



# UW-Madison Police Department

**Policy: 42.3**

**SUBJECT: DOMESTIC ABUSE**

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## **POLICY:**

The UW- Madison Police Department has established procedures to guide a timely and professional response for incidents involving domestic abuse. The Department response shall stress the enforcement of the laws, protection of victim(s), identification of the predominate aggressor and emphasize violent behavior is neither excused nor tolerated. Furthermore, criminal laws shall be enforced without regard to the relationship of the parties involved.

## **DEFINITIONS:**

"Domestic abuse" as defined in Wisconsin State Statue 968.075 (1)(a) refers to any of the following engaged in by an adult person against his or her spouse, former spouse, against an adult with whom the person resides or formerly resided; or against an adult with whom the person has a child in common.

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. A violation of law amounting to first, second or third degree sexual assault.
4. A physical act, or a threat in conjunction with a physical act, which may cause the other person to reasonably fear imminent engagement in the conduct described above.

## **PROCEDURE:**

### **42.3.1 INITIAL RESPONSE**

- A. Communications Center personnel shall evaluate the information received and dispatch police personnel accordingly.

[REDACTED] Unwillingness on the part of the caller to provide any requested information shall not preclude the dispatch of police personnel. The Communications Center shall make responding officers aware of all available information surrounding the incident.

- B. Caution should be exercised in approaching the location of a domestic dispute and in handling the incident itself. Upon making a legal entry, officers shall check the scene for potential hazards. When tactically possible, officers should attempt to separate the parties to prevent escalation or injury. If injury has occurred in a domestic situation, emergency medical services should be summoned if the officers believe medical treatment is needed. If either party indicates an actual or attempted strangulation, to include: manual, ligature, or choke hold, responding officers should contact the Madison Fire Department or a medical facility for a medical evaluation by a Forensic Nurse Examiner.

### **42.3.2 INVESTIGATION AND INTERVENTION**

- A. When in contact with involved parties the responding officers should:

1. Attempt to defuse the situation.
  - a. Attempt to separate the parties if possible.
  - b. [REDACTED]

2. Determine the relationship between the parties.
3. Determine if there is probable cause to believe a crime has occurred and identify the predominant, not necessarily the primary, aggressor. The procedure to be used to determine if probable cause exists includes, but is not limited to the following action:
- A statement needs to be sought from all victim and witness.
  - A detailed description of any injuries should be recorded. Evidence should be collected according to proper investigative techniques. Officer reports should describe the scene if there are indicators of a struggle. Photographs should be taken of visible injuries. Note the relative degree of injury inflicted on the persons.
  - The victim's statement of non-consent should be sought and included in the report.
  - If medical attention is provided, a statement regarding the treatment should be included in the report.
  - Determine if there is a history of police calls, threats or abuse incidents involving the parties. In particular, check for existing restraining orders against individuals involved.
  - Determine the extent to which each person appears to fear any other involved party; if any person is threatening or has threatened future harm to another person involved or a family or household member; and if anyone involved acted in self-defense or in defense of another.
  - Determine if other domestic violence incidents have occurred within the past 28 days.
- B. When contacting individuals involved in a domestic dispute, a full written report of the incident must be completed before the officer ends their shift.
- C. If the suspect or victim in a domestic violence incident is a law enforcement officer, the responding officers should be aware of the increased likelihood of the presence of a weapon.
- D. If a law enforcement officer is arrested, the on-duty police supervisor and the Manager on Call (MOC) shall be notified. The police supervisor or MOC shall contact the employing agency immediately.

#### **E. 42.3.3 DISPOSITION – MANDATORY ARREST**

The following shall outline mandatory arrest policies for domestic violence cases:

- A. Per Wisconsin State Statute [968.07\(2\)](#), officer(s) shall arrest and take a person into custody if:
- The officer, after investigating the incident, has reasonable grounds to believe that the person is committing or has committed domestic abuse and that the person's actions constitute the commission of a crime; and,
  - The victim reported the incident within 28 days of occurrence.
  - Either or both of the following circumstances are present, and the officer is in a position to legally make an arrest:
    - The officer has a reasonable basis for believing that there is a possibility of continued violence against the alleged victim;
    - There is evidence of physical injury to the alleged victim.
- B. Officers shall not consider a person's race, color, ethnic background, gender, cultural group, religion, economic status, age, physical ability, gender identity, gender expression, sexual orientation and/ or other identifiable group as the basis for an arrest for domestic abuse.
- C. An arrest shall be made under the above circumstances even though the victim expressly indicates a desire not to prosecute or indicates an unwillingness to cooperate.
- D. If the above circumstances exist and the suspect is not present, for the safety of the victim a reasonable effort shall be made to locate and take the suspect into custody.
- E. The arrested person is required to post bail or appear before a judge prior to being released from custody per Wisconsin statute [968.075\(2m\)](#).
- F. An arrest shall be made of the predominant aggressor only, unless other circumstances require the arrest of others involved. Determination of the predominant aggressor shall be conducted in accordance with Wisconsin State Statute

[968.075 \(2\)\(ar\)](#) and department training reference guides, unless exigent circumstances exist.

- G. When making an arrest, officer(s) should consider whether the person acted in self-defense or defense of another person.

