



# GENERAL POLICE ORDER CLEVELAND DIVISION OF POLICE



EFFECTIVE DATE: <b>MARCH 1, 2002</b>	REVISED DATE: <b>August 11, 2009</b>	NO. PAGES: <b>1 of 5</b>	NUMBER: <b>3.4.16</b>
SUBJECT: <b>ENFORCEMENT OF DOMESTIC VIOLENCE STATUTES</b>			
ASSOCIATED MANUAL:		RELATED ORDERS: <b>3.4.07, 3.4.08</b>	
CHIEF OF POLICE: <i style="text-align: center;">Michael McGrath, Chief</i>			

*Substantive changes are in italics*

**PURPOSE:** To provide direction specific to Domestic Violence intervention. Establish a policy of arrest as the preferred course of action for a family or household member who committed the offense of Domestic Violence and whom the officer has reasonable cause to believe is the primary physical aggressor.

**POLICY:** Officers shall arrest Domestic Violence suspects and complete an incident report in cases of Domestic Violence where there is evidence of Domestic Violence. This shall ensure compliance with Ohio Revised Code 2935.03.

No special privilege or consideration shall be given to members of the Department of Public Safety, elected or appointed officials of the City of Cleveland or law enforcement officers of other agencies.

Any member of the Division who is a suspect in a Domestic Violence incident shall immediately report this to their Commander. If the member is unable to contact their Commander, they shall contact the Communication Control Section (CCS) and request that the CCS Officer-in-Charge (OIC) make the notification.

The Internal Affairs Unit (IAU) shall monitor investigations originating outside the City of Cleveland if the investigations involve employees of the Division of Police.

**PROCEDURES:**

- I. Field procedures:
  - A. Mediation is not an alternative to arrest.
  - B. In instances where a primary physical aggressor can be identified, that person shall be arrested.

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- C. Officers shall not discourage victims from prosecuting the offender.
- D. While investigating Domestic Violence complaints, officers shall request that the victim, or a parent/guardian (if the victim is a minor), complete and sign the Misdemeanor Statement Form, #71-2141 Rev. If necessary, officers shall assist the victim or parent/guardian in completing the Misdemeanor Statement Form, however, the victim or parent/guardian must sign the form.
- E. To determine which family or household member is the primary physical aggressor, officers shall consider of the following:
  - 1. Any history of Domestic Violence or of any other acts by either person involved in the alleged offense that the officers can reasonably ascertain;
  - 2. If violence is alleged, whether the alleged violence was caused by a person acting in self-defense;
  - 3. Each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of use of force against any person, and the reasonableness of that fear;
  - 4. The comparative severity of any injuries suffered by the persons involved in the alleged offense.
- F. Officers shall provide a copy of the Information Sheet, #71-2195, the Ohio Attorney General's booklet *Picking Up the Pieces, and the Domestic Violence Center's information card (a small business-card size tri-fold card containing essential domestic violence resource information)* to all Domestic Violence complainants. Officers shall provide the complainant with their names, badge numbers, incident number and date on the Form #71-2195.
- G. If it is necessary for victims to leave the residence as a protective measure, officers shall assist victims by transporting them a reasonable distance to haven with family, friends, a Domestic Violence shelter or public accommodation. If victims are moved for safety, officers shall include the phone number of a contact person in the report.
- H. When officers make a misdemeanor Domestic Violence arrest, they shall recommend that the victims go to the Victim/Witness Services Center by 0830 hours the next morning that the prosecutor's office is open. If it is unknown

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whether the offense is a misdemeanor or felony, officers shall advise the victim to contact the district detective bureau to determine if the victim should go to the detective bureau or the municipal prosecutor's office.

