



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

114 – DOMESTIC VIOLENCE

GENERAL ORDER: 2020-XX
ISSUED: December 23, 2020

EFFECTIVE: December 23, 2020

REVIEWED/APPROVED BY:
Assistant Chief Jeffrey Norman
DATE: December 2, 2020

ACTION: Amends General Order 2018-29 (September 17, 2018)

WILEAG STANDARD(S): 6.3.9, 6.3.10

114.00 PURPOSE

The purpose of this policy is to provide law enforcement officers with guidelines for investigating domestic violence incidents.

114.05 POLICY

The Milwaukee Police Department recognizes the seriousness of domestic violence to society. It is the policy of the Milwaukee Police Department that officers shall respond to and investigate all reported cases of domestic violence. They shall afford domestic violence victims the greatest protection available and enforce all domestic violence laws.

114.10 MANDATORY ARREST FOR DOMESTIC VIOLENCE OFFENSES REQUIRED BY STATE LAW

A. Wis. Stat § 968.075(2) defines mandatory arrest and states that a law enforcement officer shall arrest and take a person into custody if they have probable cause to believe that the person is committing or has committed domestic violence and that the person's actions constitute the commission of a crime and when the following are present:

1. The relationship is considered domestic under the law when an adult person, 17 years of age or older, commits domestic violence against the following:
 - a. Spouse or former spouse.
 - b. An adult (18 years of age or older) with whom the person resides or formerly resided.
 - c. An adult with whom the person has created a child.
2. The suspect's actions constitute domestic violence per Wis. Stat § 968.075(1).
 - a. Intentional infliction of physical pain, physical injury or illness.
 - b. Intentional impairment of physical condition.
 - c. 1st, 2nd, or 3rd degree sexual assault.
 - d. A physical act that may cause the other person reasonably to fear imminent

engagement in the conduct described in this section.

e. Threats alone may constitute domestic violence regardless of what the individual victim indicates if an officer has reason to believe that the threats could cause a reasonable person to fear imminent engagement in:

1. Intentional infliction of physical pain, physical injury or illness;
2. Intentional impairment of physical condition; or
3. A violation of Wis. Stat § 940.225(1), (2), or (3) (sexual assault).

f. Complaints such as burglary, theft, entry into locked vehicle and many criminal damage to property incidents may qualify as a domestic violence case if an officer has reason to believe that the alleged acts could cause a reasonable person to fear imminent engagement in:

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. A violation of Wis. Stat § 940.225(1), (2), or (3) (sexual assault).

Note: Attempt as defined in Wis. Stat. § 939.32(1) applies to all felonies and misdemeanor battery offenses included in Wis. Stat. § 940.19 and 940.195.

3. The officer has reasonable grounds for believing that continued domestic violence against the alleged victim is likely.
 4. The person is the predominant aggressor.
 5. The crime was reported within 28 days of its occurrence.
- B. The lack of visible injury or the victim's unwillingness to prosecute, by themselves, is not legal grounds to decline to make the mandatory arrest.
- C. A good faith effort is required to locate the suspect. These efforts to locate the suspect must be documented in the supplemental report in the TriTech Inform RMS. If the suspect is not on the scene and cannot readily be located within 72 hours, the investigating officer shall apply for a state warrant.
- D. Per Wis. Stat. § 968.075(4), if a law enforcement officer does not make an arrest when there are reasonable grounds to believe that a person is committing or has committed domestic violence and the person's acts constitute the commission of a crime, the officer shall prepare a written report stating why the person was not arrested. The report shall be sent to the Milwaukee County District Attorney's office. The district attorney shall review the report to determine whether the person involved in the incident should be charged with the commission of a crime.

- E. Wis. Stat. § 968.075(6m) provides immunity for law enforcement officers from civil and criminal liability arising out of a decision to arrest or not arrest an alleged offender, providing the decision was made in a good faith effort to comply with the domestic violence arrest statute. However, this does not apply to federal cases.

Note: Failure to make the mandatory arrest may result in disciplinary action, civil liability, and/or criminal charges against the officer.

