

## Domestic Abuse

### 309.1 INTRODUCTION

Since May 1984, the Plymouth Police Department has partnered with “(A) Safe Place” Shelter on the Domestic Abuse Intervention Project. In 2016, in collaboration with “(A) Safe Place” Community Program and the Plymouth City Attorney’s office, work began to implement a coordinated community response to domestic violence based on the Blueprint for Safety Program. The intention of this coordinated response is to hold offenders accountable while enhancing victim safety, with the goal of disrupting the cycle of violence in our community.

### 309.1 PURPOSE AND SCOPE

To establish procedures for documentation, referral and enforcement in reported Domestic/Domestic Assault situations and to provide for the ongoing needs and protection of the victim(s). The goals of this policy are to:

- (a) Prevent future incidents of domestic abuse by using arrest rather than mediation as the preferred law enforcement response to domestic abuse.
- (b) Maximize the protection and support of victims of domestic abuse cases by coordinating law enforcement and victim-assistance programs.
- (c) Reaffirm police officers' authority and responsibility to make arrest decisions in accordance with established probable cause standards.
- (d) Promote police officer safety by ensuring that police officers are as fully prepared as possible to respond to domestic calls.
- (e) Heighten law enforcement's accountability to the public in responding to domestic abuse.
- (f) Document allegations of domestic abuse to facilitate meaningful prosecution and delivery of victim services by asking a series of preselected questions on the Blueprint for Safety lethality assessment card issued to each officer.
- (g) Provide a uniform and effective response to domestic abuse calls.

#### 309.1.1 DEFINITIONS

Definitions related to this policy include:

**Court order** - All forms of orders related to domestic abuse, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

**Domestic abuse** - Commission of any of the following if committed against a family or household member by another family or household member (Minn. Stat. § 518B.01, Subd. 2):

- (a) Actual or fear of imminent physical harm, bodily injury, or assault
- (b) Threats of violence with intent to terrorize as specified by Minn. Stat. § 609.713, Subd.1.

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- (c) Criminal sexual conduct (Minn. Stat. § 609.342 to Minn. Stat. § 609.3451)
- (d) Interference with an emergency call as specified by Minn. Stat. § 609.78, Subd.2.

**Assault** - An act committed with the intent to cause fear in another of immediate bodily harm or death; or an act that intentionally inflicts or attempts to inflict bodily harm upon another. (Minn. Stat. § 609.224 and 609.2242).

**Child** - A person under the age of 18.

**Blueprint for Safety Domestic Abuse Intervention Program** - Refers to the “(A) Safe Place” Shelter and Community Program, a local advocacy program that provides support, shelter and assistance to victims of domestic abuse in collaboration with the Plymouth Police Department, the City Attorneys Office and County Attorneys Office for statutory legal support and prosecution.

**Probable Cause** - Defined as follows: based on the officer's observations and statements made by the parties involved and witness (if any), the officer using reasonable judgment believes an assault did occur and the person to be arrested committed the assault.

### **309.3 POLICY**

The Plymouth Police Department's response to incidents of domestic abuse and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic abuse is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

### **309.4 OFFICER SAFETY**

The investigation of domestic abuse cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

### **309.5 PATROL RESPONSIBILITIES**

A response to a domestic assault will carry a number-one priority. A minimum of two officers will respond and coordinate their approach. As much available information as possible should be obtained from the dispatcher prior to arriving at the scene.

- (a) Initial Contact:
  - 1. Identification: Identify yourself and give an explanation of your police presence, and request entry into the home. If the complainant is in the home, ask to see him/her.
  - 2. Check the welfare of all occupants: Ask if anyone else is in the residence. Make contact with all occupants to ensure they have not been injured and are safe.
  - 3. Consent Search: Officer may enter and conduct a search of the premises if consent has been given to do so. Although a consent search eliminates the

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need for a warrant and for probable cause, such consent must be freely and voluntarily given. If two people have joint ownership of a place or thing, either one may give a valid consent. If, at a later date, the issue of the search consent being “freely and voluntarily given” becomes part of a defense, the burden of proof that the search was freely and voluntarily agreed to, by a person of standing in the property, will be placed on the officers authorizing the search. For this reason it is imperative that permission to search is covered in the taped or written statements.

