

SUBJECT: DOMESTIC VIOLENCE	NUMBER: 207.00
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	PAGE 1 OF 20

A. Introduction

Peace officers will utilize this policy in response to calls where there may be domestic abuse. This policy prescribes courses of action peace officers should take in response to a domestic call. This agency will aggressively enforce these laws without bias and prejudice based on race, marital status, sexual orientation, social class, age, disability, gender, religion, creed, or national origin. Minnesota Statute 629.341 allows domestic assault arrests anywhere on probable cause.

The principle purpose of this policy is to establish guidelines and procedures to be followed by peace officers in law enforcements response to domestic abuse. Additionally this policy intends:

- P-166

2. to afford maximum protection and support to victims of domestic abuse through a coordinated program of law enforcement and victim assistance;
3. to ensure that the same law enforcement services are available in domestic abuse cases that are available in other criminal cases;
4. to reaffirm peace officers' authority and responsibility to make arrest decisions in accordance with established probable cause standards;
5. to promote peace officer safety by ensuring that peace officers are as fully prepared as possible to respond to domestic calls;
6. to complement and coordinate efforts with the development of domestic abuse prosecution plans, so that law enforcement, prosecution and advocacy will be more efficient and successful;
7. to promote law enforcements accountability to the public in responding to domestic abuse; and,
8. to document allegations of domestic abuse so there can be meaningful prosecution and delivery of victim services.

II. DEFINITIONS

For the purposes of this policy the words and phrases in this section have the meanings given to them, unless another intention clearly appears.

- A. ***Domestic Abuse*** has the meaning given it in MN STAT 518B.01, subd. 2(a), which states:
"Domestic abuse" means the following, if committed against a family or household member by a family or household member:
(1) physical harm, bodily injury, or assault;
(2) the infliction of fear of imminent physical harm, bodily injury, or assault; or
(3) terroristic threats, within the meaning of section 609.713, subdivision 1; criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, 609.345, or 609.3451; or interference with an emergency call within the meaning of section 609.78, subdivision 2.
- B. ***Domestic Abuse Program*** means a public or private intervention project or advocacy program that provides support and assistance to the victims of domestic abuse.

- C. ***Domestic Call*** means a request for assistance to a law enforcement agency regarding domestic abuse or any other crime against a family of household member.
- D. ***Child or Minor*** means a person under the age of 18.
- E. ***Family or Household Members*** has the meaning given it in Minn. Stat. 518B.01, subd. 2(b)(1)-(7): spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time. It also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time and persons involved in a significant romantic or sexual relationship.
- F. ***Qualified domestic violence-related offense (QDVRO)*** has the meaning given it in Minn. Stat. 609.02, subd. 16 and includes a violation of or an attempt to violate a domestic abuse order for protection; first or second degree murder; first through fifth degree assault; domestic assault; female genital mutilation; domestic assault by strangulation; first through fourth degree criminal sexual conduct; malicious punishment of a child; terroristic threats; violation of harassment restraining order; stalking; interference with an emergency call; nonconsensual dissemination of private sexual images; and violation of domestic abuse no contact order; and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.
- If a person arrested for a domestic crime has a prior QDVRO, the new offense may be chargeable as a higher-level crime. (See Domestic Abuse Enhancement chart appended hereto.)
- G. ***Order for Protection (OFP)*** is an order issued under Minn. Stat. 518B.01 by a judge in civil court upon the request of the petitioner. Any family or household member of the abuser (called a respondent) may ask the court for an OFP. The relief granted to the petitioner may include an order for the respondent to stop domestic abuse, no direct or indirect contact with petitioner, temporary custody of minor children, temporary financial support, and/or counseling for the respondent. Other forms or relief are also available. Violating an OFP is a crime.
- H. Harassment ***Restraining Order (HRO)*** is an order issued under Minn. Stat. 609.748 by a judge in civil court when a petitioner requests a court order prevention another person from having contact with him/her. These orders generally prohibit all contact of any kind (including, but not limited to, phone calls, letters, e-mail, social media and contact through a third

party) and may limit the respondent's ability to come within a certain distance of the petitioner's home, work or school. This type of order can be issued no matter what the relationship between the individuals involved. Violation and HRO is a crime.

