

DEKALB POLICE DEPARTMENT

Subject: **Domestic Violence**

Policy #: **402.4**

Effective Since: 8-21-03

Originally Issued As: General Order # 41 of 6-2-95

Revision Effective: 1-1-19

Reference Material: 750 ILCS 60, Domestic Violence Act;

FTO Training Task: # 26

ILEAP Standards Covered: OPR.12.01

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PURPOSE: It is the purpose of this policy to prescribe preliminary courses of action police officers should take in response to domestic violence incidents, in compliance with the Illinois Domestic Violence Act. This policy is adopted as required in 750 ILCS 60/301.1.

POLICY:

- A. It is the policy of this department that officers shall treat all acts of domestic violence as criminal conduct.
- B. It is the policy of the department to provide immediate effective assistance and protection to victims of domestic violence and to take appropriate action against offenders.
- C. It is the policy of the department that officers utilize the arrest powers granted by the state legislature when there is probable cause to do so.

DEFINITIONS:

- A. Officers should have a working knowledge of the definitions listed in 750 ILCS 60/103, which includes:
 1. Domestic Violence; Abuse: "Physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child by a parent or person in loco parentis."
 2. Family or Household Member: "includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriages, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants."
- B. Officers should be familiar with the appropriate charges in domestic violence cases. Crimes against persons are generally found in 720 ILCS 5/9, 5/10, 5/11, and 5/12. Common offenses include:
 1. Domestic Battery: 720 ILCS 5/12-3.2(a): "A person commits domestic battery if he intentionally or knowingly without legal justification (1) causes bodily harm to any family or household member and/or (2) makes physical contact of an insulting or provoking nature with any family or household member."
 2. Interfering with the Reporting of Domestic Violence: 720 ILCS 5/12-6.3(a): "a person commits the offense of interfering with the reporting of domestic violence when, after having committed an act of domestic violence, he or she prevents or attempts to prevent the victim of or a witness to the act of domestic violence from calling a 9-1-1 emergency telephone system, obtaining medical assistance, or making a report to any law enforcement official."

PROCEDURE:

I. TELECOMMUNICATOR'S RESPONSIBILITIES:

The telecommunicator who receives a domestic violence call can provide the responding officers with vital information that could be beneficial in handling the call safely and effectively. The telecommunicator will give a domestic violence call the same priority as any other life-threatening call and will, whenever possible, dispatch at least two officers to every incident.

- A. In addition to information normally gathered, an effort should be made to determine and relay the following to responding officers:

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1. Whether the suspect is present and, if not, the suspect's description, vehicle description, and possible whereabouts or direction of travel;
 2. Whether weapons are involved;
 3. Whether anyone has been injured;
 4. Whether the offender is under the influence of drugs or alcohol;
 5. Whether there are children present;
 6. Whether the victim has a current protective or restraining order; and
 7. Whether there is a history of domestic violence complaints at that location.
- B. Telecommunicators should make every effort to keep the victim/witness on the phone until officers arrive.
- C. Telecommunicators shall not cancel police response to a domestic violence complaint based solely on a follow-up call from the residence requesting such cancellation. However, the dispatcher should advise the officers of the complainant's request.
- D. Telecommunicators shall perform a radio status check of officers at the scene of domestic violence within a few minutes of the officer's arrival and periodically throughout the duration of the call; radio status checks should be performed more frequently when the officer is alone, or where the situation is known to be particularly dangerous.
- E.

II. RESPONDING OFFICER PROCEDURES :

- A. Officers should be aware that domestic violence calls are statistically the most dangerous call involving police response.
1. Respond, park, and approach tactically
 2. Avoid standing in front of the entry door
- B. When responding to a family violence call, the officers shall make reasonable attempts to:
1. Physically separate parties involved in domestic violence, and record names of all involved, including witnesses and children.
 2. Restore order by gaining control of the situation.
 3. Take control of all accessible weapons used or threatened to be used in the crime.
 4. Assess the need for medical attention and call for medical assistance if indicated.
 5. Interview all parties, keeping them separate when possible; include interviews with children of appropriate age when feasible.
 6. Collect and record evidence and, where appropriate, take color photographs of injuries, evidence, and property damage.
- C. Officer's Responsibilities:

NOTE: This section is taken verbatim from 750 ILCS 60/304(a):

"Whenever a law enforcement officer has reason to believe that a person has been abused, neglected, or exploited by a family or household member, the officer shall immediately use all reasonable means to prevent further abuse, neglect, or exploitation, including:

1. Arresting the abusing, neglecting and exploiting party, where appropriate.
2. If there is probable cause to believe that particular weapons were used to commit the incident of abuse, subject to constitutional limitations, seizing and taking inventory of the weapon.;
3. Accompanying the victim of abuse, neglect, or exploitation to his or her place of residence for a reasonable period of time to remove necessary personal belongings and possessions.

