



DOMESTIC VIOLENCE

<i>Original Date of Issue</i> October 8, 1999	<i>General Order Number</i> 99-10
<i>Effective Date of Reissue</i> October 16, 2015	<i>Section Code</i> OPS-14
<i>Reevaluation Date</i> November 2016	<i>Amends</i>
<i>C.A.L.E.A.</i> 1.2.7, 55.1.1, 55.1.3, 55.2.3	<i>Reference</i> (see "INDEX AS:")

INDEX AS:

Domestic Abuse
Domestic Violence
Domestic Violence Reports
Domestics
No Contact Orders
Protective Orders

I. PURPOSE

The purpose of this General Order is to establish policy and procedures concerning domestic abuse. The Iowa City Police Department will respond properly to all domestic abuse requests for assistance. "Domestic Abuse" has been deemed as a series of criminal offenses in Iowa pursuant to Iowa Code Chapter 236, *Domestic Abuse*. Additionally, several other Iowa Code Chapters address domestic abuse-related issues. Efforts will be made to deter this criminal behavior.

II. POLICY

It is the policy of the Iowa City Police Department to:

- Appropriately respond to domestic abuse calls for assistance and arrest domestic abuse offenders as defined under the law.
- Maintain a pro-arrest policy whenever probable cause exists to support the belief that a domestic abuse violation has taken place.
- Protect victims and families experiencing domestic abuse, and provide information concerning support and services.
- Promote officer safety by educating officers in the area of *domestic abuse response*.
- Develop a working relationship with the Domestic Violence Intervention Program (DVIP).
- Actively participate in multi-disciplinary and community efforts to prevent and reduce the incidence and severity of domestic abuse assaults and deaths.
- Provide community and workplace education about domestic abuse, including releasing an annual report on domestic abuse.

III. DEFINITIONS

- A. *Domestic Abuse* means an assault, as defined in Iowa Code Section 708.2A and Iowa Code Section 236.2, that has occurred between parties who share a certain relationship.

The relationship element defined: 236.2(2)

1. Family or household members residing together at the time of the assault or who have resided together within the past year, but not at the time of the assault;
 2. Separated spouses or persons divorced from one another not residing together at the time of the assault;
 3. Parents of the same minor child, regardless of whether married or living together at any time.
 4. Brothers and/or sisters over 18 who live at the same residence. If under 18, Chapter 232, Juvenile Justice applies.
 5. The assault is between persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault.
- B. *Family or Household Members*: spouses, or persons cohabitating, parents or other persons related by consanguinity or affinity.
- C. *Children*: Children under age 18 are not subject to these provisions as chapter 232, Juvenile Justice, applies.

- D. *Cohabitation*: means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Cohabitation does not require a sexual relationship, but does require something more than merely residing together. State v. Kellogg, 542 N.W.2d 514(1996).

Kellogg provides a non-exclusive list of factors for the jury's consideration:

- Sexual relations between the parties while sharing living quarters
- Sharing of incomes and expenses
- Joint use or ownership of property
- Whether parties hold themselves out as husband and wife
- The continuity of the relationship
- The length of the relationship
- The degree of access to the residence (does each possess a set of keys)

- E. *Intimate relationship*: a significant romantic involvement that need not include sexual involvement. An intimate relationship does not include casual social relationships or associations in a business or professional capacity. A person may be involved in an intimate relationship with more than one person at a time.

Factors to consider:

- The duration of the relationship.
- The frequency of the interaction.
- Whether the relationship has been terminated.
- The nature of the relationship, characterized by either party's expectation of sexual or romantic involvement.

- F. *Primary Physical Aggressor*: The Code requires a peace officer to arrest and take into custody the primary physical aggressor of the domestic abuse assault when the assault caused a bodily injury, involved the use or display of a dangerous weapon or was committed with the intent to commit a serious injury. See Iowa Code Sections 236.12(2) (b)(c) and (d). Considerations relating to an officer's determination of the primary physical aggressor are set forth in Iowa Code Section 236.12(3).

In identifying the primary physical aggressor, a peace officer shall consider the need to protect the victims of domestic abuse, the relative degree of injury or fear inflicted on the persons involved, and any history of domestic abuse between the persons involved, and shall not be based solely on the absence of visible indications of injury or impairment.

- G. *Discretionary Arrest*: Peace officers may arrest a person for a simple misdemeanor (non-injury inflicting) domestic abuse assault, but are not required to do so. Discretionary arrest also applies to indictable level offenses where the offender was not the primary physical aggressor.
- H. *Pro-Arrest Policy*: Refers to a philosophical position in which physical arrest should be made in situations where an arrest is legally permissible.