- I. *Domestic Abuse No Contact Order or Harassment/Stalking Restraining Order*** A domestic abuse no contact order is an order issued under Minn. Stat. 629.75 by a judge in a criminal court limiting contact between a defendant and a victim of domestic abuse for any of the following;

(1) domestic abuse as defined in section 518B.01, subdivision 2;

(2) harassment or stalking under section 609.749 when committed against a family or household member as defined in section 518B.01, subdivision 2;

(3) violation of an order for protection under section 518B.01, subdivision 14; or

(4) violation of a prior domestic abuse no contact order under this section or Minnesota Statutes 2008, section 518B.01, subdivision 22.

- J.** Harassment has the meaning given to it in Minn. Stat. 609.748, subd. 1(a); a single incident of physical or sexual assault or repeated incidents of intrusive or unwanted acts, words or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target.

- K. *Stalking*** has the meaning given to it in Minn. Stat. 609.749, subd. 1: engaging in conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppresses, persecuted, or intimidated, and causes this reaction on the part of the victim regardless of the relationship between the actor and victim.

III. DISPATCHING THE CALLS

A. *Receiving the Domestic Call*

Upon receiving a domestic call, the dispatcher will assign the call a high priority. The dispatcher should assign at least two officers to a domestic call. If only one officer is available, all reasonable attempts should be made to obtain another officer to assist the officer who was initially dispatched.

B. *Information to be Obtained*

The dispatcher receiving a domestic call should attempt to elicit from the caller and should communicate to the responding peace officers as much of the following information as possible:

- The nature of the incident.
- The address of the incident, including apartment number, etc.
- The telephone numbers where the caller can be reached and an alternative telephone number.
- If weapons are involved or present in the dwelling.
- If someone is injured and the nature of the injury.
- Information about the suspect including whether the suspect is present, description, direction of flight, mode of travel, etc.
- Relationship between the caller and the suspect.
- If there has been prior abuse or prior calls involving these individuals.
- If there is an order for protection (OFP), harassment restraining order (HRO), or criminal pre-trial or probationary domestic abuse no contact order (DANCO).
- If children are present at the scene.
- If there are non-English speaking people, or people with mobility impairments or hearing impairments.

If the caller is the victim, the dispatcher should attempt to keep the caller on the telephone as long as possible, tell the caller that help is on the way and tell the caller when they can expect the peace officers to arrive.

If the caller is a witness to an incident in progress, the dispatcher should attempt to keep the caller on the phone and should relay ongoing information provided by the caller to the responding peace officers.

If the responding peace officers are some distance away and the dispatcher cannot remain on the telephone with the caller/victim, the dispatcher should attempt to call back periodically to check on the progress of events and call again when the officers arrive at the scene. If the dispatcher finds that a victim/caller who was recently available suddenly cannot be reached by phone or there is a persistent busy signal, the dispatcher should relay that information to the responding officers.

IV. RESPONDING TO THE CALLS

A. *Driving to the Scene*

The peace officers should respond directly and without unreasonable delay to the scene of a domestic call.

B. *Initial Contact with Occupants*

Upon arriving at the scene of a domestic call and being met, the responding officers should identify themselves as peace officers, explain their presence, and request entry into the home. The officers should ask to see the person who is the subject of the call. If the person who called the law enforcement agency is someone other than the subject of the call, the officer should not reveal the caller's name. The officers should ensure all of the occupants are safe.

C. *Entry*

Refused Entry - If refused entry, the officers should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused, the officers should request the dispatcher to contact the caller or witness if the information for the contact is available.

Forced Entry - If access is still refused and the officers have reason to believe that someone inside is in imminent danger, officers may force entry.

Search Warrant Entry - If the officers are refused entry and have no legal recourse to force entry and they have reasonable grounds to believe a crime has been committed, they should contact their supervisor and request permission to obtain a search warrant.

NOTE: Adequate documentation must be generated in a police report to successfully defend a challenged entry.

D. *First Aid*

After securing the scene, the responding peace officers shall provide the necessary first aid.