114.15 PREDOMINANT AGGRESSOR

- A. When an investigating officer has probable cause to believe that persons in a domestic violence relationship are committing or have committed domestic violence against each other, the officer does not have to arrest both persons, but should arrest the person whom the officer believes to be the predominant aggressor.
- B. The predominant aggressor is the most significant and not necessarily the first aggressor in a domestic violence incident. In order to protect victims from continuing domestic violence, officers shall consider certain investigative strategies to determine the predominant aggressor. Wis. Stat § 968.075(2)(ar) defines the analysis:
1. In determining the predominant aggressor, officers shall consider the following:
 - a. History of domestic violence between the parties, if it can be reasonably ascertained by the officer and any information provided by witnesses regarding that history.
 - b. Statements made by witnesses.
 - c. The relative degree of injury inflicted on the parties.
 - d. The extent to which each person present appears to fear any party.
 - e. Whether any party is threatening or has threatened future harm against another party or another family or household member.
 - f. Whether either party acted in self-defense or in defense of any other person.
 2. Some additional factors for consideration in determining predominant aggressor may include some of the following:
 - a. Age, height and weight of the parties, as well as strength and skill of each party.
 - b. Seriousness of injuries, including investigation of offensive vs. defensive wounds.
 - c. Motive to lie and credibility of each party.
 - d. Corroboration of statements.
 - e. Use of alcohol and/or illegal or prescription drugs.

- f. Existing temporary restraining order, injunction, no contact order.
 - g. Admissions or statements of guilt.
3. Per the mandatory arrest policy, the predominant aggressor should be arrested. If someone other than the predominant aggressor is considered for arrest, officers shall request that a supervisor respond to the scene. If the responding supervisor determines that either both parties are to be arrested or one party is to be arrested and the other party is ordered in to the district attorney's office, the investigating officer shall, in both instances, appear in the district attorney's office.

Note: Per Wis. Stat. § 939.48(1), a person is privileged to threaten or intentionally use force against another person for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by such other person.

114.20 ORDER-IN DOMESTIC VIOLENCE INCIDENTS

A. ORDER IN

Order-ins to the district attorney's office for a warrant shall normally be handled by the court liaison officers. Order-ins are authorized for the following reasons:

1. Suspect is not on the scene and cannot be readily located with reasonable effort. Efforts to locate the suspect must be recorded in the TriTech Inform RMS supplemental report.
 2. The suspect is detained under Wis. Stat. § 51.15 "Emergency Detention" (see Standard Operating Procedure 090 – Prisoners and Booking).
 3. The suspect is incapacitated by alcohol and processed pursuant to Wis. Stat. § 51.45(11) (see Standard Operating Procedure 090 – Prisoners and Booking).
 4. The suspect is admitted to a hospital for inpatient medical treatment (see Standard Operating Procedure 090 – Prisoners and Booking).
 5. If an officer is acting on the basis of a domestic violence report that is received more than 28 days after the alleged incident occurred, the officer is not required to make an arrest. In this situation, an order-in may be appropriate.
- B. If an arrest is made at a later time, the arresting officer shall check the appropriate box on the arrest package indicating a warrant request was previously filed.
 - C. If the victim and suspect are both ordered in, order in times shall be staggered to prevent victim and suspect contact. The victim order in time shall be at least thirty minutes prior to the suspect order in time. Suspects shall not be ordered in to the Sojourner Family Peace Family as there is no way to keep them separate from victims.

D. IMMEDIATE REVIEW

All summary and non-summary domestic violence complaints shall be ordered in to the district attorney's office for review in accordance with SOP 150.05 (Court Procedures). All reports shall be approved by a supervisor prior to the case being presented.

E. ARREST AFTER INITIAL INVESTIGATION

After the initial investigation and prior to the order-in date, a domestic violence suspect shall be summarily arrested if probable cause exists, either for the original domestic violence offense and/or for a subsequent domestic violence offense.

114.25 72 HOUR NO CONTACT ORDER

- A. Under the domestic violence arrest law, unless there is a waiver by the victim, during the 72 hours immediately following an arrest for a domestic violence incident, the arrested person is required to avoid the residence of the victim and any premises temporarily occupied by the victim and avoid contacting or causing any person, other than attorneys for the arrested person and victim, to contact the victim. Law enforcement officers may contact the victim during this time period as necessary.
- B. If the arrestee violates this 72-hour no-contact provision, he/she is subject to immediate mandatory arrest.
- C. Any subsequent domestic violence offense committed by the arrestee within the 72 hours following the original arrest will increase the severity of the later offense from a misdemeanor to a felony (Wis. Stat. § 939.621).
- D. Officers shall direct the victim to call the Milwaukee County Sheriff's Office (MCSO) at **REDACTED** if they are interested in waiving the 72-hour no contact provision.
- E. Officers who have been informed that the victim has waived the 72-hour no contact provision shall either be presented with a copy of the waiver or contact the MCSO Records Division to confirm the validity of the waiver.