IV. PROCEDURES

Procedures for the following qualifying factors are included in this protocol:

- A. Communications
- B. Officer Approaching the Scene
- C. Officer Responsibility at the Scene
- D. Enforcement of Court Protection Orders
- E. Written Reporting
- F. Victim Rights
- G. Follow-up Investigation
- H. Confidentiality
- I. Hostage Situations
- J. Officer Training
- K. Officers Charged with Domestic Abuse

A. COMMUNICATIONS

The dispatcher shall dispatch officers to every reported incident of domestic abuse. When warranted, the dispatcher should give a domestic abuse incident call priority as would be given to any other life threatening call. Whenever possible, a minimum of two officers should be dispatched to the scene.

During the initial call for assistance, the call-taker should ask these questions:

1. Where is the emergency? What address? What apartment number?
2. Who am I speaking to?
3. What has happened?
4. Has anyone been injured? If yes, is an ambulance needed?
5. Are you the victim? If no, are you a witness?
6. Is the suspect present? What is his/her name? Please describe the suspect and, if not present, his/her expected whereabouts.
7. Are weapons involved? If yes, what kind?
8. Is the suspect under the influence of drugs or alcohol? If yes, what substance?
9. Are children present?
10. Have the police been to this address before? If yes, how many times?
11. Does the victim have a current restraining order?

Communications will dispatch all pertinent information to the responding officers. As events progress through a domestic abuse incident, the dispatcher will keep the responding officer(s) apprised. The call-taker should listen for background noises that assist in evaluating the threat level (screams, shouts, threats, breaking glass, and furniture). These sounds will raise the potential danger level and can help to provide the probable cause required if criminal charges are filed. During the dispatching process, the dispatcher should initiate a check to determine the existence of no-contact orders (both civil and criminal), and notify the officer(s) of the results. Meanwhile, the call-taker should continue to reassure the victim/caller that assistance is en route. Remaining on the line with

the caller is preferential; if the victim/caller chooses to hang-up; this shall not influence the response affected. If the hang-up was voluntary, a callback should be made to inquire whether the victim/caller can be located by officers upon their arrival. Likewise, if the caller states that officers are no longer needed, the call-for-service will continue to proceed, and under no circumstances will a domestic call-for-service be cancelled.

9-1-1 calls and calls for assistance or/calls received on the routine line should be preserved for any possible prosecution. Requests for 9-1-1 recordings to be preserved will be made through the Communications Center supervisor by the domestic abuse investigator and/or evidence custodian.

If based on the information provided, the call-taker reasonably determines that a call is a domestic, it will be classified as a domestic. Once a call is classified as a domestic, the call shall not be reclassified except as follows; If the officer determines that the relationship does not meet the criteria of a domestic relationship an on-duty watch supervisor may have the incident reclassified. If the incident is reclassified to a non-mandatory report incident, the supervisor will determine if the officer will complete an incident report. In instances where a call is classified as something other than a domestic, and the call is in fact a domestic, the officer may reclassify the call as a domestic.

B. OFFICER APPROACHING THE SCENE

1. Domestic calls are a high priority call. Officers will respond immediately with due consideration of the information available and coordinate their approach if two one-unit crews respond.
2. Remain in contact with the dispatcher, requesting assistance, (see "Communications" section above) information and updates as needed. If protective orders are in force, then verification and clarification should be obtained from the county sheriff's department. (See "protective orders" section below.)
3. Remain alert for suspect leaving the scene.

C. OFFICER RESPONSIBILITY AT THE SCENE

When officers respond to a call for assistance at the scene of a domestic abuse incident, they shall:

1. Approach the scene safely, and in an alert manner.
2. Identify yourself and give an explanation of your presence. Request entry into the home when conditions permit. When permission is freely and voluntarily given by either party, a search of the premises may occur.
3. When entry is refused, exercise persistence in gaining entry based on the request for assistance received by the department. Request communications re-establish contact with the complainant, if it has been lost, and reassess the situation. If entry continues to be refused, contact the watch commander/supervisor for further guidance if circumstances permit.