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4. Offering the victim of abuse, neglect, or exploitation immediate and adequate information (written in a language appropriate for the victim or in Braille or communicated in appropriate sign language), which shall include a summary of the procedures and relief available to victims of abuse under subsection (c) of Section 217 [Emergency Orders of Protection] and the officers name and badge number (this information is listed on the IDVA form).
5. Providing the victim with one referral to an accessible service agency (Safe Passage). [ILEAP OPR.12.01(e)]
6. Advising the victim of abuse about seeking medical attention and preserving evidence (specifically including photographs of injury or damage and damaged clothing or other property).
7. Providing or arranging accessible transportation for the victim of abuse (and, at the victim's request, any minors or dependents in the victim's care) to a medical facility for treatment of injuries or to a nearby place of shelter or safety; or, after the close of court business hours, providing or arranging for transportation for the victim (and, at the victim's request, any minors or dependents in the victim's care) to the nearest available circuit judge or associate judge so the victim may file a petition for an emergency order of protection under subsection (c) of Section 217. When a victim of abuse chooses to leave the scene of the offense, it shall be presumed that it is in the best interests of any minors or dependents in the victim's care to remain with the victim or a person designated by the victim, rather to remain with the abusing party."
8. [ILEAP OPR.12.01(d)]

Additional Responsibilities:

1. In cases where a child is the victim of domestic violence, to include neglect or abuse, the officer shall make a report as a mandated reported to DCFS, making the hotline telephone call to DCFS (1-800-25ABUSE) and forwarding a report to their office as required. If the officer reasonably believes that the child or children have been the victim(s) of sexual or severe physical abuse, the officer may take the child into protective custody to prevent further abuse.
2. In cases where a person aged 60 or older is abused, neglected, or exploited, the officer must make a report to the Illinois Department on Aging, Elder Abuse and Neglect Program, either by calling 1-800-252-8966 or by calling Dekalb Elder Care Services, 758-6550.

D. Use of Evidence in Determining the Primary Aggressor and Establishing Probable Cause:

1. Where evidence presented satisfies the elements of the crime and there is independent corroboration of an offense, criminal charges should be filed in domestic violence cases, regardless of the wishes of the victim. Independent corroboration can include the following, and should be documented on the police report:
 - a. Injuries observed by a person other than the victim.
 - b. If the offense was committed in the presence of officer(s).
 - c. Weapons were used to inflict injury or intimidate or threaten the victim or others.
 - d. A medical report that indicated injuries.
 - e. A witness who saw the crime took place or overheard violence taking place.
 - f. Admission by the defendant.
 - g. Physical evidence present, such as a weapon, broken furniture, disarray, torn clothes, etc.

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- h. 911 call or other legally recorded information
 - i. "Excited utterances" by the suspect, victim, or other family members; these are exceptions to the hearsay rule and are defined in 750 ILCS 60/213.1(1) as: "a statement relating to a startling event or condition made spontaneously while the declarant was under the contemporaneous or continuing stress of excitement cause by the event or condition."
 - j. Information from DCFS or other agencies for which the victim has authorized the release of information.
 - k. Note that the law does not require independent corroboration of the victim's statement where the statement is clear and convincing and probable cause exists.
- 2. Photographic evidence
 - a. Injuries to the victim should be photographed using quality photographic equipment.
 - b. Damage to clothing or property should be photographed when appropriate.
 - c. Weapons used.
 - d. Evidence of forced or unconventional entry.
- 3. Physical Evidence: shall be collected when appropriate and logged according to the department's standard procedure for logging evidence.
- 4. Searching and/or Seizing the Property of Another requires a warrant unless there is:
 - a. Clear and voluntary affirmative consent by the owner of the property, whether it be the victim, suspect, or other person.
 - b. Evidence found upon the lawful pat-down search of a person on a "Terry stop".
 - c. Evidence found in plain view, by plain touch, or in open fields.
 - d. Evidence found upon the lawful search of a motor vehicle under a mobile vehicle exception.
 - e. Exigent circumstances, such as immediate safety, imminent escape, or imminent permanent loss of evidence.
 - f. Inventory searches of seized vehicles or other property.
 - g. The property is abandoned.
 - h. A search incident to arrest, or as authorized by other constitutional provisions.
- 5. Injury/Wound Analysis:
 - a. Note and document injuries on each person:
 - 1. Relative severity of the injury.
 - 2. The side of the body, or location injured.
 - 3. Injuries consistent with the report of what happened.
 - b. Note and document possible indications of self-defense injuries:
 - 1. Bite marks requiring close contact.
 - 2. Scratches and "pry-like" marks.
 - 3. Scratches on the suspects back, arms, and hands that indicate escape attempts.
- 6. Victim Interviews:
 - a. Ask for a detailed written statement.
 - b. Note physical condition and demeanor.
 - c. Detail evidence of abuse, neglect, or exploitation.
 - d. Show professional empathy.
 - e. Note and document any "excited utterances".
 - f. Ask the length and history of the relationship.

