



## DOMESTIC VIOLENCE

**Policy Title: Domestic Violence**

**Policy Type: Administrative**

**Policy Number: 47-02 (2014)**

**Approved: 5/13/2015**

**Responsible Office: Norfolk State University Police Department**

**Responsible Executive: Vice President for Finance and Administration**

**Applies to: Law Enforcement Personnel**

### POLICY STATEMENT

It is the policy of the Department to assign domestic violence (domestic disturbance) calls on a high priority.

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### DEFINITIONS

**Domestic violence:** A “felony or misdemeanor crime of violence committed by (a) a current or former spouse or intimate partner of the victim, (b) a person with whom the victim shares a child in common, (c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner. Domestic violence can be a single event or a pattern of behavior.

**Assault:** See *Virginia Code* §§ 18.2-57 and 18.2-57.2 ("Assault and Battery against a Family or Household Member," which upon a third or subsequent conviction of the same or similar offense of any jurisdiction within a ten-year period shall be treated as a Class 6 felony).

1. A related matter, § 18.2-60 criminalizes the sending of letters to anyone threatening death or injury (Class 6 felony).

2. A magistrate issuing a warrant for violation of § 18.2-57.2 shall also issue an emergency protective order.

**Domestic violence shelters/programs:** Services that are provided (usually 24 hours a day) for women and their children who have been physically or emotionally abused, or who have been threatened with abuse by their spouses or partners. Services include crisis intervention, counseling, shelter, and escort to court, food, clothing, and transportation.

**Family abuse:** Any act of violence, including forceful detention, which results in physical injury or places one in reasonable apprehension of serious bodily injury and which is committed by a person against such person's family or household member (§ 16.1-228).

**Family or household member:**

Per §§ 18.2-57.2, 16.1-228, and 19.2-81.3, include:

1. Spouses, whether or not residing in the same home.
2. Former spouses, whether or not residing in the same home.
3. Persons who have a child in common, whether or not they have ever been married or resided together at any time.
4. Parents, children, stepparents, stepchildren, grandparents, grandchildren, half-brothers, half-sisters, brothers and sisters who reside in the same home with the suspect.
5. Mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law, sisters-in-law who reside in the same house with the person.
6. Persons who cohabit or who, within the previous 12 months cohabited with the suspect and any children of either whom then resided in the same home as the suspect. Warrants against family/household members are heard by Juvenile and Domestic Relations Court.

**Predominant physical aggressor:**

(See § 19.2-81.4) The party that poses the greatest threat. The predominant aggressor is **not necessarily the first** disputant to engage in assault behavior, but the one with the most ability and inclination to inflict physical injury. Officers shall identify a predominant physical aggressor based on the **totality of the circumstances**. Some or all of these characteristics may be present:

1. Evidence that any of the parties acted in self-defense.
2. A history of violence (prior assault convictions) of the parties involved, including history of calls for service.
3. The relative severity of injuries inflicted on all parties, plus consideration whether the injuries were offensive or defensive.
4. The relative size, bulk, and strength of the parties involved.
5. Evidence from persons involved in or witnesses to the incident.
6. The likelihood of future injury to any party.
7. Current or previous protection orders filed against either party.

**Protective order:** A court order of protection on behalf of an abused family/household member that restrains the abuser from further acts of violence, may order the abuser to refrain from further contact, vacate the residence, relinquish custody of a vehicle, plus other measures (see § 16.1-279.1). A protective order may be valid up to two years. Officers must be aware of two types of protective orders:

1. An **emergency protective order** (see § 16.1-253.4) may be requested by a law enforcement officer by telephone or in person (or by an allegedly abused individual in person) from a judge or a magistrate. The emergency protective order aims to protect the health or safety of any person. Officers must petition for emergency protective orders in accordance with Virginia Code Section 19.2-81.3. The request must be submitted by the officer on Virginia state form DC-626, which is provided by the magistrate from the appropriate jurisdiction. The order expires 72 hours after issuance, but if the expiration of the 72-hour period occurs when the court is not in session, the protective order shall be extended until 5 p.m. of the next business day that the court is in session. The officer shall serve a copy of this order on the respondent and give a copy to the abused family/household member. The officer shall forward the original to the issuing judge or magistrate for verification, who then files it with the Juvenile and Domestic Relations Court within five days of issuance. The police/sheriff's records clerk shall enter the order into VCIN as soon as possible, which record shall be updated upon service of the order. Note that a law-enforcement officer may request an extension of an emergency protective order if the person in need of protection is mentally or physically incapable of doing so.

