

CRIMINAL INVESTIGATIONS

DOMESTIC ABUSE

Purpose: The nature or seriousness of crimes committed between family or household members is not mitigated because of the relationships or living arrangements of those involved. It is the intent of this policy to prescribe courses of action which police officers should take in response to domestic violence that will enforce the law while also serving to intervene and prevent future incidents of violence.

Policy Statement: The North Little Rock Police Department recognizes domestic abuse as a universal problem affecting people from all walks of life. Domestic abuse is a criminal offense according to ACA 16-81-113 and ACA 9-15-101-103, which is referred to as: **The Domestic Abuse Act of 1991**. It is, therefore, the departmental policy an arrest is presumed to be the most appropriate response on a domestic abuse incident. No person, because of his or her occupation, should be exempt from the consequences of their actions that result in a violation of the law under the Domestic Abuse Act.

Summary of Changes: **Sec 1.4** - Included taking additional photographs. **Sec. 1.6** - Added issuance of Laura's Card/ Victim's Rights Notification Form. **Sec. 1.7.3** - Added requirement to complete lethality assessment and information about attaching a copy of the lethality assessment to the arrest disposition report (ADR). **Sec. 4.4** - Included additional requirements for the Investigations Division. **Sec 7.3.2** - Changed arrest charge for violation of a no contact order from contempt of court to violation of no contact order (ACA 16-85-714). **Sec. 7.3.6** - Support Services Division will enter the no contact order into ACIC/NCIC upon receipt from the court.

Definitions:

Domestic Abuse: means physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault between family members or household members, or any sexual conduct between family or household members, whether minors or adults, which constitutes a crime under the laws of the state. (ACA 16-81-113)(1)(A, B)

Family or Household Members: Spouses, former spouses, parents or children, persons related by blood within the fourth degree of consanguinity, persons who are presently or in the past have resided or cohabitated together. Family or household member includes persons who have or have had a child in common and persons who are presently or in the past have been in a dating relationship. (ACA 16-81-113)(2)

Dating Relationship: A romantic or intimate social relationship between two individuals which shall be determined by examining the following factors: Length of relationship, type of relationship, frequency of interaction between the two individuals. (It shall not include a causal relationship or ordinary fraternization in a business or social context between two individuals.) 5-26-302 (1) (A) (b)

Order of Protection: An order issued by a chancery court which prohibits a person from engaging in certain conduct or contact with another person.

No Contact Order: An order for a defendant to have no contact with a victim and victim's family. It is issued by circuit and district courts in association with criminal charges, as either a condition of pretrial/bond or as a condition of probation. If the defendant is arrested in violation of an order he/she will be charged with violation of a no contact order (ACA 16-85-714), and held without bond until brought before the court.

Restraining Order: This order usually lists the names of persons involved, parameters of protection and any restrictions, such as sale of property. To enforce the order, the party must go back before the chancery court. The order is typically associated with a divorce or other civil proceeding.

Procedure:

1. Responsibilities of Responding Officers

1.1 Officers responding to a domestic abuse incident will first adhere to the following procedures:

1.1.1 Take immediate action to insure the safety of the victim(s);

1.1.2 Take control of all weapons used or threatened to be used in the crime; and

1.1.3 Assess the need for medical attention, and call for it if required or requested. If serious physical injury occurs, the on-duty sergeant will respond to determine if the Investigation Division should be contacted.

1.2 Interview all parties separately. After each party has been interviewed, if there is a question as to whether or not to arrest, the officer's supervisor will be called to the scene for further assessment of the situation.

- 1.3 Ascertain and verify the existence of any court order in effect and enforce the provisions thereof.
- 1.4 Collect and record evidence, when appropriate, take photographs of the victim(s), suspect, children that were present, any injuries and/or property damage.
- 1.5 Complete a *North Little Rock Police Department Incident Report*, if domestic abuse was committed. Note on the incident report whether an arrest was made. The Investigations Division will forward a copy of the report to the department's victim's advocate.
- 1.6 Officers will complete a lethality assessment and issue a Laura's Card/Victim's Rights Form. The form contains information regarding the Arkansas' Victim's Bill of Rights and victim assistance program resource numbers.
- 1.7 Complete a *North Little Rock Police Department Domestic Violence Supplement Form* while at the scene.
 - 1.7.1 Have the victim in the incident sign and date the form in the appropriate place.
 - 1.7.2 Attach the completed form to the original incident report using the same report number on both forms.
 - 1.7.3 All the listed suspects and arrested parties are to be checked locally and in ACIC/NCIC for any active warrants or previous convictions for domestic violence.
 - 1.7.4 Arrest is the *preferred* action on domestic abuse cases when the primary aggressor has been determined.
 - 1.7.5 Officers will complete a North Little Rock Arrest Disposition Report (ADR) and make an extra copy of the lethality assessment. The form will be attached to the ADR when it is turned in at the front desk so the prosecuting attorney has a copy for plea and arraignment.
- 1.8 If the offender has left the scene and a domestic abuse crime has been committed, the officer will:
 - 1.8.1 Conduct a search of the immediate area; and
 - 1.8.2 Obtain information from victims and witnesses as to where the offender might be and attempt to locate, if sufficient information is provided.
 - 1.8.3 The reporting officer will broadcast the offender information to all officers and send an email outlining the offense and time parameters of the arrest window (See 2.1 for time parameters).