V. ARREST DECISIONS

A. *Making Arrests*

After securing the scene and providing any first aid the peace officers will begin a criminal investigation to determine if there is evidence and probable cause to believe that a crime has been committed based upon the evidence and not upon the victim's apparent wishes regarding arrest. **The officers should collect relevant physical evidence, including weapons which may have been used, take photographs of the scene, blood, broken furniture etc. of any injuries sustained and collect statements from the involved parties and witnesses. Officers shall audio record statements using a digital recorder. The Watchguard system shall be used in conjunction if available to the investigating officer.** Some of the evidence and statements may include:

- condition of clothing,
- property damage,
- evidence of physical injury including strangulation,
- excited utterances of the victim and the suspect,
- demeanor of the victim and the suspect,
- medical records including the victim's statements to paramedics, nurses and doctors,
- interviews of witnesses including children who may have been present,
- evidence of any prior domestic abuse – related convictions including dates, and any existing orders for protection, harassment restraining order or no contact orders.

Officers shall ask the following Risk Assessment questions when investigating crimes alleging Domestic Abuse/Protection Order violations:

1. Do you think he/she will seriously injure or kill you or your children or someone close to you?
 - What makes you think so? What makes you think not?
 - Does he/she own or have access to a gun?
2. How frequently and seriously does he/she assault you? Describe the time you were the most frightened or injured by him/her.
3. Does he/she initiate unwanted contact either through media or in person? Describe the unwanted contact. How often?

4. How frequently does he/she intimidate or threaten you? Has he/she intimidated or threatened you regarding talking to the police or seeking help from the court?
5. Has he/she ever forced you to do things sexually you didn't want to?

NOTE: When determining probable cause, peace officers should consider their observations as well as any statements made by parties involved or witnesses.

B. *Consideration Factors in Making the Arrest*

Arrests should be made without consideration of:

- Marital status, sexual orientation, race, or cultural, economic, social, political or professional position.
- Ownership, tenancy rights of either party or the fact the incident occurred in a private place.
- Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction.
- Verbal assurances that the abuse will stop.
- Disposition of previous police calls involving same victim or suspect.
- Denial by either party that the abuse occurred when there is evidence of domestic abuse.
- Lack of a court order restraining or restricting the suspect.
- Concern about reprisals against the victim.
- Adverse financial consequences that might result from the arrest.
- Chemical dependency or intoxication of the parties.

C. *Primary Aggressor and Dual Arrests*

The agency shall discourage dual arrest. Where there are allegations that each party assaulted the other, the peace officer shall determine whether there is sufficient evidence to conclude that one of the parties is the primary aggressor based on the following criteria and the officer's judgment:

- Comparative extent of any injuries inflicted.
- Fear of physical injury because of past or present threats.
- Actions taken in self-defense or to protect oneself.
- The history of domestic abuse perpetrated by one party against the other.
- Existence or previous existence of orders for protection.

D. *Victim Request not to Prosecute*

If the officer finds probable cause to believe a domestic abuse offense has been committed and intends to arrest but the victim requests no arrest or prosecution, the officer should inform the victim that the decision to arrest is the officer's and the decision to prosecute lies with the prosecutor.

VI. AUTHORITY AND TYPES OF ARREST

A. *Warrantless Probable Cause Arrest for Fifth Degree or Domestic Assault*

A peace officer may arrest a person anywhere without a warrant including at the person's residence, if the peace officer has probable cause to believe that the person within the preceding 72 hours has assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm the person's spouse, former spouse, or other person with whom the person resides or has formerly resided though the assault did not take place in the presence of the peace officer (Minn. Stat. 629.341). A peace officer acting in good faith and exercising due care in making an arrest pursuant to Minn. Stat. 629.341, subd. 1, is immune from civil liability that might result from the officer's action.

NOTE: Notwithstanding any other law or rule, an arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with assaulting the individual's spouse or other individual with whom the charged person resides (Minn. Stat. 629.72).

B. *Level of Arrest for Assault in the Fifth Degree and Domestic Assault:*
Misdemeanor, Gross Misdemeanor and Felony: Assault in the Fifth Degree and Domestic Assault are deemed misdemeanor offenses. However, recent changes in the statutes have greatly increased the potential for arrests for these crimes at the gross misdemeanor and even felony level.