2. An abused/family household member may petition for a **preliminary** protective order (see § 16.1-253.1) through the Court Services Unit. After an *ex parte* hearing and based on immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred, the court may issue a preliminary protective order (protecting the petitioner **or** his or her family) which is valid pending a full hearing which is to be held within 15 days of the issuance of the protective order. Officers shall serve the order as soon as possible on the abuser and shall specify a date for the full hearing. The officer shall leave a copy of any order with the abused person. The officer shall ensure that the order is entered into VCIN as soon as possible, which record shall be updated upon service of the order.
3. Note that protective orders are available for victims of stalking. Stalking protective orders function like those outlined above. Victims must petition the Circuit Court if the stalker is not a family member. If the stalker is a family member, then the Juvenile and Domestic Relations Court is appropriate.
4. Any person violating the provisions of a protective order as outlined in § 16.1-253.2 shall be guilty of a Class 1 misdemeanor.
5. Officers shall enforce protective orders from other states or possessions of the United States as if they were issued in Virginia.

**Purchase or transportation of a firearm by a person subject to protective orders:** § 18.2-308.1:4 prohibit any person subject to a protective order (as defined in the statutes cited in this order) from purchasing or transporting a firearm while the order is in effect, punishable as a Class 1 misdemeanor. Firearms transported or purchased in violation of this law shall be confiscated and subject to forfeiture.

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for his or her safety or the safety of others; or (b) suffer substantial emotional distress, meaning significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. A "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

## **CONTACT(S)**

Norfolk State University Police Department officially interprets this policy. The Vice President for Finance and Administration is responsible for obtaining approval for any revisions as required

by Board of Visitors Policy #01 <https://www.nsu.edu/policy/bov-01.aspx> through the appropriate governance structures. Questions regarding this policy should be directed to the Norfolk State University Police Department.

## **STAKEHOLDER(S)**

University Community

## **DOMESTIC VIOLENCE: POLICY CONTENTS**

It is the policy of the Department to assign domestic violence (domestic disturbance) calls on a high priority. Law enforcement must exercise leadership in the community in responding to domestic violence. An immediate legal response can make a major difference in the disputants' lives. Department personnel responding to a domestic disturbance call shall **(1)** terminate the conflict, **(2)** arrest persons when probable cause exists that a crime has occurred, **(3)** provide safety and security for the crime victim(s), **(4)** and refer participants to appropriate agencies to prevent future occurrences.

### **Purpose**

Domestic violence (spouse abuse) recently has received widespread public attention as a serious social problem affecting people in all economic, social, and ethnic groups. Many law enforcement agencies consider violence within the family to be the most frequent and under-reported crime in the United States. Many police officers have found spouse abuse to be a difficult and frustrating problem for the criminal justice system to handle effectively. Some people have become frustrated, indifferent or even hostile after encountering victims who are repeatedly abused and either do not press charges or return to the battering relationship. Still others hold on to beliefs that victims really provoke the attack or masochistically enjoy beatings.

Persons who resort to violence lack self-control. Stress, isolation, and family background are often involved. There is a cycle of violence. This cycle has been described by L. Walker as having three phases:

- A. Tension-building--when the victim denies, minimizes, and is subjected to increasing verbal threats.
- B. The explosion--the acute battering phase when the actual violent episode erupts. Tension cannot be denied and loss of control occurs.
- C. The loving respite--when the abuser completely changes behavior, once again calm and loving. Both abuser and victim may believe

the abuse will never occur again, but the tension soon builds again (phase 1).

The patrol officer who responds may find the disputants in any one of these phases. The officer must be aware of this cycle in order to respond appropriately and effectively.