4. **Refused Entry:** When refused entry to a residence, be persistent, explain that a complaint was received and must be verified. If entry is still refused, request the dispatcher to call the complainant to re-contact the victim. If still refused entry, contact your supervisor. He/she will decide whether officers are to remain or leave. If officers remain at the scene, they should move to public property (the street) and observe the premises.
  5. **Forced Entry:** There may be times when enough probable cause exists to indicate that a felony is occurring or has just occurred, or that a life is in danger. In these cases, if entry is refused or there is no reply from the premises, forced entry may be necessary to protect a life or make an arrest. Among the circumstances that can provide probable cause to force an entry include cries for help, weapons displayed, obvious signs that a struggle occurred, and/or an eyewitness account that a felony occurred and the victim is still on the premises. Officers will evaluate the following elements when considering a forced, warrantless entry:
    - i. The degree of urgency involved and the time required to get a warrant.
    - ii. The possibility of danger to others, including police officers who remain to guard the site.
    - iii. Whether the suspected offense involved violence.
    - iv. Whether officers reasonably believe that persons may be armed.
- (b) **Assess scene for safety:** Determine if weapons are present, and who is present, including children.
- (c) **Protecting the Victim:** Whenever possible, officers must protect the victim from further abuse, including but not limited to the following:
1. Separating the victim from the alleged perpetrator, administer first aid, and/or arrange for medical attention if victim is hurt.
  2. If victim appears injured and yet refuses medical assistance, thoroughly document any observed injuries, as well as a refusal of medical treatment.
  3. Do not tell the alleged perpetrator what the victim has told officers.
  4. Do not ask the victim if he/she wants the suspect arrested, or if he/she will testify in court.
  5. The transportation of a victim to emergency housing will be permitted at the discretion of the shift supervisor.

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(d) Gathering Evidence:

1. 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. Officers should photograph and collect any physical evidence deemed appropriate (including ripped clothing or broken cell phones, as well as any other items used as weapons).
2. Victim's account of injuries sustained can be corroborated by medical examination. All officers should make the Medical Release form available to the victim for voluntary signature to enable the gathering of medical records of any physical examination pursuant to injuries sustained from the reported assault.
3. The primary responding officer will see that photographs are taken of visible injuries on the victim or any damage/disarray to property at the scene. Due to the nature of the injury, the officer may defer this duty to attending medical personnel. Victims should be encouraged to make arrangements to have subsequent photographs taken of any injuries that become more visible at a later time.
4. All statements by victims, witnesses and suspects should be recorded. If recording equipment is not available, a written statement should be obtained.

(e) Impoundment of Weapons:

1. When a weapon has been involved in a dispute, it must be seized as evidence. In cases where no crime has been committed by use of weapons, but there is mention of fear that weapons present a danger to the occupants of the household, the occupant is responsible for taking measures to secure the weapons from the threat. If there is no method or option for the occupant to secure the weapons, the officers, as a last means, may impound them for safekeeping and then released in accordance with this Department's Property Room Management Policy. The procedure for court-ordered surrendering or transferring of firearms is documented under the Prohibited Possession of Firearms Domestic Violence Policy.

### **309.6 VICTIM ASSISTANCE**

(a) **Intervention Project Procedures:** When an officer responds to a domestic call in which probable cause of a domestic assault exists, whether or not an arrest is made, the officer shall:

1. Provide information about the availability of "(A) Safe Place" Shelter and advocacy services, and provide the Crime Victim information card to the victim.
2. Advise the victim that an Intervention Project advocate will contact her/him within the next several hours to offer voluntary legal and supportive services.
3. As soon as possible, contact "(A) Safe Place" Shelter any time an assault is alleged and there is an arrest, or the suspect is gone on arrival. If no assault is alleged, but an officer believes the complainant may be in fear or could benefit from resources, contact "(A) Safe Place".