1. *Gross Misdemeanors:* MN STAT 609.224, subd. 2(a), Assault in the Fifth Degree, provides for an enhancement to a gross misdemeanor violation when the offense is against the same victim within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency in Minnesota, or any similar law of another state. MN STAT 609.224, subd. 2(b) also provides for an enhancement to a gross misdemeanor violation when the offense is within three years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency in Minnesota, or any similar law of another state.

If the charge is Domestic Assault (MN STAT 609.2242) and the current victim is a family or household member and the crime occurs within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency of any of the above offenses against any family or household member, the same gross misdemeanor enhancement applies. The prior conviction need not be against a member of the same family or household.

2. *Felonies:* If a person commits Assault in the Fifth Degree against the same victim within ten years of the first of any combination of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency, Assault in the Fifth Degree becomes a felony. The same enhancement applies to Assault in the Fifth Degree against any victim occurring within three years of the first of two or more of these convictions.

Domestic Assault (against a family or household member) is also enhanceable under the same circumstances except that the prior convictions may be against any family or household member.

DOMESTIC ASSAULT BY STRANGULATION (MN STAT 609.2247)
"Strangulation" means intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person. Unless a greater penalty is provided elsewhere, whoever assaults a family or household member by strangulation is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both.

- C. *Stalking* (MN STAT 609.749): The acts which constitute stalking according to Minn. Stat. § 609.749 include several which are frequently applicable to domestic abuse situations even when no actual assault occurred.

1. *Gross Misdemeanors:* A person who stalks another by committing any of the following acts is guilty of a gross misdemeanor:
directly or indirectly manifests a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;
stalks, follows or pursues another; returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent; repeatedly makes telephone calls, or induces a victim to make telephone calls to the actor, whether or not conversation ensues; makes or causes the telephone of another to repeatedly or continuously ring; repeatedly mails or delivers or causes the delivery of letters, telegrams, messages, packages, or other objects; or engages in any other harassing conduct that interferes with another person or intrudes on the person's privacy or liberty.

Also, according to Minn. Stat. 607.749., subd.1a., the State does not have to prove the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted or intimidated. The intent of the defendant is immaterial. Obtaining a complete domestic abuse history is usually the key to making the determination that the current act, under the circumstances, constitutes the crime of stalking.

2. *Felony Enhancement:* A person who commits any offense described in Section C, Part 1 (see above) against a victim under the age of 18, if the actor is more than 36 months older than the victim, and the act is committed with sexual or aggressive intent, is guilty of a felony. Any of the above gross misdemeanors is enhanceable to a felony if committed within ten years of a previous QDRVO conviction or adjudication of delinquency OR if committed against a juvenile OR if committed while possessing a dangerous weapon.
3. *Pattern of Harassing Conduct:* In addition, it is a felony to engage “in a pattern of harassing conduct with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause a reasonable person under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction” in the victim. According to MN STAT 609.749, subd. 5 (as amended by the 1997 Legislature) a “pattern of harassing conduct” means 2 or more acts (convictions are not necessary) within a 5 year period that constitute any of the following offenses: harassment, terroristic threats, assault, violation of an order for protection or harassment order, trespass, harassing phone calls, or mail, or criminal defamation.

NOTE: The harassment statute makes it more important than ever to document not just the facts of the current police call but also the history of abuse or harassment.

4. *Venue* (Minn. Stat. 609.749, subd. 1b.): If a suspect commits acts of stalking in different counties, the acts may be consolidated and prosecuted in any county in which one of the acts was committed. If the conduct that constitutes stalking is done through use of a wireless or electronic communication device, the conduct can be prosecuted in the county where either the suspect or victim resides.
- D. *Probable Cause Warrantless Arrest:*** The domestic abuse arrest statute (Minn. Stat. 629.72) provides an officer may not issue a citation in lieu of arrest in harassment/stalking, domestic abuse, violation of an order for protection, or violation of a domestic abuse no contact order cases. According to Minn. Stat. 629.34, an officer may also make a warrantless probable cause arrest even if the offense did not occur in the officer’s

presence if the officer has reasonable cause to believe the offense was a gross misdemeanor or felony.