A recent study has concluded that victims of domestic violence are less likely to be repeat victims if they seek help through the legal system. As law enforcement officers, it is most important to know that abuse often begins as a threat or a shove, but escalates into repeated beatings causing serious physical injury. If effective intervention does not occur, the abuse continues and, in some cases, it may lead to homicide. A study in Kansas City determined that in 85% of the cases of serious assault and homicide within the family, police had responded to a disturbance call at the residence at least once in the prior two years. In 50% of the cases, they had visited those residences five or more times. Findings in Minnesota found that arrest was the most effective law enforcement response in reducing domestic violence. Arrest was compared to mediation and taking no action. The proper response includes the use of arrest, a response which may deter future violence.

A. General responsibilities

1. Department personnel shall refer victims of domestic violence to appropriate community resources (mental health agencies, medical doctors, legal assistance agencies). Referrals help prevent future disturbances.
2. Department personnel shall be trained about domestic violence and its impact on society. Personnel must be well trained to confront unexpected violence. Studies estimate that family disturbance calls are frequent and are one of the leading causes of police fatalities in the line of duty.

B. Dispatcher (communication officers) responsibilities

1. Because the communication officer is likely to be the first person to receive the call, he or she is a key person in determining the type of response.
2. The communication officer is responsible for deciding whether a police officer is needed at the scene. To assist in making that decision, the communication officer shall determine the following, if possible:
  - a. Who is complaining?
  - b. Is the crime (incident) in progress?
  - c. Is a weapon involved?

- d. Have you or any others at the address been injured? Is an ambulance needed?
- e. Name and location?

***At this point, if there is evidence of injury or weapon, or major threat of violence, dispatch a car immediately (and ambulance, if needed). Keep the complainant on phone if possible and obtain additional information:***

- f. Assailant's whereabouts? If not known, obtain direction of travel and elapsed time.
  - g. Were alcohol or drugs involved?
  - h. Has there been previous history/reports?
- 3. Maintain telephone contact until the officers arrive in order to monitor the incident and provide support to the victim. Advise the victim of the intended Department response. Use crisis intervention skills.
  - 4. The communication officer shall provide the responding officer with as much information as possible to identify risks at the scene.

C. Patrol responsibilities

- 1. Arrival at scene
  - a. Obtain all available information from the communication officer upon arrival.
  - b. Approaching the scene:
    - (1) When possible, officers should arrive in pairs;
    - (2) Avoid the use of sirens and other such alarms in the vicinity of the scene. (Often, the assailant will be emotionally out of control and may turn a weapon upon the officers, if alerted);
    - (3) Observe the location of the dispute before contacting the complainant. Consider the surroundings. Park the marked car a short distance away.

- (4) Before knocking on door, listen and look in any nearby window to obtain additional information about the situation (layout of house, number of people involved, weapons);
- (5) Officers must be concerned for their own safety as well as the disputants'. To minimize the possibility of injury, stand to the side of the door when knocking. The unexpected may occur when the door opens.

2. Initial contact with occupant(s)

- a. Identify selves as police officers by name, give an explanation of police presence, and request entry into the home (when conditions permit). Ascertain identity of complainant - ask to see complainant.
- b. If entry is refused, officers must explain that they must make sure there are no injured persons inside.
- c. Refusal of entry or no response to a knock at the door may require a forced entrance to check safety of people inside.
- d. Officers may conduct a search of the premises if consent has been given to do so. Although a consent search eliminates the need for a warrant and for probable cause, such consent must be freely and voluntarily given. If two people have joint ownership or possession of a place or thing, either one may give a valid consent.
  - (1) A spouse can consent to the search of premises used jointly by both husband and wife. This is also true if the parties are only cohabitants. If one of them exercises sole control over part of the premises, the other cannot give valid consent to search that part.
- e. Officers may also make a warrantless entry to conduct a search if an emergency exists. Officers must have a reasonable belief that such an emergency does exist: for example, if police believe that someone is in distress and in need of assistance.
  - (1) Officers shall evaluate the following elements when considering a warrantless entry: **(a)** the degree of urgency involved and the time required to get a warrant; **(b)** the possibility of danger to others, including police officers left to guard the site; **(c)** whether the suspected offense is serious or involves violence; **(d)** whether officers



reasonably believe that persons may be armed. Finally, officers are reminded that they have a lawful right to investigate any situation which they might reasonably believe to be an emergency.