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4. If an arrest is made, the alleged assailant will be held at the Plymouth Police Department Detention facility or the Hennepin County Detention facility under the Rules of Criminal Procedure and applicable State Statutes. Intervention advocates may contact the arresting officer in the event that the victim shares information that may be pertinent to the status of the hold or release of the alleged assailant.
  5. All incidents in which an assault has been alleged but an arrest is not made due to questionable probable cause will be referred to the City Attorney for consideration of issuance of a formal complaint.
  6. “(A) Safe Place” Community Program staff will receive a copy of all domestic-related reports.
- (b) **Performing Lethality Assessments:**
1. Any time that probable cause exists that a domestic-related offense has occurred, officers will conduct a lethality assessment with the alleged victim by asking the lethality assessment questions that have been provided to them per PPD policy/protocol.
  2. All responses to lethality assessment questions must be documented within the written report. If a victim refuses to answer any of the lethality assessment questions, this must be documented in the report.
- (c) **Revisit:** All victims will have the opportunity to have a revisit from a Plymouth police officer to re-photograph injuries, assess safety and provide any additional assistance as needed.

### **309.7 FOREIGN COURT ORDERS**

Various types of orders may be issued in domestic abuse cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

#### **309.7.1 CANADIAN ORDERS FOR PROTECTION**

An order for protection issued by Canada or a Canadian province shall be enforced as if it were the order of a court in this state and afforded the same consideration as foreign court orders with respect to proper issuance and registration (Minn. Stat. § 518F.03).

### **309.8 VERIFICATION OF COURT ORDERS**

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

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- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

- (a) **VIOLATION OF ORDER FOR PROTECTION:** State Statute 518B.01, subd.14(b) mandates that an officer SHALL arrest and take into custody a person who the officer has probable cause to believe has violated an order restraining the person or excluding him/her from the residence, if the existence of the order can be verified by the officer even if the violation of the order did not take place in the presence of the peace officer. (NOTE: State Statute requires an arrest regardless of whether or not the excluded party was invited back to the residence. Family court judges and referees inform all respondents of this law and procedures necessary to modify the order.)
  - 1. The Plymouth Police Department will remove firearms pursuant to a court order specifically directing police officers to do so, as stipulated in Plymouth Police Department Policy addressing Prohibited Possession of Firearms Domestic Violence.
  - 2. There is no hour limitation for a warrantless arrest for a violation.
  - 3. If the respondent refuses admittance, officers may obtain a search warrant granting entry to collect the firearms.
- (b) **HARASSMENT RESTRAINING ORDER:** State Statute 609.748, subd. 4 and 5 mandates that an officer shall arrest and take into custody a person who the officer has probable cause to believe has violated a harassment restraining order.
- (c) **NO CONTACT ORDERS AND DANCOS:** State Statute 629.34, subd. 1 (6) allows an officer to arrest and take into custody a person who the officer has probable cause to believe has violated a no-contact or restraining order issued by a court. The court may rescind a no-contact order at any time. However, if the victim produces a copy of an apparently valid court order (absent of contrary evidence), this provides a prima facie basis for arrest if there is probable cause to believe a violation of the order has occurred.
- (d) **VIOLATION OF CONDITIONS OF RELEASE:** If the suspect violates the conditions of release, officers may request a judge to issue an arrest warrant based on Minn State Statute 629.72, subd. 5, Violations; conditions of release:
  - 1. The judge who released the arrested person shall issue a warrant directing that the person be arrested and taken immediately before the judge, if the judge:

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- i. receives an application alleging that the arrested person has violated the conditions of release; and
  - ii. finds that probable cause exists to believe that the conditions of release have been violated.
- (e) **STALKING BEHAVIORS:** Officers will remain alert to the possibility that any single report of domestic abuse could be part of a pattern of stalking behavior. Officers will pay particular attention to repeated violations of orders for protection, harassment restraining orders and domestic abuse no-contact orders. All cases where stalking behaviors are suspected will be referred to an investigator.