4. Forced entry may be allowed when probable cause exists to suspect that a felony is occurring, has just occurred, or that a life is in danger. In evaluating the need for forced entry, the officer (s) must consider the degree of urgency versus requesting a warrant, the possibility of danger, whether the suspected offense involved violence and whether the belief exists that persons may be armed. (See exigent circumstances analysis in Use of Force G/O)
5. In incidents where a suspect has vacated the scene, and probable cause exists for an arrest, a complaint and affidavit shall be prepared immediately, and forwarded to a judge for a request for issuance of an arrest warrant. However, an officer may arrest a violator within the first 24 hours of an incident without a warrant. (See Iowa Code Section 236.11)
6. Restore order.
7. Take control of all weapons known to be used, or used in a threatening manner, and safely store them. (See Seizure of Weapons, Iowa Code Chapter 809.) Iowa Code Section 809.1(1)(c) defines seizable property as "... property which if not seized by the state poses an imminent danger to a person's health, safety or welfare." When weapons are seized, the officer shall notify a supervisor of the seizure prior to the officer going off duty.
8. Assess the need for medical attention, and call for assistance if warranted, and whenever requested by the victim. The officer shall assist the victim in obtaining transportation to the nearest hospital if requested.
9. Determine complainant, separating all parties if possible, including suspect, victim, children, and other witnesses.
10. Interview all parties. If necessary, reasonable efforts should be made to obtain a translator.
11. Following interviews, a conference of the responding officers should occur, if necessary, with the goal of arriving at a consensus for determining whether to arrest. Apply appropriate Chapter 236, *Domestic Abuse* criteria in making the decision to arrest. If consensus or a determination is not made, a supervisor shall be called to assist. When an officer is solo in responding, they may confer with a supervisor as needed. Identifying the *primary aggressor* is necessary, as persons acting in self-defense are exempt from this mandatory arrest.
12. If probable cause exists, arrest the suspect. Read suspect Miranda rights. Place individual in custody. Field release or issuing of citations are not allowed in the event domestic abuse has occurred. This applies to either / both arrest for domestic abuse, related charges and / or violations of protective orders. If possible, immediately transport suspect to jail. Factors that tend to support a finding of probable cause for arrest include: physical injuries (including bruises or cuts); disheveled clothing or furniture; a victim's credible statements or visible fear; credible statements of witnesses, including children; and previous calls to the home. If probable cause exists, an arrest shall be made, regardless of the stated wishes of the victim or the apparent use of alcohol or drugs by either the victim or abuser.
13. If a child is present during an incident of domestic assault in which charges are filed, a mandatory report shall be made to the Department of

Human Services. Any time a companion charge of "Child Endangerment" is made, Department of Human Services must be contacted. Notification shall include contacting DHS by phone prior to the end of the watch and forwarding copies of the written report. Reports should include names and DOB of all children present as well as an account of where they were at time of assault, what they saw, and/or heard.

14. Collect and record evidence, including torn clothing, broken objects, etc.
15. Photograph the following:
 - a. Victim in a full body picture (front and back).
 - b. Victim's specific injury(s).
 - c. Children.
 - d. Scene, including broken objects, weapons, general disarray, etc.
 - e. If possible, the suspect's full body and any injuries, in addition to the mug shot.
 - f. When photos are taken at a domestic incident, the evidence sheet should be marked as a domestic along with the incident number being noted
 - g. When the property manager receives photos from a domestic incident, they shall be forwarded to the domestic abuse investigator.
16. When an arrest causes a child(ren) to be without responsible adult supervision, Department of Human Services shall be contacted immediately. Officers are responsible for the care of children until such time they are relieved of this obligation by DHS.
17. Upon filling out the complaint, the officer will also complete the victim section of the incident report, making sure to include name, address, DOB, SS#, sex and race. A photocopy of the incident report containing this information will be attached to the complaint.

D. ENFORCEMENT OF COURT PROTECTION ORDERS

Violation of a valid court order shall be enforced in the same manner and with the same vigor as violations of statutory law. When encountering potential court order violations in domestic violence or other contexts, officers shall follow these procedures.

1. In cases of domestic violence, officers shall use all reasonable means to quell open conflict, protect the victim(s) and enforce the law as applicable in procedures set forth in this policy on domestic violence.
2. The officer shall verify the existence of the order and its provisions by requesting the dispatcher check with the Sheriff's Department in the county where the order was issued and, if available, by examining any copies of the order the victim may provide.
3. Arrest of the offender is the preferred agency response if probable cause for an arrest exists, whether or not the victim wishes to file a complaint.
4. If a person is suspected of domestic assault or violating a no contact order, the investigating officer shall run a criminal history on the suspect and check for any prior convictions of domestic assault or violation of a no contact order (allows for enhanced penalties).

E. WRITTEN REPORTING

Written reports should be factual, specific and clear so as to present an accurate portrayal of the domestic abuse incident. Written documentation that will be made as a result of a domestic abuse arrest are the complaint and affidavit, a supplementary information report narrative, Iowa City Police Incident Report Form, and the Domestic Abuse Reporting Form. All officers present at a domestic shall complete a report including narrative detailing their observations. In instances where there is a no locate, or the call was incorrectly classified as a domestic, the primary officer shall complete a report detailing the circumstances and identifying the correct call classification.