- I. In misdemeanor cases where probable cause exists but the suspect is not on scene, the officer shall promptly consult with a municipal prosecutor to obtain a warrant for the arrest of the suspect.
- J. If the suspect is a member of the Division of Police:
  - 1. The responding officers shall request that a supervisor of a higher rank than the suspect respond to the scene.
  - 2. The supervisor shall notify the OIC of the CCS that the Internal Affairs Unit (IAU) is required on scene.
  - 3. The OIC of the CCS shall notify the Internal Affairs Unit (IAU).
  - 4. The IAU shall respond to the scene, investigate the incident and be responsible for initiating disciplinary action.

## II. Evidence:

- A. If there are signs of physical injury or damage as a result of an alleged Domestic Violence complaint, officers shall request a supervisor *to take photographs of the injuries and any other related evidence. Photographs shall be printed and be marked with the RMS number and victim's name, placed in an evidence envelope and entered into the District Property Book. Digital images shall be handled according to established protocols.* The fact that photographs were taken shall be noted in the incident report.
- B. Sector Supervisors shall request that radio tapes be saved for evidence if the tape contains relevant evidence pertaining to the complaint. This information shall be noted in the incident report. The CCS shall preserve radio tapes as evidence.
- C. If the offense or alleged offense of Domestic Violence involves the use or threatened use of a weapon, the weapon constitutes contraband and shall be seized.

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### III. Determination of misdemeanor or felony offense:

- A. The offense is a misdemeanor if all of the following apply:
  - 1. The suspect does not have a previous conviction for Domestic Violence, Felonious Assault, Aggravated Assault, Assault, Negligent Assault, Aggravated Menacing, Menacing, Stalking or Aggravated Trespass involving a family or household member.
  - 2. The nature of any injury does not constitute serious physical harm or the current incident is limited to threats of violence.
  
- B. The offense is a felony if any of the following apply:
  - 1. The victim suffered serious physical harm.
  - 2. The suspect has a previous conviction for Domestic Violence, Felonious Assault, Aggravated Assault, Assault, Negligent Assault, Aggravated Menacing, Menacing, Stalking or Aggravated Trespass involving a family or household member and the victim suffered physical harm.
  - 3. District detectives shall determine whether the prior conviction for Felonious Assault, Aggravated Assault, Assault, Negligent Assault, Aggravated Menacing, Menacing, Stalking or Aggravated Trespass involved a family or household member.

### IV. Reporting:

- A. The investigating officer shall make a Record Management System (RMS) report when there is a violation of the Domestic Violence Statute. Reports must include the following:
  - 1. A complete description of the suspect.
  - 2. A detailed description of the officer's observations of the suspect, victim and scene.
  - 3. A statement that the Information Sheet to Victim's of Domestic Violence (Form C of C #71-2195) and the booklet; Picking Up the Pieces have been given to the victim.

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4. *A Domestic Violence Supplemental Form must be completed and faxed along with the RMS report to the Report Intake and Review Unit.*
  
  - B. Officers shall provide the victim with their names, badge numbers, RMS report number and date on the Form #71-2195.
  
  - C. *The investigating officer shall ascertain whether or not the victim was pregnant at the time of the offense, and if the offender knew the victim was pregnant. If that is the case, the officer shall note the information in the title of the RMS report, i.e. Domestic Violence (Unborn Child) Arrest, and provide the relevant details to that effect in the narrative section of the report. Per state statute [(ORC 2919.25 (D)(5)], it is felony of the fifth degree if the offender knew that the victim was pregnant at the time of the violation.*
- V. Prosecutor review:
- A. When a misdemeanor arrest for Domestic Violence is made and the victim refuses to sign the Form #71-2141, or appears to the officer to be reluctant to assist with the prosecution, the arresting officer shall consult with a municipal prosecutor. The prosecutor shall conduct a review to determine if the arresting officer shall act as the complaining witness.
  
  - B. When a felony arrest for Domestic Violence is made and the victim refuses to assist or appears to the officer to be reluctant to assist with the prosecution, assigned detectives may notify the arresting officer to attend the prosecutor's review to determine if the officer shall act as the complaining witness.
  
  - C. Officers attending a prosecutor review where papers are obtained shall immediately notify the Bureau of Special Investigations of the prosecutor's name and the case number if available.