- E. *Probable Cause Felony Arrests for Other Crimes:*** At a domestic call peace officers shall consider whether other felonies have been committed including but not limited to, burglary, felony assault, terroristic threats, kidnapping, false imprisonment, and witness tampering.

NOTE: An Assault 5 may be chargeable as burglary in the first degree even if the home is also the offender's if the entry is made without consent of the victim and in violation of an OFP barring the offender from the premises.

- F. *Violation of Court Orders:*** The peace officer shall verify whether any of the following orders exist before or during an arrest. The peace officer or someone acting at the officer's direction may make this verification. Methods of verification include personally seeing a copy of the order or obtaining verification from the court or law enforcement agency that has the actual order. The police report shall include identifying information of the specific court order violated, including county of origin, the file number, and the provision allegedly violated.

1. *Order for Protection:* A peace officer may arrest and take into custody without a warrant a person who the peace officer has probable cause to believe has violated the restraint or exclusion section of an order for protection granted pursuant to MN STAT 518B.01, subds. 6, 7, and 9. Such an arrest shall be made even if the violation of the order did not take place in the presence of the peace officer, if the officer can verify the existence of the order.

NOTE: There are three key points related to the Order for Protection: (1) the law requires an arrest regardless of whether or not the excluded party was invited back to the residence, (2) there is no hour limitation for a warrantless arrest for a violation of an Order for Protection, and (3) if there is evidence that an individual has violated another provision of an Order for Protection, other than the restraint or exclusion clauses, a police report should be submitted to the prosecutor indicating specifically how the order was violated.

A violation of an Order for Protection is a misdemeanor but is enhanceable to a gross misdemeanor if the offense occurs within ten years of discharge from sentence for conviction of violation of an OFP or (effective for crimes occurring on and after 8/1/94) for any conviction of assault, terroristic threats, violation of a harassment order or harassment/stalking. It is enhanceable as a felony if it occurs within ten years of discharge of the first of two or more such convictions.

OFPs and DANCOs can be verified on the State MNJIS system, also known as the Hot Files. HROs are not in the Hot Files system at this time but are still enforceable.

2. *Harassment Restraining Order*: A peace officer may arrest and take into custody a person who the peace officer has probable cause to believe has violated a harassment restraining order pursuant to MN STAT 609.748, subds. 4 and 5, if the officer can verify the existence of the order.

NOTE: A person who violates a harassment restraining order is guilty of a misdemeanor if the violator knows of the order. This offense is enhanceable of a gross misdemeanor if it occurs within ten years of discharge from sentence for a previous conviction for violation of a harassment order or an OFP or any assault, harassment/stalking or terroristic threats conviction. This offense is enhanceable to a gross misdemeanor if it occurs within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Per Minn. Stat. 609.748, subd. 6, (d), it is enhanceable to a felony if the person knowingly violates the order:

within 10 years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency; because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability (as defined in section 363A.03), age, or national origin; by falsely impersonating another; while possessing a dangerous weapon; with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.414, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

3. *Domestic Abuse No Contact Order (DANCO)* (Minn. Stat. 629.75): A peace officer may arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a DANCO, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer.

The pretrial DANCO is sometimes continued at the time of sentencing with a new, probationary DANCO issued as a condition of probation. This DANCO may be valid for the full probationary period indicated in the order.

The court may rescind a DANCO order at any time. However, the production of the victim of a copy of an apparently valid court order, absent contrary evidence, provides prima facie basis for arrest whenever there is probable cause to believe a violation of the order has occurred.

- G. *Other Misdemeanors:*** At a domestic call, the peace officer shall consider whether other crimes have been committed including but not limited to trespassing, criminal damage to property, disorderly conduct, witness tampering, or assault.

VII. ASSISTANCE, STAYING AT THE SCENE, CRIME VICTIM RIGHTS AND SERVICES

A. *Staying at the Scene*

If an arrest does not occur, the peace officers should remain at the scene of the disturbance until they believe that the likelihood of further imminent abuse has been eliminated. If a domestic abuse intervention program is available, the peace officer should make contact for immediate intervention.

NOTE: Minn. Stat. 629.342 provides that when a peace officer does not make an arrest, the peace officer must provide immediate assistance to the victim, including obtaining necessary medical treatment and providing the victim with the notice of rights pursuant to Minn. Stat. 629.341, subd. 3. An officer shall articulate reason for leaving in their report.