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- g. Inquire about current or previous court orders.
- h. Inquire and note past or current threats, abuse, neglect, or exploitation.
- i. Inform the victim of available services and options.

7. Suspect Interviews:

- a. Note physical condition and demeanor.
- b. Conduct a detailed interview.
- c. Note and document any "excited utterances".
- d. Issue Miranda warning when in custody and being interviewed.
- e. Ask the length and history of the relationship.
- f. Inquire about current and previous court orders.
- g. Inquire and note past or current threats, abuse, neglect, or exploitation.
- h. Ask for a detailed written statement.

8. Children Interviews:

- a. Note physical and emotional demeanor.
- b. Speak on their eye level.
- c. Do not ask leading questions; use open-ended questions.

9. In cases where there is not clear probable cause to sustain an arrest, but charges are being sought by the victim or investigating officer, the case should be referred to the State's Attorney for review.

[ILEAP OPR.12.01(b)]

E. **Arrest Situations :**

- 1. Officers should make an arrest for domestic violence offenses when probable cause and legal authority exist to do so. (750 ILCS 60/301, arrests without warrants).
- 2. Domestic violence cases should be evaluated and charged as any other crime against persons; the fact that the victim and defendant have a family or household relationship, or have sought civil remedies, or have given verbal assurance that the violence will cease, should not be a determining factor in the decision to initiate or reject charges.
- 3. The unwillingness of the victim to file a complaint, complete a written statement, or testify should not influence a decision to proceed with the case.
- 4. The investigating officer should sign the complaint(s) if the victim is unable or unwilling to do so.
- 5. The case should be prepared as though the victim would not testify.
- 6. Officers should make an arrest without a warrant if probable cause exists that a person has violated any of the provisions of an Order of Protection, 720 ILCS 5/12-30.
- 7. Officers should make an arrest without a warrant if probable cause exists that a person has violated any of the provisions of the Conditions of Bail Bond, 725 ILCS 5/110-10(d), which states the following: when a person is charged with a criminal offense and the victim is a family or household member, conditions shall be imposed at the time of release on bond that restrict the defendant's access to the victim. Unless provided otherwise by the court, the restrictions shall include requirements that the defendant do the following:
 - a. Refrain from contact or communication with the victim for a minimum period of 72 hours following the defendant's release
 - b. Refrain from entering or remaining at the victim's residence for a minimum period of 72 hours following the defendant's release.

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8. When bonding a person out on an original charge related to domestic violence, officers should include as a condition of bond the 72-hour no-contact rule with the victim.
 9. No bond offenses: Domestic battery, all felonies, Violation of Order of Protection, and Violation of Bail Bond are no bond offenses for which bond is not permitted without a bond hearing under the authority of a judge; bond and release shall not be applicable, and individual bonds (I-bonds) shall not be issued in these cases.
 10. In cases where an arrest is appropriate, but the suspect is not available for immediate arrest due to being absent from the scene, unable to be located, or undergoing necessary medical care, the reporting officer should prepare the complaints and obtain an arrest warrant as soon as reasonably possible.
 11. In cases where an emergency protective order is necessary to prevent any further victimization, investigating officers should assist the victim or petition for such in accordance with the ILCS. Safe Passage will also assist the victim in petitioning for an emergency protective order. [ILEAP OPR.12.01(f)]
 12. If the offender is a juvenile, refer to the Juvenile Court Act and the department's Juvenile Procedures, Policy 404.3.
[ILEAP OPR.12.01(a)]
- F. No Arrest Situations:** If no arrest is made when the suspect is present, the report should clearly show sufficient reasons for not making an arrest. NOTE: **This section is taken verbatim from 750 ILCS 60/304(b)** : "Whenever a law enforcement officer does not exercise arrest powers or otherwise initiate criminal proceedings, the officer shall:
1. Make a police report of the investigation of any bona fide allegation of an incident of abuse, neglect, or exploitation and the disposition of the investigation, in accordance with subsection (a) of Section 303, (see below)
 2. Inform the victim of abuse, neglect, or exploitation of the victim's right to request that a criminal proceeding be initiated where appropriate, including specific times and places for meeting with the State's Attorney's Office, a warrant officer, or other official in accordance with local procedure; and
 3. Advise the victim of the importance of seeking medical attention and preserving evidence (specifically including photographs of injury and damage and damaged clothing or other property)."
- G. Limited Law Enforcement Liability** , 750 ILCS 60/305: "Any act of omission or commission by any law enforcement officer acting in good faith in rendering emergency assistance or otherwise enforcing this Act [Domestic Violence Act] shall not impose civil liability upon the law enforcement officer or his or her supervisor or employer, unless the act is a result of willful or wanton misconduct."
- H. Reporting Requirements:** NOTE: This section is taken verbatim from 750 ILCS 60/303(a):
- "Every law enforcement officer investigating an alleged incident of abuse, neglect, or exploitation between family or household members shall make a written police report of any bona fide allegation and the disposition of such investigation. The police report shall include the victim's statements as to the frequency and severity of prior incidents of abuse by the same family or household member and the number of prior calls for police assistance to prevent such further abuse, neglect, or exploitation."
1. The reporting officer should also indicate that the victim was given a copy of the IDVA form, explaining the victim's rights under the Domestic Violence Act.

