



DOMESTIC VIOLENCE

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<i>Reevaluation Date</i> November 2021	<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 for officers in response to all domestic violence or domestic abuse calls reported to the Iowa City Police Department. Officers shall be expected to do the following:

- Afford protection and support to adult and child victims of domestic violence.
- Promote the safety of law enforcement personnel responding to incidents of domestic violence.
- Establish arrest and prosecution as a preferred means of police response.
- Complete thorough investigations and effect arrest of the primary physical aggressor upon the establishment of probable cause.
- Officers should not arrest a person who acted in self-defense as defined by Iowa Code Section 704.3.

- Take appropriate action for any violation of any permanent, temporary, or emergency orders of protection.
- Provide victims or witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders in order to prevent further abuse and harassment or both.

II. POLICY

It is the policy of the Iowa City Police Department to provide a proactive, pro-arrest approach in responding to domestic violence. The primary focus shall be on the safety of the victim, officers, and others in proximity of the crime, followed closely by perpetrator accountability. The law enforcement officer should follow all policies and procedures of this agency to complete a thorough investigation and analysis of the complaint with the goal of arresting the person(s) committing an act of domestic violence and who were not acting in self-defense.

III. DEFINITIONS

- A. *“Domestic abuse assault”* means an assault, as defined in Iowa Code Section 708.1, which is domestic abuse as defined in section 236.2, subsection 2, paragraph “a”, “b”, “c”, or “d”.
- B. *Iowa Code Chapter 236.2:*
2. “Domestic abuse” means committing assault as defined in section 708.1 under any of the following circumstances:
 - a) The assault is between family or household members who resided together at the time of the assault.
 - b) The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.
 - c) The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.
 - d) The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.
 - e) 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. In determining whether persons are or have been in an intimate relationship, the court may consider the following nonexclusive list of factors:
 - The duration of the relationship.
 - The frequency of interaction.
 - Whether the relationship has been terminated.

- The nature of the relationship, characterized by either party's expectation of sexual or romantic involvement.

A person may be involved in an intimate relationship with more than one person at a time.

- C. *"Family or household members"* means spouses, persons cohabitating, parents, or other persons related by consanguinity or affinity. *"Family or household members"* does not include children under age eighteen.
- D. *Intimate relationship* means 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.
- E. *Primary Physical Aggressor:*

Officers shall, with or without a warrant, arrest the primary physical aggressor for domestic abuse assault if upon investigation, including a reasonable inquiry of the victim and other witnesses, if any, the officer has probable cause to believe the assault:

- b) Resulted in a bodily injury
- c) Was committed with intent to inflict a serious injury
- d) Involved the use or display of a dangerous weapon in connection with the assault
- e) Was committed by impeding the victim's normal breathing or circulation of the blood by applying pressure to the victim's throat or neck or by obstructing the nose or mouth of the victim.
- f) Was committed by impeding the victim's normal breathing or circulation of the blood by applying pressure to the victim's throat or neck or by obstructing the nose or mouth of the victim and causing bodily injury.

See Iowa Code Section 236.12(2) paragraphs "*b*", "*c*", "*d*", "*e*", and "*f*". 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, otherwise stated predominant 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. The officer's identification of the primary physical aggressor shall not be based on the consent of the victim to any subsequent prosecution or on the relationship of the persons involved in the incident, and shall not be based solely on the absence of visible indications of injury or impairment.

- A. *Discretionary Arrest:* Officers may, with or without a warrant, arrest a person for domestic abuse assault where an assault has been committed which did not result in any injury to the victim.

- F. *Pro-Arrest Response*: The expectation that officers shall arrest a person unless there is a clear and compelling reason not to arrest (such as a self-defense determination or lack of probable cause).

Notwithstanding the provisions of Iowa Code Chapter 236.12, officers shall arrest offenders in cases of domestic assault not resulting in injury to the victim unless all of the following conditions are met:

- a. The officer believed the victim has suffered no injury
- b. There is no indication further abuse will take place
- c. No weapons were used or displayed
- d. The circumstances of the case suggest that neither justice nor domestic abuse prevention would be served by an arrest, and
- e. The decision not to arrest is reviewed and approved by a supervisor on duty.

IV. PROCEDURES

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

- A. Officer Approaching the Scene
- B. Officer Responsibility at the Scene
- C. Enforcement of No-Contact / Protective Orders
- D. Written Reporting
- E. Notification of Rights
- F. Follow-up Investigation / Domestic Violence Investigator
- G. Victim Safety and Protection
- H. Hostage Situations
- I. Officer Training
- J. Officers Charged with Domestic Abuse

A. 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. Two officers should be dispatched to any domestic call-three officers' is preferred.
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.