2. Warrantless Arrest for Domestic Abuse

- 2.1 When a law enforcement officer has probable cause to believe a person has committed acts which constitute a crime under the laws of this state and which constitute domestic abuse as defined in the Arkansas Criminal Code, the officer may arrest the person without a warrant if the law enforcement officer has probable cause to believe the person within the preceding four (4) hours, or within the preceding twelve (12) hours for cases involving physical injury as defined in 5-1-102 (14), has committed such acts even if the incident did not take place in the presence of the law enforcement officer. (ACA 16-81-113)
- 2.2 The arrest of the person shall be considered the *preferred* action by an officer of this agency when evidence indicates domestic abuse had occurred in violation of Arkansas Criminal Code. If an officer cannot determine the primary physical aggressor in an incident, then dual arrests may be necessary in some rare instances where the victim or aggressor cannot be determined.
- 2.3 "Any law enforcement officer acting in good faith and exercising due care in making an arrest for domestic abuse will have immunity from civil liability." (ACA 16-81-113(3))
- 2.4 Field release and issuance of a citation are not permitted in domestic abuse cases when grounds for an arrest are present.
 - 2.4.1 In cases where an arrest has been made and the suspect requires hospitalization for a long term the following steps will be followed:
 - 2.4.1.1 Complete the North Little Rock No Contact Order on Digital Headquarters (DHQ);
 - 2.4.1.2 Contact an available judge and have the NCO signed and served;
 - 2.4.1.3 Release the suspect with an appearance agreement.

3. Victim Assistance/Crime Prevention

- 3.1 Many victims of domestic violence feel trapped in violent relationships because they are unaware that domestic violence is a crime and resources are available to help them. Also, the offenders may have threatened further violence if the victim attempts to leave or seek assistance. Therefore, officers are required to provide the following assistance to the victims, and where appropriate, the children.
- 3.2 Advise all parties about the criminal nature of family violence, its potential for escalation, and that help is available.
- 3.3 Insure the safety of any children.
- 3.4 Remain on the scene until satisfied there is no threat to the victim.

- 3.5 Provide or arrange accessible transportation for the victim and, at the victim's request, for any minor child or dependent in the victim's care, to a medical facility for treatment of injuries or to a nearby place of shelter or safety. When a victim of abuse decides to leave the scene of the offense, it will be presumed it is in the best interest of any minor child or dependent in the victim's care to remain with the victim or a person designated by the victim, rather than to remain with the abusing party. If the suspect or arrested party has court ordered custody of any minor child, the officer should contact the AR Department of Human Services.
- 3.6 In the event of a serious domestic abuse situation after hours, the on-duty lieutenant or senior sergeant will have the authority to contact the department's victim's advocate if necessary.

4. Investigation Division's Responsibilities

- 4.1 It will be the duty of any Investigation Unit Supervisor to assign an investigator to an incident involving domestic abuse when the abuse is of such a nature to warrant further investigation.
- 4.2 All the listed suspects and arrested parties are to be checked locally and in ACIC/NCIC for any active warrants or previous convictions for domestic violence.
- 4.3 If a previous conviction for domestic violence exists, the appropriate court should be contacted and certified copy of the conviction should be obtained for the case file.
- 4.4 In all assigned cases, the investigator will attempt to contact the victim and attempt to obtain a recorded statement in reference to the reported incident.
 - 4.4.1 If contact is made with the victim and the victim refuses to cooperate, a "Do Not Prosecute" form should be signed by the victim, acknowledging they do not wish to provide additional information or participate in the investigation and/or prosecution of the suspect. Also stated in the form is that they may change their mind and provide information for the investigation at a later time.
 - 4.4.2 Additional photographs should be taken of any visible injuries and medical records collected, if applicable, to be included in the submitted case file.
 - 4.4.3 9-1-1 call should be obtained to be included in the case file.
- 4.5 Previous reports from this agency or other agencies for any similar 'bad acts' (404.b evidence) may be included in the information section of the submitted case file.
- 4.6 Complete a case file to be submitted for review and/or prosecution to the prosecutor's office.

5. Service of an Order of Protection

- 5.1 Although, the Pulaski County Sheriff's Department will have first responsibility, an order of protection may be served by any law enforcement agency. Orders of protection are maintained in ACIC files and are enforceable regardless of the geographical jurisdiction of the issuing court. All the provisions set forth in valid orders are to be enforced.
- 5.2 When an order of protection is received for service, the following steps should be taken:
 - 5.2.1 Identify the person or defendant, and inform them of the existence of the order, its provisions, contents; and
 - 5.2.2 Inform the defendant they are being served; and
 - 5.2.3 Furnish him/her with a copy of the order; and
 - 5.2.4 Advise him/her of the date and location of any indicated court appearance; and
 - 5.2.5 Complete the documentation, and return/fax it to the appropriate sheriff's office.
- 5.3 When an order of protection exists but there is no copy of the order, then the following steps should be taken:
 - 5.3.1 Identify the person or defendant, and inform them of the existence of the order;
 - 5.3.2 Inform them where they can obtain a copy of the order (sheriff's office);
 - 5.3.3 Inform them of the issuing authority (court);
 - 5.3.4 Inform them of any specific conduct that may be required or prohibited in the order;
 - 5.3.5 Document in detail your actions on an offense report; and
 - 5.3.6 Send a copy of the offense report to the sheriff's office.

