



Domestic Violence Response	Related Policies:
<i>This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Arkansas Statutes: 12-12-108. Domestic violence investigation. 16-81-113 - Warrantless arrest for domestic abuse.	
CALEA Standard:	
Date Implemented:	Review Date:

- I. **Purpose:** The purpose of this policy is to establish guidelines for members of this department in response to domestic violence calls. Officers shall be expected to do the following:
 - A. Establish arrest and prosecution as a preferred means of police response to domestic violence
 - a. Take appropriate action for any violation of permanent, temporary, or emergency order of protection
 - b. Afford protection and support to adult and child victims of domestic violence
 - c. Complete the mandatory Arkansas lethality assessment form
 - d. Promote the safety of law enforcement personnel responding to incidents of domestic violence
 - e. Provide victims and witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders in order to prevent further abuse and harassment or both
 - f. Complete thorough investigations and effect arrest of primary aggressor upon the establishment of probable cause
- II. **Policy:** It is the policy of this department to recognize the importance of domestic violence as a serious crime against society and to assure victims of domestic violence the maximum protection from abuse which the law and those who enforce

the law can provide. Members of this department will provide a proactive, pro-arrest approach in responding to domestic violence. The primary focus shall be on victim safety followed closely by perpetrator accountability. The officer shall attempt to determine the *primary / predominant aggressor* and arrest him or her. The officer should not arrest the other person accused of having committed domestic or family violence.

III. Definitions:

- A. "Domestic abuse" means: Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; or
- B. Any sexual conduct between family or household members, whether minors or adults, which constitutes a crime under the laws of this state; and
- C. Family or household member: "Family or household member" means spouses, former spouses, parents and children, persons related by blood within the fourth degree of consanguinity, any child residing in the household, persons who have resided or cohabited together presently or in the past, persons who have or have had a child in common, and persons who have been in a dating relationship together presently or in the past; and
- D. "Dating relationship" means a romantic or intimate social relationship between two (2) individuals which shall be determined by examining the following factors:
 - a. The length of the relationship;
 - b. The type of the relationship; and
 - c. The frequency of interaction between the two (2) individuals involved in the relationship.
 - d. "Dating relationship" shall not include a casual relationship or ordinary fraternization in a business or social context between two (2) individuals.
- E. **Domestic violence:** An act or pattern of violence perpetrated by an individual not done in the defense of self or others, including but not limited to the following:
 - a. Bodily injury or threat of bodily injury
 - b. Sexual assault or abuse
 - c. Physical restraint
 - d. Property crime directed against the victim
 - e. Stalking
 - f. Violation of a court order of protection or similar injunction
 - g. Death threats
 - h. Domestic violence occurs when one family member or household member causes, or attempts to cause, an abusive act against another family or household member.

- F. Abuse:** The intended act of causing or attempting to cause bodily injury or placing another person in reasonable apprehension of serious imminent bodily injury to self or other. Types of abuse include the following:
- a. Physical abuse:** A wide range of behaviors that include aggressive, offensive, and threatened actions by the offender toward the victim's body.
- G. Full faith and credit:** The requirement by the U.S. Code (U.S.C.) title 18 section 2265 that jurisdictions honor the terms and conditions of a protection order issued by another jurisdiction.
- H. Protection order (as defined by 18 U.S.C. 2266):** Any injunction or other court order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person. This includes any temporary or final order issued by a civil or criminal court (other than a support or child custody order issued pursuant to state divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other federal law) whether obtained by filing an independent action or as a *pendente lite* order in another proceeding so long as a civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.
- I. Respondent:** The person alleged in a petition for order of protection to have abused another.
- J. Petitioner:** The person alleging abuse in a petition for an order of protection.
- K. Primary / Predominate aggressor:** When an officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor, the person who poses the most serious ongoing threat.
- L. Pro-Arrest response:** The expectation that the officer shall arrest a person for committing domestic abuse unless there is a clear and compelling reason not to arrest (such as a self-defense determination or lack of probable cause).
- M. Self-defense:** Certain legal circumstances under which persons may use a reasonable amount of force to protect themselves or another based on their actual belief that they are, or another is, in imminent danger coupled with reasonable grounds.
- N. Victim:** A family or household member who is the subject of domestic violence/abuse and who a law enforcement officer has determined is not a primary aggressor.
- O. Community stakeholders:** Entities in the community that are responsible for joining together to foster effective intervention in and prevention of domestic violence. Community stakeholders include, but are not limited to, law enforcement agencies, prosecutors, parole and probation officers, advocacy organizations, social service agencies, adult and child protective services, clergy, educators, government agencies, animal welfare organizations, businesses and employers.