B. 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 physical 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 a primary caretaker, Department of Human Services shall be contacted immediately to determine an appropriate caretaker. 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.
18. Officers should follow the guidelines in SOG 18-08 when dealing with involved parties that have limited English proficiency, are deaf, or hard of hearing.

C. ENFORCEMENT OF NO-CONTACT / PROTECTIVE ORDERS

Violation of a no-contact order or protective order shall be vigorously enforced.

If an officer has reason to believe that domestic abuse has occurred, the peace officer shall ask the abused person if any prior orders exist, and shall contact the twenty-four hour dispatcher to inquire if any prior orders exist.

If an officer has probable cause to believe that a person has violated a no-contact / protective order the officer shall arrest the person.

If an officer has probable cause to believe that a person has violated a no-contact / protective order and the officer is unable to arrest the person, the officer shall issue a warrant of arrest as soon as possible and before the end of the duty day.

D. WRITTEN REPORTING

Officers shall complete reports for all cases involving current or past intimate or domestic relationships.

Officers shall also complete a report where elements of stalking or potential risk to the victim, their family, or the public are reported to the police department.

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.

Officers shall make a good faith effort to utilize the Ontario Domestic Assault Risk Assessment (ODARA) when applicable. If an arrest is made, the ODARA shall be completed prior to the defendant's initial appearance and officers shall include the ODARA score (e.g. "ODARA = 4") in the affidavit portion of the criminal complaint. If the officer fails to record the score on the complaint and the complaint is submitted, the officer shall write the score on the original complaint at the jail, and subsequently ensure the same writing on all other copies of the complaint. Reports will include the documentation of use and scores from the ODARA.

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
17. Care should be taken by officers to ensure that location information for the victim subsequent to the offense is not contained in police reports.

If the victim suffered restriction of the airway or blood flow during the assault, an officer must complete the "Domestic Abuse Assault Impeding Airway / Circulation Supplemental Report."

E. NOTIFICATION OF 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 (*Domestic Abuse Notification of Rights* form) 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.

F. FOLLOW-UP INVESTIGATIONS / DOMESTIC VIOLENCE INVESTIGATOR

All domestic abuse reports shall be completed by the end of the officer's duty day and forwarded to the Domestic Violence Investigator (DVI) for follow up.

The DVI shall perform follow up investigations on all domestic abuse cases in Iowa City. The DVI shall attempt to make contact with the victim in each case and may further the initial investigation by gathering additional evidence, conducting any follow up interviews, obtaining the 911 dispatch call recording, obtaining medical records, taking follow up photos, and completing any other tasks as necessary. The DVI will also conduct risk assessment and safety

planning on a case by case basis. The DVI will work with the Johnson County Attorney's Office to assist with prosecution as needed.

The DVI should conduct in person follow ups if possible, especially with strangulation charges, and subsequent offender cases.

The DVI will be a member of Coordinated Community Response Teams (CCRT's) and will provide meaningful participation where efforts are aimed at reviewing and revising local policies and procedures to reflect current realities and needs in the community, and reducing domestic violence related homicides.

The DVI will be a member of the Domestic Abuse Response Team (DART) and will work in cooperation with the Domestic Violence Intervention Program (DVIP), and other victim services in the community to provide service, support, safety, and advocacy to victims of domestic abuse. The DVI will also be a member of the Domestic Abuse Investigation Team (DAIT) joined with the county attorney's office and other local law enforcement agencies. The DVI will additionally complete, on time, all necessary performance reports and submit any required grant applications in a manner and quality which will earn the continuance of grant funding provided to the City of Iowa City for the position.

G. VICTIM SAFETY AND PROTECTION

1. Officers shall work with community resources and advocacy agencies to connect victims and their children with appropriate services.
2. The officer designated as principal contact for the victim, shall inform the victim of confidentiality policies and their limitations, and ensure that confidentiality is maintained throughout the case.
3. All officers shall be aware of possible victim/witness intimidation or coercion and the increased danger when the victim leaves an abusive partner. The designated principal contact shall assist the victim and children in safety planning and caution the victim to be alert to stalking activities.
4. If an officer suspects intimidation or coercion of the victim/witness is occurring, the officer shall prepare a written report to be delivered immediately to the investigator in charge of the case through the chain of command.
 - a. In order to determine whether the victim/witness is being intimidated or coerced, the investigator in charge shall seek out secondary sources of information.
 - b. Given the possibility that a victim will recant or choose not to participate in court proceedings, supplemental evidence shall be sought out and preserved.

H. 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.

I. 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.

J. OFFICERS CHARGED WITH DOMESTIC ASSAULT

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, is 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.

Denise Brotherton, Interim 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.