6. Enforcement of Orders of Protection

- 6.1 When an order of protection has been served prior to our involvement, the officer should insure the following steps are taken prior to an arrest:
 - 6.1.1 Contact the communications center or desk, and verify the order has already been properly served; and
 - 6.1.2 Insure the order is on file with ACIC; and
 - 6.1.3 The conduct or contact displayed by the defendant is prohibited by the provisions of the order.
- 6.2 Also, remember a valid order is enforceable whether or not the victim possesses a written copy of the order.
- 6.3 An arrest shall be the preferred action when evidence indicates that domestic abuse has occurred.
- 6.4 An arrest is mandatory for any violation of an order of protection.
- 6.5 The appropriate charge is violation of a protection order. (A.C.A. 5-53-134)

- 6.6 When an arrest is made for domestic abuse or violation of a protection order, the arresting officer should document his/her actions on a detailed offense report.
- 6.7 The ADR, a copy of the offense report and a copy of the order of protection should be routed through the proper channels to the court.
- 6.8 Advise the victim to contact their attorney or the prosecuting attorney's office.
- 6.9 The victim/petitioner of the order of protection cannot violate the order and cannot be arrested for violation of the order. On extremely rare occasions, both parties may have petitioned for separate orders of protection, and each may have been granted an order of protection against the other party. These orders can be verified through ACIC.

7. No Contact Orders

- 7.1 These orders are issued by a criminal court (district or circuit) which prohibits a person from engaging in certain conduct or contact with another person. The order is issued when the court finds that violence has occurred and is likely to occur again in the foreseeable future. The order is a condition of bond and/or probation and is mandatory in the following cases: harassment, harassing communications, terroristic threatening and stalking.
- 7.2 Service of no contact order (NCO) in court when a NCO is served in open court, the defendant must place his/her actual signature on the order. This becomes a condition of bond and/or probation; therefore, if he/she violates the conditions of release, or the terms of the order under Rule 9.3 and Rule 9.5, a law enforcement officer having reasonable grounds to believe the released defendant has violated those conditions is authorized to arrest the defendant when it would be impracticable to secure a warrant. (Rules of Criminal Procedure: 9.5(b))
- 7.3 Steps to be taken when making an arrest on a NCO:
 - 7.3.1 If the defendant is found in the same physical location with the complaining victim, he/she may be arrested in violation of the order. If the defendant is not at the same location as the victim, document the facts on an offense report and advise the victim to contact the prosecuting attorney.
 - 7.3.2 If the defendant is arrested in violation of the order, he/she should be charged with violation of a no contact order (ACA 16-85-714), and held without bond until brought before the court.
 - 7.3.3 The arresting officer is responsible for documenting the facts about the arrest on an offense report.
 - 7.3.4 A copy of the offense report, and a copy of the NCO (whenever possible), should be attached to the ADR, then routed through the proper channels to the district court.
 - 7.3.5 These orders may or may not be entered into ACIC based on the issuing court; the victim may have a copy of the order in their possession at the time of the incident; however, physical possession of the order by the victim is not required. If the jurisdiction does not enter NCO into ACIC, the issuing court can be contacted during working hours to verify the order.
 - 7.3.6 Support Services will enter any NCO into ACIC/NCIC upon receipt from the court.
 - 7.3.7 The victim should be advised to contact the probation officer from the court of jurisdiction that issued the NCO. Also advise the victim to call 911 if immediate help is needed.
 - 7.3.8 In cases involving dual arrests, a NCO may have been issued to both parties. It is incumbent upon the officer to verify if one or both of the parties have been issued a NCO.

8. Restraining Orders

- 8.1 In Arkansas, "restraining orders" are only issued in civil cases/cases involving divorce. A restraining order may be issued pending or as a part of the final divorce decree.
- 8.2 It is advisable for the individuals to contact their attorney with any violation of the order.
- 8.3 The violation of this order is not a chargeable offense but the officer should document the incident on an offense report.
- 8.4 A copy of the offense report is to be routed through the proper channels to the court.
- 8.5 To enforce the order, advise the victim they must go back before the chancery court.
- 8.6 Out of state courts may use different terminology for different types of protective orders.

9. Additional Considerations

9.1 Following the service of an order of protection, officers may be ordered by the court to stand-by while the respondent/defendant collects personal items from the residence of the petitioner/victim. This is noted in writing on the order of protection. The respondent/defendant shall provide the copy of the order for the officers to review. Officers shall receive verbal consent to accompany the respondent/defendant inside the residence to ensure only collection of personal items, i.e. grooming, clothing and identification. The time allotted for respondent/defendant to collect personal items is not to exceed 15 minutes.

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