B. *Assistance to Non-English Speaking Victims or Victims with Communication Disabilities*

The peace officer shall use the resource list established by the law enforcement agency to contact a person to assist in those cases where the participants in the domestic call, including witnesses, are non-English speaking, are hearing-impaired or have other communication disabilities. The officer should avoid the use of friends, family or neighbors to serve as the primary interpreter for the investigation.

C. *Notice of Domestic Abuse Victim Rights*

1. Tell the victim whether a shelter or other services are available in the community per Minn. Stat. 629.341, subd. 3.
2. Immediately give the victim a notice of legal rights and remedies, per Minn. Stat. 629.341, subd. 3 (Hermantown Police Department's CRIME VICTIM INFORMATION card).

- a. The notice must include furnishing the victim a copy of the following statement: (CRIME VICTIM INFORMATION card) **IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE**, you can ask the city or county attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an order for protection from domestic abuse. The order could include the following:
 - 1) an order restraining the abuser from acts of abuse;
 - 2) an order directing the abuser to leave your household;
 - 3) an order preventing the abuser from entering your residence, school, business, or place of employment;
 - 4) an order awarding you or the other parent custody of or visitation with your minor children; or,
 - 5) an order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so".
 - b. The notice must also include the telephone number for the area Safe Haven Shelter.
 - c. The notice must also include available local community resources, which may include victim advocacy services, court services (i.e. prosecutor's office, where to apply for an Order for Protection), medical services, important police numbers, etc.
3. If a formal statement is taken by a peace officer, the victim should be provided the notice of basic crime victim rights. This notice is developed by the Department of Public Safety in consultation with the Crime Victim and Witness Advisory Council according to Minn. Stat. 611A.02, subd. 2. In the event the responding peace officer determines that criminal charges will be pursued and that no further investigation will result, the peace officer should at that time provide these rights to the victim.

D. Services

Contacting the local domestic abuse program by phone as soon as possible on all arrest situations providing name and address of the victims and brief reconstruction of events associated with the action will be made by the St. Louis County jail staff/personnel. If more specific details are warranted, officers are encouraged to advise the domestic abuse program contact person directly as soon as possible after an arrest.

NOTE: This section shall not apply if prohibited by the Minnesota Government Data Practices Act., Minn. Stat. 13.82, subd. 10.

VIII. CHILDREN

A. *Child Victims*

If a child is present at the scene of a domestic call or is the victim of domestic abuse, the peace officer should determine whether the child has been subjected to physical abuse, sexual abuse or neglect and comply with the requirements of Minn. Stat. 626.556, Reporting of Maltreatment of Minors. The officer shall also attempt to verify whether there has been an Order for Protection issued Minn. Stat. 260C.201. If the child has been physically injured, the officer should escort the child to the nearest hospital for treatment. If sexual abuse is evident, the officer shall notify a supervisor.

B. *Child Present and Care*

If the legal parent or guardian of a child can no longer provide care (for example, when the parent is hospitalized), the officer should consult with the legal guardian to determine the disposition of the child and should make a good faith attempt to follow the request of the legal guardian or parent.

If the peace officer reasonably believes that the child's immediate surroundings or conditions endanger the child's health and welfare, the officer may take the child into immediate custody pursuant to Minn. Stat. 260C.175.

IX. REPORTS AND FORMS

A. *Written Report*

Whether there is an arrest or not, peace officers shall make a report after responding to a domestic call. If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest must be documented. The report should include the following: detailed statements from the victim, suspect, and witnesses; description of injuries; information about past allegations of abuse; description of the scene; if and how a determination of primary aggressor was made; existence of language barriers; presence of elderly victims, children or those with disabilities; and documentation of evidence.