#### **42.3.4 DISPOSITION – DISCRETIONARY ARREST**

The following shall outline discretionary arrest policies for domestic violence cases:

- A. In most circumstances, an officer shall arrest and take a person into custody if the officer has reasonable grounds to believe that the person is committing or has committed domestic abuse and the person's actions constitute the commission of a crime.
- B. An officer's decision not to arrest under this section may not be based solely upon the absence of visible indications of injury or impairment.

#### **42.3.5 DISPOSITION – NO ARREST**

The following shall outline procedures for instances when mandatory arrest is not possible:

- A. The report shall be sent to the Dane County District Attorney's Office for review to determine whether the person involved in the incident should be charged with the commission of a crime.
- B. There may be limited instances when mandatory arrest is not possible. They include, but are not limited to incidences where:
  - 1. Reasonable efforts to locate and arrest the suspect are unsuccessful.
  - 2. The suspect is located but due to incapacitation from alcohol and/or drug use, the suspect is placed under protective custody.
  - 3. The suspect has been committed under the standard for an emergency detention.
  - 4. The suspect has received injuries necessitating admission to a hospital.

#### **42.3.6 RESTRAINING ORDERS**

The following shall outline procedures for handling restraining order violations:

- A. Knowingly violating a Temporary Restraining Order (TRO), Harassment Injunction, Domestic Abuse Injunction, or Interlocutory Injunction is a misdemeanor under Wisconsin law.
- B. If there is reason to believe a TRO exists ordering a subject to avoid the premises, the officer shall immediately contact the UW- Madison Police Department Communications Center to determine the status and contents of the order. The investigating officer shall determine from the Communications Center if the order has been served on the suspect.
  - 1. The officer shall make an arrest for a violation of the order when there is an order in existence and there is probable cause to believe that it was knowingly violated.
  - 2. If there is an order in existence and the Communications Center records indicate that the subject has not been served, the officer shall inform the subject of the contents of the order and direct the subject to obey the order. If the subject does not leave the premises, the officer shall arrest the subject for violation of the order.
  - 3. When the subject is informed by the officer of the existence of the order and its contents, the officer shall communicate this to the Communications Center for entry in the file indicating time and manner in which the subject was so informed.
- C. When assisting with a TRO filed by a student or staff member of the University the officer should attempt to get a copy of the order and forward to Department Records.

#### **42.3.7 REFERRALS AND RESOURCES**

The following shall govern policies for offering resources and referrals for victims of domestic violence:

- A. Whether or not an arrest is made, an officer may make a referral to a community agency and encourage both parties to seek assistance.
- B. If the primary investigating officer has reasonable grounds to believe that a person is committing or has committed domestic abuse, the officer is responsible for informing the victim of the availability of shelters and services in their

community. The primary investigating officer is responsible for providing the victim with appropriate service agency information to include at a minimum, resource information for Domestic Violence Services and Sexual Assault Services. The victim shall be provided a Victim Information Pamphlet which includes information on how to obtain a Domestic Abuse Injunction or Harassment Injunction under [2013 Wisconsin Act 323](#).

- C. Officers shall also provide information on shelter and service information to the victim. This information is available electronically.

#### **42.3.8 MINOR CHILDREN**

The following shall govern procedures for investigating domestic violence cases where children are present or involved:

- A. Due to the correlation between domestic violence and child abuse, officers should always be alert for evidence of child abuse. Officers should note the names and ages/DOB of children, ask whether they were present when the incident occurred, and if they have any injuries.
- B. In the event that a minor child appears to be the victim of physical abuse, emotional abuse or neglect, and/or sexual abuse, it is the responsibility of the officer to take immediate action, which includes notifying the Dane County Department of Human Services. A Safe Harbor Interview should be considered.
- C. The following reports of suspected or threatened abuse shall be referred to the district attorney for criminal prosecution:
  - 1. Sexual intercourse or sexual contact under Wis. Stats. 940.225.
  - 2. A violation of s. 948.05 – sexual exploitation of a child.
  - 3. Permitting, allowing or encouraging a child to violate s. 944.30(1m) – prostitution.
  - 4. A violation of s. 948.055 – causing a child to view or listen to sexual activity.
  - 5. A violation of s. 948.10 – causing a child to expose genitals, pubic area, or intimate parts.
- D. If the disposition of a dispute leaves minors in the home without a responsible parent/guardian, the officer is to contact the Dane County Department of Human Services for temporary arrangements.

#### **42.3.9 CONTACT PROHIBITION**

The following shall outline procedures for enforcing contact prohibitions:

- A. The officer responsible for the arrest of a person for a domestic abuse incident shall ensure that the alleged victim is notified of these requirements and the possibility of, procedure for, and effect of a waiver of contact prohibition. [REDACTED]
- B. Unless there is a waiver, during the 72 hours immediately following an arrest for a domestic abuse incident, the arrested person must avoid the residence or any premises temporarily occupied by the alleged victim of the domestic abuse incident and avoid contacting or causing any person, other than an attorney for either party, to contact the alleged victim.
- C. Whether or not there has been a waiver, if the arrested person commits any act of domestic abuse during this 72-hour period, and the act constitutes commission of a crime, the penalty increases to a felony.
- D. At any time during the 72-hour period the alleged victim may sign a written waiver of the requirements. The department shall have a waiver form available.
- E. The assigned officer shall provide the victim of a domestic abuse related incident of the procedure for releasing the subject and the likelihood and probable time of the arrested person's release, along with contact information for the jail. The officer shall document any attempt to notify the victim in a report(s).