the suspect has been located or is in custody at the time.

First, the investigating officer shall ask the victim five questions designed to reveal direct threats of deadly force:

- Has your partner (the aggressor) ever used a weapon against you or threatened you with a weapon?
- Has he or she ever threatened to kill you or your children?
- Has he or she ever strangled/suffocated/"choked" you or attempted to do so?
- Has he or she been physically abusive to you in the past?
- Do you think that he or she might try to kill you?

If the answer to any of the above questions is yes, the investigating officer shall immediately notify the OIC that the Lethality Assessment has identified a situation of High Risk for Escalated Domestic Violence. The investigating officer and the OIC shall then coordinate the development of a safety plan for the victim(s) and should refer to the internal Domestic Abuse Arrest LE Safety Plans document (attached to this policy).

The investigating officer shall continue the Lethality Assessment by asking these additional questions:

- Does he/she have a gun or can he/she get one easily?
- Has he/she ever tried to strangle you?
- Is he/she constantly jealous or control your daily activities?
- Have you left him/her or separated after living together?
- Is he/she unemployed?
- Has he/she ever tried to commit suicide?
- Do you have a child the he/she knows is not his/hers?
- Does he/she spy on you or leave threatening messages?
- Has he/she committed serious acts of domestic violence against previous partners?
- Has he/she threatened or killed pets?
- How threatened do you feel? Extremely Very Somewhat A little None

The responses obtained from these additional questions should provide further insight into the relationship characteristics and abusive behaviors of the aggressor. However, no single response is likely to form the exclusive basis for determining that the situation has a high risk of escalated domestic violence. Rather, the responses to these questions should be considered along with additional factors to determine the appropriate response and necessity of a safety plan for the victim. The investigating officer should also consider the totality of the circumstances of the preceding incident; any history of domestic violence between the abuser and the victim; and the dynamics of the particular relationship involved. Investigating officers should not substitute the responses to assessment questions for their own judgment or considered opinion as to the potential dangerousness of any given situation, nor should the lack of a positive response to any or all of the questions preclude the determination that a high risk situation exists.

The completed Domestic Violence Lethality Assessment Form shall be made part of the final investigative report.

12. Domestic Abuse Investigation Forms Packet

After completing the Domestic Violence Lethality Assessment Form, and no matter what the answers are by the victim to the questions on the Domestic Violence Lethality Assessment Form, the following documents shall be given to the victim identified in the domestic abuse investigation:

- Sun Prairie Police Department Victim Notification of No Contact Prohibition
- Sun Prairie Police Department Crime Victim Information
- Sun Prairie Police Department Domestic Violence Safety Suggestions (attached to this policy)
- Sun Prairie Police Department Quick Facts about Injunctions (attached to this policy)

13. Peacekeeping:

The Dane County District Attorney's Office has stated it is lawful that State Statute (968.075) allows for law enforcement to contact the victim of domestic abuse on behalf of the person arrested in the domestic abuse case even with a signed 72-hour no-contact prohibition. This department will allow for short in duration preserve the peace calls in these situations.

The Dane County District Attorney's Office has consistently provided direction to people involved in domestic abuse incidents or injunction situations. The department is being asked to facilitate telephone contact or an encounter in person between two parties in a peace keeping capacity as directed by the District Attorney's Office. This is typically a request for property or to make future arrangements. The department will allow for this to occur on a restricted basis. These situations should be given special consideration as they present additional risk factors. Parties shall be separated during the encounter to reduce the risk of potential problems or further violence.

B. INVESTIGATING LAW ENFORCEMENT DOMESTIC ABUSE INCIDENTS:

This policy recognizes that the profession of law enforcement is not immune from members committing domestic abuse against their intimate partners. The purpose of this policy is to establish procedures for handling acts of domestic abuse committed by police officers and for implementing prevention strategies. This policy will provide police executives, officers, and all department employees' guidance in addressing incidents where one (or more) party(s) to a reported domestic abuse incident is an employee, whether sworn or civilian, of any rank in the department.