All reports involving a domestic or originally classified as a domestic, or involving the violation of a domestic abuse no contact order shall be forwarded to the Department's domestic abuse investigator.

Reports will, at a minimum, contain narratives which will include the following information:

1. Full names of parties involved, including dates of birth of the suspect and victim
2. Address and phone numbers for the victim, witnesses and those present, including the address and phone number of the location where the victim will be staying
3. Reports should include names and DOB of all children present as well as an account of where they were at time of assault, what they saw, and/or heard
4. The relationship of the victim and suspect
5. Location of the assault
6. Whether no contact orders are known to exist
7. A description of the scene
8. Weapons used
9. Whether a 9-1-1 call was received
10. Documentation of injuries of all parties injured
11. If alcohol is involved, the result of any PBT given to the suspect and victim
12. Whether they received medical treatment
13. An indication of whether the victim was presented their rights
14. Excited utterances should be recorded in quotation marks. Other statements may be directly recorded or summarized. The demeanor, spirit and physical description of the suspect should be noted along with that of the victim
15. If the officer is aware of *pending* domestic charges, note that fact in the narrative
16. If the in-car or body-cam recording system was activated

If the victim was choked during the assault, an officer must complete the "Domestic Abuse Assault Impeding Airway/Circulation Supplemental Report."

F. VICTIM RIGHTS

Chapter 236.12 identifies victim rights which must be provided to the victim in writing and / or verbally. The Iowa City Police Department will routinely present the victim their rights in written and verbal form. Officers at the scene will present the victim a printed copy of their rights and request the victim sign the sheet. One copy of the form should be left with the victim and the other included with the domestic abuse supplemental report and narrative.

G. FOLLOW-UP INVESTIGATIONS

All domestic abuse reports shall be forwarded to the domestic abuse investigator for review. Useful information not obtained in the initial report gathering stage may require a follow-up investigation. History of domestic abuse, past requests for service with observance of frequency of occurrence noted, interview of witnesses and any other information applicable may be included. Follow-up photographs may be taken as injuries change in their appearance. Other photographs may be taken as part of the investigation; however, all photographs shall be appropriately documented.

If an emergency 9-1-1 call initiated the domestic abuse response, then the domestic abuse investigator shall forward a written request to the ECO supervisor for a copy of the call to be taped and forwarded to the domestic abuse investigator.

H. CONFIDENTIALITY

Iowa Code Chapter 236A defines and describes issues of confidentiality specific to victim services. Victim services personnel shall be afforded courteous and respectful treatment, as they must honor the law reciprocally.

I. HOSTAGE SITUATIONS

As a hostage situation becomes apparent to the investigating officer, and / or ECO, the watch commander / supervisor shall be immediately notified. Following an assessment of the circumstances, a determination shall be made as to strategy for resolution of the call. Special Response Team (SRT) and/or Crisis Negotiation Team (CNT) protocol and personnel may determine this strategy.

J. OFFICER TRAINING

In addition to initial domestic abuse training at the Iowa Law Enforcement Academy, the Iowa City Police Department will routinely offer training in regard to domestic abuse. Training will be provided by both in-house staff, as well as utilizing outside authorities as available.

K. OFFICERS CHARGED WITH DOMESTIC VIOLENCE

Concerning application of Iowa Law, should a law enforcement officer be arrested for domestic abuse, they will be treated equitably as would any other citizen. Likewise, the Iowa City Police Department will adhere to the Federal Lautenberg Amendment concerning the possession of firearms should a domestic abuse conviction occur, within this jurisdiction, or any other within the United States.

In responding to a domestic abuse call for assistance, should it be known that any sworn officer, of this or any other law enforcement agency, in or out-of-state, are identified as a suspect, the watch commander / supervisor will be immediately notified. If the person arrested/suspected is not an Iowa City Police Officer, the watch supervisor will notify that officer's department. Additionally, the watch commander / supervisor shall be notified if any other employee of the Iowa City Police Department is arrested for domestic abuse. Following any of these notifications, the appropriate division commander will be contacted.

In the event that any officer or employee of the Iowa City Police Department is arrested for domestic abuse, or involved as a victim of a domestic assault, or is a suspect but not arrested for a domestic assault, appropriate referrals for services and assistance will be made. Internal Investigations will be conducted as warranted. A copy of the report on such an incident shall be forwarded to the Office of the Chief of Police.

Samuel Hargadine, Chief of Police

WARNING

This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of a higher legal standard of safety or care in an evidentiary sense with respect to third-party claims. Violations of this directive will only form the basis for departmental administrative sanctions.