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2. The reporting officer should include a complete synopsis of the incident, to include the items listed in Paragraph D of this section.
[ILEAP OPR.12.01(c)]

III. Post-bonding Procedure Regarding the Defendant :

- A. **Defendants are not entitled to police standby at the victim 's residence to retrieve property or for any other reason within the 72- hour no-contact period, or within the time frames of a valid Order of Protection, unless there is a valid court order issued by a judge indicating other wise.**
- B. An officer may accompany the offender back to the victim's residence **ONCE** to obtain personal items **AFTER** the 72 hour no-contact period has elapsed and **PRIOR TO** an Order of Protection being issued.
- C. If an order of protection has been issued, an officer may accompany the respondent to the residence of the petitioner **ONLY IF ALLOWED BY THE COURT** in the order of protection. The respondent will only be allowed access to the residence once. The respondent may remove items that are allowed by the court to be removed as indicated in the Order of Protection, typically being items of clothing or personal adornment used exclusively by the respondent, including medications and other items the court directs.
- D. Officer standby, if meeting the criteria above, will be provided as a public service to preserve the peace and should be regarded with standard priority. The respondent should be supervised at all times.
- E. Officers may terminate the standby and order the respondent's removal from the property if the respondent commits any act of violence, violates any terms of his bail bond, violates any other ordinance or law, or is confrontational with anyone at the residence in such a way as to jeopardize the safety of anyone present. If a court order exists allowing the respondent access to the property, the officer should explain to the petitioner or other third parties that the respondent's presence at the residence is legally permitted.

IV. Victim Assistance and Crime Prevention ; Domestic Violence Review Unit

- A. **Illinois Crime Compensation Act** , 740 ILCS 45:
 1. Officers must advise any victim or the victim's family of the Illinois Crime Compensation Act when the victim was injured or killed as a result of domestic violence.
 2. Victims may be eligible for compensation for medical and hospital expenses, counseling, loss of earnings, tuition reimbursement, prosthetic appliances and accessibility costs, personal property replacement costs, temporary lodging or relocation, funeral expenses, and crime scene clean-up.
 3. In these cases, the officer "shall inform the victim of the offense or his dependents concerning the availability of an award of compensation and advise such persons that any information concerning this Act and the filing of a claim may be obtained from the office of the Attorney General." [740 ILCS 45/5.1(b)]
 4. The victim needs to complete an application available through the Attorney's General Office and can be done on-line at www.ag.state.il.us or requested by phone on the Illinois Victims Assistance Line, 800-228-3368.
- B. **Automated Victim Notification (AVN)** . The Illinois Automated Victim Notification System provides victims and concerned citizens with a toll-free number where they can call and get up-to-date information on the custody status and/or case status of an offender.

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Officers should advise victims about AVN availability. The AVN phone number is 1-866-566-8439.

- C. The **Domestic Violence Review Unit**, comprised of one or more officers, will examine written reports of Domestic Violence and provide additional assistance to victims, to include the following:
1. Educating the victim as to the cycle of violence.
 2. Conferring with the victim as to pending legal procedures.
 3. Making referrals to the victim to Safe Passage for additional education and counseling.
 4. Ensuring that all information and evidence has been documented and retained.
 5. Verifying that the case was completely investigated.

Policy originally issued 8-21-03; this revision becomes effective on 1-1-19 by authority of the Chief of Police .

NOTE: This policy and procedure summarizes the department's position on this specific matter. This policy is for general direction and guidance primarily designed for use by the department's members. This policy is for internal use only and does not create or enlarge an officer's liability in any way. This policy shall not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of an internal departmental complaint and then only in a non-judicial administrative setting.