IV. Procedure:

A. Domestic Violence Prevention

a. Prevention through Collaboration

The department shall establish and maintain ongoing partnerships with local community stakeholders in general as well as victim advocacy organization in particular to develop domestic violence curricula and train officer and call takers to enhance abilities. The department shall provide local community stakeholders and victim advocacy organizations with copies of all domestic violence curricula, protocols, and policies for review and feedback.

b. Training

All departmental personnel, both sworn and non-sworn, shall receive comprehensive mandatory instruction upon implementation of this policy and on a continuing basis.

B. Incident Response Protocols

a. Communications: Communication officers or call taker shall do the following:

- i. Dispatch a minimum of two officers to a domestic violence call whenever possible.
- ii. Assign a priority response to all domestic violence calls, whether or not the assailant is known to be on the premises, including those calls that involve or appear to involve a police officer of any department.
- iii. Immediately notify and dispatch a supervisor to a domestic violence call for service that involves or appears to involve a police officer, regardless of the involved officer's jurisdiction.
- iv. Preserve documentation of the facts and circumstances of each call, including 911 tapes, for use in potential administrative and criminal investigations, as requested by the investigating officers or supervisors.

b. Maintain current contact information of local domestic violence advocacy organizations for responding officers to provide to victims.

c. Attempt to elicit any and all information from the caller that may help the responding and investigating officers assess the situation including the following:

d. Immediate safety of the caller and others at the scene

e. Nature of the incident (verbal or physical) nature of injuries, and whether violence is ongoing.

f. Weapons that are involved, or present, if applicable, and the type of weapon when appropriate

g. Hazards to responders, including animals present

h. Whether the suspect is under the influence of alcohol or drugs

- i. Suspect's description and presence or absence, and, if absent, direction and mode of travel
- j. Other people involved or witnesses at the scene, including children
- k. Number of times the department has been called to this location due to the suspect's behavior
- l. Existence of protection orders
- m. Outstanding warrants
- n. Suspect's date of birth or social security number and any previous history of domestic violence
- o. Inform the caller of an approximate time of the officer's arrival
- p. Not cancel the original call for service even if a subsequent request to cancel the original call is received. Advise the responding officer of the second call and instruct them to continue to respond, investigate, and assess the situation to ensure that all parties are safe.
- q. Keep the caller on the telephone if the caller is a victim or witness to a domestic violence incident in progress in order to relay ongoing information provided by the caller to the responding officers and remain aware of victim's safety.
- r. Have ready access to the department records that indicate whether the parties involved in the incident have been involved previously in domestic violence incidents, whether previous incidents involved a weapon, and whether there is in effect a protection order involving the parties, and relay any relevant information to the responding officers.
- s. Make the safety of the domestic violence victim a primary concern. Address threats of violence, whether immediate or remote, by working with the victim to focus on ways to enhance safety, such as waiting for the officers at another location or leaving the location if the suspect returns.

C. Initial Law Enforcement Officer Response

- a. When dispatched to a domestic violence call, responding officers should do the following:
 - i. Approach the scene of a domestic dispute with a high degree of caution
 - ii. Obtain all available information from the dispatcher and notify the dispatcher on arrival
 - iii. Avoid the use of emergency lights and sirens when it is not necessary so as not to alert the perpetrator to the officers' approach
 - iv. Be alert for persons leaving the scene and for the deployment of weapons from doors, windows and vehicles
 - v. Use recording devices to capture statements made by victims, suspects and witnesses
- b. Upon arrival at the scene, responding officers should do the following:

- i. Avoid parking the police vehicle in front of the residence or other site of the disturbance when possible
- ii. Identify themselves as law enforcement officers, explain their presence, and request entry in the event the incident is at a private residence, as necessary, and when exigent circumstances do not exist.
- iii. Make contact with all residents of the house, all potential witnesses, victims, and suspects. In effecting a warrantless arrest a law enforcement officer may enter the residence of the person to be arrested in order to affect the arrest where the officer has probable cause to believe that the action is reasonably necessary to prevent physical harm or danger to a family or household member. In making this decision, officers may take into account everything they personally observe, all physical evidence, and all things learned from witnesses or other persons supplying information. In evaluating the information, officers should take into account the credibility of the persons supplying the information and whether there is a reasonable basis for believing the information.
- iv. Upon gaining entry, responding officers should do the following:
 1. Identify and secure potential weapons in the immediate area
 2. Separate the parties
 3. Restrain or remove the suspect, if necessary
 4. Assess for injuries, administer first aid, and request medical services as necessary
 5. Identify all people and witnesses on the premises
 6. Separate occupants and witnesses from the victim and the accused keeping them out of sight and hearing range of one another.
 7. Obtain a comprehensive account of events from all parties.
- v. During the on-scene investigation, using a coordinated approach, responding officers should do the following:
 1. Ask the parties about injuries including those that may be concealed by clothing or otherwise not readily apparent or visible including strangulation. An officer of the same sex as the victim may be needed as further visual investigation continues and photographs are taken to document the injury.
 2. Photographs are essential. They bring the trauma of the incident into the courtroom. Take photographs of everything: the crime scene, blood, injuries of suspect and victim, and anything else that shows the scope of the incident.
 3. After speaking with the victim and making proactive assessment of the victim's physical condition, determine whether emergency medical services (EMS) should be