- f. Once inside, establish control by:
  - (1) Inquiring about nature of dispute;
  - (2) Identifying disputants;
  - (3) Being aware of potential weapons in surroundings;
  - (4) Determining if person(s) are in other rooms (children and other adults) and the extent of their injuries. These persons should be separated from the parties involved and kept out of hearing range (so their witness status will not be compromised).
  - (5) Protecting the victim from further abuse. Separate from assailant and arrange for medical attention if victim is hurt. If victim appears injured and yet refuses medical assistance, carefully document any observed injuries, as well as the refusal of medical treatment.

- 4. Interviewing the parties (disputants)
  - a. Ensure safety and privacy by interviewing victim in a separate area away from the assailant (if identifiable).
  - b. Critical to the success of the interview is the police officer's manner. Officers must show interest through effective listening, have an appearance of interest in the problem, and remain aware of non-verbal communication signals.
  - c. Officers shall attempt a low-key approach in domestic violence cases and project the role of mediator/helper rather than that of authoritarian. Maintain good eye contact through natural, spontaneous glances. A relaxed stance along with appropriate facial and head movements demonstrates interest and encourages the victim to continue speaking.
  - d. Allow the parties to describe the incident (individually) without interruption at the beginning of the interview (ventilation relieves emotional tension),

- e. After the parties ventilate their emotions, the officer(s) should ask about details of points for clarification and summarize the stated accounts (this allows the parties to point out anything that may be misrepresented).

5. Interviewing witnesses

- a. Witnesses to the incident--children, other family members, and neighbors--should be interviewed as soon as possible.
- b. These witnesses may also be in a significant emotional crisis that may influence accuracy of their accounts.
- c. If witnesses provide information about prior assaults, document them to help establish a pattern.
- d. Children of disputants should be interviewed with care and kindness. Sit, kneel, or otherwise be at their level when speaking to them. Signs of trauma or abuse should be noted.

6. Arrest decision

- a. Once officers have assessed the situation, they must make a determination whether or not to arrest the assailant.
- b. Officers can make an arrest without a warrant if there is probable cause that a misdemeanor or a felony has been committed. (VA Code 19.2-81)
- c. Officers of this agency having probable cause to believe that family abuse has occurred, **shall arrest and take into custody**, the person he/she has probable cause to believe, based on the totality of circumstances, was the predominant physical aggressor unless there are special circumstances which would dictate a course of action other than arrest.
- d. Officers who develop probable cause that a person was the predominant physical aggressor in violation of 18.2-57.2 (assault and battery against a family/household member) or 16.1-253.2 (violation of a protective order) **shall arrest and take him or her into custody** (19.2-81.3). (If the “no contact”, “no trespass”, or “no further abuse” provision of a protective order is violated, then it is treated as its own Class 1 misdemeanor offense).

- e. Arrest is the most appropriate response when these factors are present:
  - (1) serious, intense conflict;
  - (2) use of a weapon;
  - (3) previous injury or damage;
  - (4) previous court appearance against the offending party;
  - (5) previous attempt to sever relationship;
  - (6) second call for police;
  - (7) when a felony has occurred;
  - (8) evidence of drugs or alcohol at assault;
  - (9) offenses committed with officer present;
  - (10) valid warrants on file for other crimes;
  - (11) a protective order has been violated.
- f. The Department promotes a policy of arrest when elements of an appropriate crime are present.
- g. If the abusive person is not arrested,
  - (1) complete an incident report;
  - (2) inform the victim that she or he can initiate criminal proceedings at a later time. Provide information about how to file a criminal charge, including time, location, and case number, if available;
  - (3) advise the victim of the importance of preserving evidence;
  - (4) explain to the victim about protective orders and restraining orders and how to obtain them (Obtain information from the Commonwealth's Attorney).

- (5) If the victim wants to leave the premises to ensure safety, remain at scene while the victim packs essentials. Advise victim to take only personal items plus important papers;
- (6) give the victim phone numbers of emergency shelters in the area and the police emergency number;
- (7) assure the victim that the police department will assist in future emergencies but that he or she must become responsible for own safety.

7. Gathering evidence

- a. Physical evidence takes three forms in domestic violence cases: the injuries of the victim, evidentiary articles that substantiate the attack, and the crime scene itself.
- b. Victim's account of injuries sustained can be corroborated by a doctor.
- c. When feasible, photographs of injuries should be made.
- d. Photographing the crime scene to show that a struggle occurred is preferred; if not possible, make a written description of it.
- e. All articles of evidence should be collected as in other investigations.