X. FURTHER INVESTIGATION

- A.** If appropriate, the report shall be turned over to the designated investigator for further follow-up. If there is an arrest, the investigator shall determine the defendant's criminal record, and if there is proof of a previous conviction, the peace officer should advise the prosecutors of any enhanced criminal sanctions which may be available.
- B.** Notwithstanding the fact that the officer has decided not to arrest one of the participants in the domestic call, the peace officer shall thoroughly document all relevant information in the report and shall refer the report to the appropriate prosecutor for review and consideration of criminal charges.
- C.** Post Incident Evidence Collection follow-up:

Bruising and redness of the skin continues to develop over a period of time from when the injury initially occurred. The investigating officer shall make a follow-up contact with the alleged victim as soon as practicable in order to collect any further newly developed evidence of bruising or reddening of the area of skin originally reported to have been injured in the assault, or in areas of the body that, when initially examining at the time of the call, were not readily identifiable.
- D.** The Family Justice Center, located at 414 East 1st Street – Duluth, has available space, support, staff, and services necessary to support domestic violence victims.
 - 1. Officers shall become familiar with the Family Justice Center.
 - 2. Officers are encouraged to utilize the Family Justice Center while conducting any domestic violence investigation.

XI. COMMENTS

Rescinds:	N/A
Standards Reference:	N/A
Statute/Ordinance Reference:	MN Statutes: 629.34, 629.341, 609.342, 609.343, 609.344, 609.345, 629.34, 629.72, 609.224, 518B.01, 609.748, 629.342, 629.341, 611A.02, 13.82, 626.556, 260C.201, 260C.165. Minnesota Rule of Criminal Procedures: 6.03
General Order Reference:	N/A

BY AUTHORITY OF:

JAMES M. CRACE
Chief of Police

DOMESTIC ABUSE ENHANCEMENTS

Offense	Victim of Offense	Time Limit	Prior Conviction	Offense Level
Assault 5	Same Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of ..	QDVRO	Felony
	Any Victim	w/in 3 years of conviction	QDVRO	Gross Misdemeanor
		w/in 3 years of 1 st of 2 or more convictions	QDVRO	Felony
Domestic Assault	Family/Household Member (as defined in Minn. Stat. 518B.01, subd. 2.)	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of 1 st of 2 or more convictions for Domestic Assault or Assault	QDVRO	Felony
Malicious Punishment	Any Victim	w/in 5 years of discharge	Assault 1-5, Domestic Assault, Malicious Punishment, Criminal Sexual Conduct 1-4, or Terroristic Threats	Felony
Violation of Order for Protection or Harassment Restraining Order	Any Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1st of 2 or more convictions	QDVRO	Felony
Stalking	Any Victim	w/in 10 years of conviction	QDVRO	Felony
Interference w/ Privacy	Any Victim	None	Interference w/ Privacy or Stalking	Gross Misdemeanor

Example of Enhancement	
Arrest for Assault 5 & Malicious Punishment	1/1/2013
Plea (Accepted) to Assault 5 & Malicious Punishment (Conviction)	6/1/2013
Sentence of 2 years of probation	8/1/2013
Expiration of reachback for any victim for Assault 5	6/1/2016
Discharge from sentence	8/1/2015
Expiration of reachback for any victim for Malicious Punishment	8/1/2020
Expiration of reachback for same victim for Assault 5	6/1/2023

Conviction means a plea of guilty or verdict of guilty accepted by the court (Minn. Stat. 609.02, subd 5).

Discharge from Offense means the time between conviction and the end of 5 years following discharge from sentence for that offense.

QDVRO means a “Qualified Domestic Violence Related Offense” which includes a violation of or an attempt to violate a domestic abuse order for protection; first or second-degree murder; first through fifth-degree assault; domestic assault; female genital mutilation; domestic assault by strangulation; first through fourth-degree criminal sexual conduct; malicious punishment of a child; terroristic threats; violation of harassment restraining order; stalking; interference with an emergency call; nonconsensual dissemination of private sexual images; and violation of domestic abuse no contact order (DANCO); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories. (Minn. Stat. 609.02, subd. 16)

Misdemeanor Domestic, OFP, HRO and DANCO Warrantless Arrests

Officers shall arrest a person within 72 hours if the officer has probable cause to believe a person has committed a misdemeanor Domestic Assault, or a violation of an OFP, HRO or DANCO. The 72 hours is exclusive of the day probable cause was established. (Note: start the clock at 12:01 a.m. the day after.)

If the person has not been arrested within 72 hours, the matter shall be immediately sent to the prosecuting authority for its review.