summoned to the scene. Officers should always summon (EMS) if the victim requests medical attention. A medical examination may provide important corroborative evidence.

4. Inform the victim in advance of actions to be taken and obtain written consent to search the scene. If both parties are on scene and both have standing over the residence and one party is objecting to the search, absent exigent circumstance, a warrant should be obtained.
5. If the suspect has been arrested prior to the interview, give *Miranda* warnings before questioning. If the suspect has fled the area gather information to his possible whereabouts.
6. Address the victim's safety and privacy by interviewing the victim in the area apart from the suspect and witnesses. Obtain information about previous incidents, including frequency and severity.
7. Ask the victim about the existence of protection orders.
8. Collect, preserve, and document all physical evidence to support prosecution, including evidence substantiating the victim's injuries, evidentiary articles that substantiate the attack (weapons, torn clothing,) and evidence recording the crime scene. Ensure that color photographs are taken of visible injuries on the victim as well as the visible injuries on the suspect. Make arrangements to take follow-up photographs of the victim's injuries 24, 48, and 72 hours later in the event the injuries and bruising become more visible and pronounced.
9. Interview all witnesses fully and as soon as possible. If witnesses provide information about incidents, document the information to establish a pattern.
10. Interview children at the scene in a manner appropriate to their age. Document any signs of trauma and apparent wounds or healing of wounds on the children and take appropriate action
11. Elicit information and document all actual and suspected incidents of abuse including physical and sexual abuse, elder or child abuse, and animal cruelty.
12. Offer to contact a local advocate to provide support to the victim as available and provide current contact information for local domestic violence victim advocacy organizations.
13. Remain at the scene as long as there is danger to the safety of the person or until the person is able to leave the dwelling. The officer shall transport the person if no reasonable transportation is available.
14. When a law enforcement agency responds to a report of domestic violence, the first law enforcement officer to interview a victim of domestic violence shall assess the potential for

danger by asking a series of questions provided on this lethality assessment form, which is in compliance with 12-12-108. Domestic Violence Investigation “Laura’s Law”. This form is included in the department’s policy and procedure manual.

vi. The Responding or investigating officer **shall not** do the following:

1. Make any statement that would discourage a victim from reporting an act of domestic violence
2. Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel

vii. Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. **Factors that should not be used** as sole justification for declining to take enforcement action include:

1. Whether the suspect lives on the premises with the victim.
2. Marital status of the suspect and victim
3. Claims by the suspect that the victim provoked or perpetuated the violence.
4. The potential financial or child custody consequences of arrest.
5. The physical or emotional state of either party.
6. Use of drugs or alcohol by either party.
7. Denial that the abuse occurred where evidence indicates otherwise.
8. A request by the victim not to arrest the suspect.
9. Location of the incident (public/private).
10. Speculation that the complainant may not follow through with the prosecution.
11. The racial, cultural, social, professional position or sexual orientation of the victim or suspect.

viii. **Supervisor involvement**

1. Field supervisors shall be responsible for monitoring any domestic violence calls dispatched to the officers under their direct supervision or within their area of responsibility.
2. Whenever possible, the supervisor should respond to the scene for the purpose of providing additional safety, monitoring the situation and being available to offer advice to the victim.
3. In situations where the supervisors is unable to respond he or she should perform follow-up to ensure departmental policy has been followed.

ix. Incidents involving a police officer as the suspect

1. Upon arrival on the scene of a domestic violence call or an incident involving a law enforcement 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.
2. Responding officers shall be aware of the heightened risk that a suspect who is a police officer will likely possess firearms, other weapons, physical combat training, or all three.

x. Incident documentation

1. Officers shall complete a departmental domestic violence supplemental report form following response to or investigation of an allegation of domestic violence, whether or not an arrest is made.