### **309.9 LEGAL MANDATES AND RELEVANT LAWS**

Minnesota law provides for the following:

#### **309.9.1 STANDARDS FOR ARRESTS**

Officers investigating a domestic abuse report should consider the following:

- (a) An officer has the authority to arrest a person without a warrant, including at the person's residence, if the peace officer has probable cause to believe that the person has, within the preceding 72 hours, exclusive of the day probable cause was established, assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm any person covered by the "family or household member" definition, even if the assault did not rise to the level of a felony or did not take place in the presence of the peace officer (Minn. Stat. § 629.34; Minn. Stat. § 629.341).
  1. At a minimum, officers should patrol the vicinity in which the assault took place so as to reduce the risk of the suspect returning to the scene and re-assaulting the victim.
  2. Officers should obtain information from the victim as to possible destinations to which the suspect may have fled that could assist in identifying and apprehending the suspect.
  3. Other squads should be notified of the domestic violence GOA incident so that they can be on the lookout for the suspect.
  4. Surrounding police departments and police departments located in any anticipated destination of the suspect should be notified of the domestic violence GOA incident and "stop & hold" requests should be issued, so that officers can be on the lookout for the suspect and apprehend if located within 72 hours, exclusive of the day probable cause was established of the incident. (See Minn. Stat. 629.341, subd. 1.)
- (b) Officers should generally not make dual arrests but may make an arrest of a primary aggressor. Where there are allegations that each party assaulted the other, the officer shall determine whether there is sufficient evidence to conclude that one of the parties was the primary aggressor based on the following criteria and the officer's judgment (Minn. Stat. § 629.342, Subd. 2):
  1. Comparative extent of any injuries inflicted

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2. Fear of physical injury because of past or present threats
  3. Actions taken in self-defense or to protect oneself
  4. History of domestic abuse perpetrated by one party against the other
  5. Existence or previous existence of an order for protection
- (c) An officer shall arrest an individual charged with any of the following offenses (Minn. Stat. § 629.72):
1. Stalking
  2. Domestic abuse
  3. Violation of an order for protection
  4. Violation of a domestic abuse no contact order
- (d) Officers shall arrest and take into custody, without a warrant, a person whom the peace officer has probable cause to believe has violated a court order issued pursuant to Minn. Stat. § 518B.01 or Minn. Stat. § 629.75. 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. If the person is not released on citation in lieu of continuing detention, the person shall be held in custody for these violations for at least 36 hours unless released by a court (Minn. Stat. § 518B.01; Minn. Stat. § 629.75).
- (e) An arrest for a violation of an order of protection may be made regardless of whether the excluded party was invited back to the residence (Minn. Stat. § 518B.01, Subd. 18).
- (f) Following an arrest, an officer should contact the local domestic abuse program by phone as soon as possible and provide the name and address of the victim and a brief factual account of events associated with the action.
- (g) An officer shall arrest and take into custody a person whom the officer has probable cause to believe has violated a harassment restraining order, pursuant to Minn. Stat. § 609.748, if the officer can verify the existence of the order.
- (h) Officers are authorized to make an arrest without a warrant when there is probable cause to believe the person has violated the provisions of any other no contact or restraining order issued by a court, even if the offense did not rise to the level of a felony (Minn. Stat. § 629.34). While conducting a domestic abuse investigation officers shall attempt to verify whether there has been a court order issued.
- (i) Officers should consider whether other offenses have been committed that may not qualify as a domestic abuse including, but not limited to, burglary, felony assault, other threats of violence, kidnapping, false imprisonment, witness tampering, trespassing, criminal damage to property, disorderly conduct, or assault.

#### 309.9.2 SECOND OFFENSES AND CHARGING GROSS MISDEMEANORS

Whoever violates the provisions of domestic assault in the fifth degree against a victim who is a family or household member within 10 years of discharge from sentence for a previous conviction for domestic assault, or for criminal sexual conduct in the first- through fourth-degree, or for



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terroristic threats in Minnesota (or any similar law of another state), or against any family or household member, may be sentenced to imprisonment for not more than one year, to payment of a fine of not more than \$3,000, or both. This same provision applies if within three years of assaulting any other person.