8. Documenting the incident

- a. Written police reports shall follow general crime report writing procedure.
- b. Include in all incidents of domestic violence:
  - (1) facts and circumstances of the incident;
  - (2) victim's statements as to the frequency and severity of prior incidents of abuse by same family member;
  - (3) victim's statements as to the number of prior calls for police assistance.

9. Transportation of Victims

If it is determined that hospitalization is indicated, every attempt will be made to encourage the person to voluntarily admit themselves to the hospital. If the person agrees to voluntary admission, the Police Department will transport whenever requested to do so, based on available police resources. If adequate resources are not available, the Police Department will assist with arranging transportation, i.e., rescue squad, ambulance service, etc., as necessary. Transportation arrangements will be made by the shift supervisor or senior police officer on duty, taking into account available staffing, the number of vehicles in service, and if the transport can be made safely.

10. Arrest of Law Enforcement Personnel

1. Employees of the Department will immediately report to the Chief of Police any arrests or court action, except divorce proceeding, instituted against them.
2. Any employees of this department who becomes involved in any accident, incident, or altercation, or any problem which may come to the attention of the public will give oral notification as soon as possible, and within twenty-four (24) hours in writing, to his or her supervisor. Supervisors will forward relevant information through the chain of command as soon as possible.
3. If the internal administrative investigation supports a violation of agency policy, the Chief of Police shall take appropriate action consistent with personnel rules outlined. Further, if the investigation confirms that domestic violence occurred, the Chief of Police may require counseling, psychological evaluation, demotion, or termination of employment.

11. LE Officers Involved in Domestic Disputes Outside of Department

1. Should an officer respond to a domestic disturbance call, and upon their arrival, discover that one of the parties involved is a Law Enforcement Officer; the responding officer shall immediately contact their supervisor, who will in turn, use the same procedures outlined above in this regard.

## 12. Issuing an Emergency Protective Order

1. If an officer has at least a reasonable belief that family abuse has occurred and there exists probable danger of further abuse, the officer SHALL petition a judge or magistrate to issue an emergency protective order. Officers SHALL advise the victim too, they he or she can request an emergency protective order directly from the magistrate.
2. An officer can petition for an emergency protective order by telephone, or in person.
3. The order will be valid until 5:00 p.m. on the next business day, or up to 72 hours after issuance, whichever is later. The officer SHALL attempt to serve the order as soon as practicable to the assailant.
4. The officer SHALL obtain an Emergency Protective Order-Family Abuse serve a copy to the respondent as soon as possible. The dispatcher of the jurisdiction issuing the protective order shall enter the relevant information into VCIN as soon as possible and update the entry upon service of the order.
5. The officer SHALL submit the original order to the issuing judge or magistrate, provide a copy to the victim, and file a copy with the incident report.
6. Emergency Protective Orders involving juveniles must be obtained from the Juvenile Intake Officer.

### **PUBLICATION**

This policy will be widely published or distributed to the University community. To ensure timely publication and distribution thereof, the Responsible Office will make every effort to:

- Communicate the policy in writing, electronically or otherwise, to the University community within 14 days of approval.
- Submit this policy for inclusion in the online Policy Library within 14 days of approval;
- Post the policy on the appropriate Website; and
- Educate and train all stakeholders and appropriate audiences on the policy's content as necessary. Failure to satisfy procedural requirements does not invalidate this policy

## **REVIEW SCHEDULE**

List the following:

- Next Scheduled Review: 10/15/2021
- Approval by, date: President, 05/13/2015
- Revision History: 11/30/2016; 10/25/2017; 10/15/2018
- Supersedes: *None – New Policy*

## **RELATED DOCUMENTS**

1. VLEPSC STD. ADM.14.03, ADM.23.02, OPR.13.01 [http://vlepsec.org/wp/?page\\_id=96](http://vlepsec.org/wp/?page_id=96)
2. CALEA STD. 41.2, 42.2, 55 <http://www.calea.org/>

## **FORMS**

*There are no forms associated with this policy and procedures.*