xi. The arrest decision

1. When a law enforcement officer has probable cause to believe a person who is a party to an act of domestic abuse is the predominant aggressor and the act of domestic abuse would constitute a misdemeanor under the laws of the State of Arkansas, the arrest with or without a warrant of the person who was the predominant aggressor shall be considered the preferred action by the law enforcement officer if there is reason to believe that there is an imminent threat of further injury to any party to the act of domestic abuse and the law enforcement officer has probable cause to believe the person has committed the act of domestic abuse within the preceding four (4) hours or within the preceding twelve (12) hours for cases involving physical injury as defined in 5-1-102, even if the incident did not take place in the presence of the law enforcement officer.
2. When a law enforcement officer has probable cause to believe a person who is a party to an act of domestic abuse is the predominant aggressor and the act of domestic abuse would constitute a misdemeanor under the laws of this state, the law enforcement officer may arrest the person without a warrant if the law enforcement officer has probable cause to believe the person has committed those acts within the preceding four (4) hours, or within the preceding twelve (12) hours for cases involving physical injury as defined in 5-1-102, even if the incident did not take place in the presence of the law enforcement officer.
3. When an officer has probable cause to believe that a person is the predominant aggressor in an act of domestic abuse, and the act of domestic abuse would constitute a felony under the laws of this state, the officer shall arrest the person who was

the predominant aggressor, with or without a warrant, if within the timeframes as listed above.

4. Any law enforcement officer acting in good faith and exercising due care in making an arrest for domestic abuse shall have immunity from civil liability.
5. If a law enforcement officer receives conflicting complaints of domestic or family violence from two or more household members involving an incident of domestic violence, the officer must evaluate each complaint separately to determine who was the primary aggressor. If the officer determines that one person was the primary physical aggressor, the officer *must not arrest* the other person accused of having committed domestic or family violence. In determining whether a person is the primary aggressor, the officer should consider the following factors and any other factors he considers relevant.
6. When determining if one (1) party to an act of domestic abuse is the predominant aggressor, a law enforcement officer shall consider the following factors based upon his or her observation:
 - i. Statements from parties to the act of domestic abuse and other witnesses;
 - ii. The extent of personal injuries received by parties to the act of domestic abuse;
 - iii. Evidence that a party to the act of domestic abuse acted in self-defense; or
 - iv. Prior complaints of domestic abuse if the history of prior complaints of domestic abuse can be reasonably ascertained by the law enforcement officer.
 - v. The relative severity of the injuries inflicted on each person taking into account injuries alleged which may not be easily visible at the time of the investigation
 - vi. The likelihood of future injury to each person
 - vii. The comparative size of the parties
 - viii. The primary aggressor refers to the most significant aggressor, not the one who struck the first blow. Take into consideration self-defense elements when both parties have assaulted each other.

xii. Arrest procedures

1. The arresting officers should take the accused into custody as soon as it is determined that a warrantless arrest is appropriate. If the suspect has fled the scene, the offices should attempt to locate and apprehend the suspect as well as consider advising the dispatch of the suspect's description so a

lookout can be placed for the suspect. Should the suspect not be located, the officers should initiate procedures to obtain a warrant for the suspect as soon as practical.

2. A law enforcement officer must not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage a party's request for intervention by law enforcement.
3. The officer shall not put a victim in the position of stating whether or not he or she wants the suspect to be arrested.
4. Inform the arrestee that the arrest is your decision, not the victim's.
5. A law enforcement officer who arrests two or more persons for a crime involving domestic or family violence *must* include the grounds for arresting both parties in the written incident report, and must include a statement in the report that the officer attempted to determine which party was the primary aggressor and was unable to make a determination based upon the evidence available at the time of the arrest.
6. Domestic disturbances involving prominent citizens, public officials, or police officers may present particular difficulties for the responding officers. In such circumstances, the responding officers should request that a supervisor respond to the scene and shall ensure that this incident be handled the same as any other domestic violence incident.
7. When an arrest cannot be made due to lack of probable cause that a crime has been committed the officer will do the following:
 - i. Explain to the victim why an arrest is not being made
 - ii. Advise the victim of his or her rights and explain the procedures for filing a criminal complaint.
8. Encourage the victim to contact the local domestic violence service provider for information regarding counseling and other services

xiii. VERIFICATION OF COURT ORDERS: Determining the validity of a court order, particularly an order from another jurisdiction can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, Officers should carefully review the actual order available, and, where appropriate and practicable:

1. Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
2. Check available records or databases that may show the status or conditions of the order.

3. Contact the issuing court to verify the validity of the order.
4. Contact a law enforcement official from the jurisdiction where the order was issued to verify information.
5. Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made.
6. Officers should contact a supervisor for clarification when needed.
7. Once the officer has verified the legality of the protection order the officer shall enforce the order in accordance with full faith and credit: The requirement by the U.S. Code (U.S.C.) title 18 section 2265 that jurisdictions honor the terms and conditions of a protection order issued by another jurisdiction.