1. Communications:

- Dispatchers shall be instructed to assign a high priority to all domestic abuse calls, including those that involve or appear to involve a police officer of any department.
- Dispatchers shall immediately notify the Officer-In-Charge of any domestic abuse call received that involves, or appears to involve, a police officer, regardless of the involved officer's jurisdiction.
- Dispatchers shall prepare and preserve documentation of the facts and circumstances of the call, including the 911 tapes, for use in potential administrative or criminal investigations.

2. Patrol:

- Upon arrival on the scene of a domestic abuse call or incident involving a police 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.
- The responding officer shall conduct the investigation as indicated in this policy.

3. Officer-In-Charge:

- The Officer-In-Charge shall report to the scene of all police officer domestic abuse incidents regardless of the involved officer's jurisdiction. If a Sun Prairie police officer is involved in the domestic abuse incident, the Dane County Sheriff's Office shall be contacted to conduct the investigation.
- The Officer-In-Charge shall assume command and ensure that the crime scene is secured and that all evidence is collected. Photographic and/or video documentation of the parties involved and scene shall be recorded where such resources are available.
- The Officer-In-Charge shall inquire as to the safety of all children present at the time of the incident and all children in the household. As appropriate and necessary, the children should be interviewed separately from other parties.
- In cases where probable cause exists, the Officer-In-Charge shall monitor and ensure that an arrest is made.
- If the alleged offender has left the scene and probable cause exists, the Officer-In-Charge shall perform the following actions:
 - Exhaust all reasonable means to locate the alleged offender
 - Consider the potential of an arrest warrant.
 - Document all subsequent actions in a timely manner.
- In the event that the victim has left the scene, the Officer-In-Charge shall make every effort to follow through on the investigation and attempt to locate the victim.
- Arrest of both parties involved in a domestic abuse incident should be avoided. The Officer-In-Charge shall ensure that a thorough investigation is conducted and an arrest of the predominant aggressor is made in accordance with state law.
- Where allowable under federal, state, or local ordinances, all firearms including the arrested officer's service weapon and those owned or at the disposal of the accused officer shall be seized for safety reasons.
- The Officer-In-Charge shall inquire whether the victim wants any firearms removed from the home for safekeeping by the department and make arrangements as necessary.
- The Officer-In-Charge shall ensure the victim is informed of the following:
 - The judicial process and victim rights.

- The department's policy on police officer domestic abuse, procedures and cross-jurisdictional responsibilities as they apply.
- The standard of probable cause for arrest.
- Procedures for obtaining protective orders.
- Victim compensation.
- The availability of an on-scene advocate.
- The availability of confidential transportation to a location that can provide improved victim safety.
- Community resources and local domestic abuse victim service.
- The option to remove firearms for safekeeping.

4. Additional Considerations:

- Whenever a police officer involved domestic abuse call does not result in an arrest or a warrant is not sought, the incident shall be documented in a written report and statutory obligations shall be followed.
- The Officer-In-Charge shall notify the duty officer as soon as possible. In the event that the officer is from another jurisdiction, the officer-in-charge shall ensure that the accused officer's chief is notified. All notifications and attempts to notify shall be fully documented.

Attachments

[BACK TO TOP](#)

Posted	Title	Type
10/20/2014	Change of Status Form	Reference
9/25/2015	Domestic Violence Lethality Assessment	Form
2/23/2015	Strangulation Investigation Checklist	Form (Word Doc)
1/18/2015	Domestic Abuse Arrest Safety Plan	Reference Guide (PDF)
1/18/2015	Quick Facts About Injunctions	Reference Guide (PDF)
1/18/2015	Domestic Violence Safety Suggestions	Reference Guide (PDF)

VI. HISTORY:

[BACK TO TOP](#)

Date Published	Statement
October 20, 2014	Replaces 5005.00 (03-20-08); updated 04-26-08 replacing FM-08; updated 10-07-14
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