- (a) Using information obtained from the victim, witnesses and any other sources, an officer must determine if there have been any previous arrests or convictions for assault, criminal sexual conduct, terroristic threats, or interference with an emergency phone call.
- (b) Officers must also make an attempt as soon as possible to question the defendant to determine if there have been previous arrests or convictions.
- (c) If information of a previous conviction or arrest is obtained, the arresting officers will make all possible attempts to verify any previous convictions and will note in their report that a prior conviction is indicated or possible.
- (d) If it is determined that the defendant has been convicted of assaulting a victim who is a family or household member within 10 years of discharge from sentence or another person within two years, the reports must be sent to the City Attorney for a formal complaint.

#### 309.9.3 SUBSEQUENT OFFENSES AND CHARGING FELONIES

Whoever violates the provisions of domestic assault in the fifth degree within 10 years of the first of any combination of two or more previous qualified domestic violence-related offense convictions (609.02, subd.16) or juvenile adjudication of delinquency is guilty of a felony.

#### 309.9.4 STRANGULATION

Officers will be alert to the signs and symptoms of strangulation. If the victim has any of the symptoms of strangulation, officers will dispatch emergency medical services and make every effort to encourage victims to accept medical attention. Officers will ask the follow-up questions for strangulation per PPD policy/protocol.

#### 309.9.5 REPORTS AND RECORDS

- (a) Officers should include information related to the following in a report, as applicable (Minn. Stat. § 629.341):
  - 1. Names, addresses, and telephone numbers of all involved persons
  - 2. Condition of clothing
  - 3. Description of the scene, including any property damage
  - 4. Evidence of physical injury, including strangulation
  - 5. Presence of elderly victims or persons with disabilities
  - 6. Facts related to any person who may have been a primary aggressor
  - 7. Excited utterances of the victim and the suspect
  - 8. Demeanor of the victim and the suspect

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9. Medical records, including the victim's statements to paramedics, nurses, and doctors
  10. Detailed statements of interviews of witnesses, including children, who may have been present, noting any language barriers
  11. A detailed explanation of the reasons for the officer's decision not to arrest or seek an arrest warrant
  12. Evidence of any prior domestic abuse or related convictions, including dates
  13. Any existing orders for protection, harassment restraining order, or no contact orders
  14. Identifying information of a specific court order violated, including county of origin, the file number, and the provision allegedly violated
- (b) Domestic abuse reports should be forwarded to the appropriate prosecutor for review and consideration of criminal charges, even when no arrest is made or warrant requested.
- (c) If a child was present at the scene of a domestic abuse incident or was the victim of domestic abuse, the officer should determine whether the child has been assaulted, subjected to physical abuse, sexual abuse, or neglect, or when actions of the officer will result in a situation where no responsible adult can be located to care for the child or children, and comply with the mandatory reporting requirements of Minn. Stat. § 260E.06 et seq.
1. The officer shall also attempt to verify whether there has been an order for protection issued under Minn. Stat. § 260C.201 and take appropriate action.
- (d) Fees will not be charged for the release of reports related to domestic abuse, as directed in Minn. Stat. § 13.82.

#### 309.9.6 SERVICE OF COURT ORDERS

Officers, when reasonably safe and in a position to do so, shall serve copies or short forms of court orders as directed in Minn. Stat. § 518B.01 and Minn. Stat. § 609.748.

#### 309.9.7 COURT-ORDERED FIREARM SURRENDERS

Although not required, this department generally will accept firearms surrendered by a court order from an abusing party or defendant. A decision to refuse a surrendered firearm should be approved by a supervisor.

Firearms will normally be surrendered at the Plymouth Police Department; however, when encountering someone in the field who wishes to surrender a firearm, officers should make reasonable efforts to accommodate the request.

Surrendered firearms should be collected and submitted to the Property Room in accordance with the Property Room Policy.