114.30 DOMESTIC VIOLENCE HOTLINE NOTIFICATION

- A. While at the scene, the investigating officer(s) shall advise the victim of the high danger assessment and of our standard protocol to contact a domestic violence advocacy service provider and to request the victim's authorization to release their information to the Domestic Violence Hotline. If the victim authorizes the release of their information, the member shall call the 24-hour Domestic Violence Hotline **REDACTED** and provide the worker with the name of the investigating officer, the charges, all requested information, and whether an arrest has been made. This is done to provide the victim with immediate support and services, emergency shelter, transportation, childcare, assistance with prosecution, etc. If the victim has no phone, officers shall request a supervisor with a telephone.
- B. If the victim authorizes the release of their information, the investigating officer is also

required to provide information to the Domestic Violence Hotline regarding the Lethality Assessment Program (LAP) tool, located on the rear of the *Domestic Violence Supplementary Incident Report* (form PO-15D). This tool helps identify those victims at the highest risk of being seriously injured or killed by their partners. The goal of the LAP is to prevent domestic violence homicides, serious injury, and re-assault by encouraging more victims to use shelters, counseling, advocacy, and support services of domestic violence programs.

- C. Officers must also obtain the phone number(s) where the victim may be reached so he/she can also be notified if the suspect is released on bail. After providing all the requested information, officers shall hand the phone to the victim to talk directly to the worker.

114.35 REQUIRED REPORTS FOR DOMESTIC VIOLENCE INCIDENTS

A. DOMESTIC VIOLENCE REVIEW PACKAGE (FORM PD-34)

1. The white *Domestic Violence Review Package* envelope shall be used for the purposes of gathering, reviewing, and containing all necessary reports for court liaison officers to process a summary domestic violence case or a non-summary domestic violence order-in case. Printed on the envelope is a list of all reports required for district attorney review.
2. Shift commanders shall document that all necessary reports and telephone notifications have been made by affixing their signature on the front of the PD-34 envelope.
3. Officers shall indicate on the envelope whether a prior scheduled order-in date exists.
4. A CD-R of the domestic violence related photographs of the scene and victim's injury shall be included in this package, as well as body worn camera video that captures information relevant to the investigation.

B. DOMESTIC VIOLENCE MISDEMEANOR SUSPECT WANT OR SUSPECT ALERT REPORT

1. If a domestic violence offense has occurred and the suspect cannot be located, the investigating officer(s) shall complete the *Domestic Violence Misdemeanor Suspect Want* or the *Suspect Alert Report* in TriTech Inform RMS based on the classification of the offense.
2. The *Domestic Violence Misdemeanor Suspect Want* or *Suspect Alert Report* shall be approved by the shift commander. Two copies of the *Domestic Violence Misdemeanor Suspect Want* shall be included in the *Domestic Violence Review Package*.

C. REQUIRED INFORMATION IN INCIDENT REPORT

The officer taking the domestic violence report shall complete the original offense report and supplemental report(s) detailing the investigation in the TriTech Inform RMS. An investigation shall be conducted and an offense report shall be filed for all cases of domestic violence, including those in which the victim does not desire prosecution. The report should include:

1. Nature of Dispatch

How the call originated (e.g., victim, neighbor, relative) and the time and nature of the dispatch (e.g., family trouble, battery, cutting). Include names of all officers who responded to the scene as well as the address.

2. Initial Observations of Scene and Person(s)

- a. Officers' observations of the scene and the demeanor of the person(s) shall be recorded (e.g., furniture overturned, broken glass, person(s) loud or abusive).
- b. Observations of any injuries upon arrival to scene.
- c. Physical appearance of the person(s) (disheveled, messy or disturbed hair, swollen or red eyes, blood, crying, catching breath or heavy breathing, clothes torn).
- d. Emotional descriptions of person(s) upon arrival at scene (angry, upset, hysterical, excited, sad, scared, lonely, embarrassed, fearful, afraid, calm, nervous, sobbing, shaking, threatening).
- e. State or level of intoxication.

3. Statements of Victim, Suspect, and all Witnesses (Including Children)

- a. Separate paragraphs for the detailed statements of the victim, witnesses, and the suspect, if available. The victim, witnesses, and suspect should always be questioned separately.
- b. List names, addresses, phone numbers, and dates of birth for all witnesses and potential witnesses present.
- c. Record all "excited utterances" of victims and witnesses.
- d. Statements made for the purposes of medical diagnosis and treatment may also be admissible in court, so include the names of all witnesses who talked to the victim, either paramedic personnel or hospital personnel.
- e. All statements made by suspects must be documented including res gestae statements.

4. Children

- a. Identify and interview children who were present to determine if they are a witness to a crime. Consideration should be given to the need for a forensic interview for a child victim/witness.
- b. Even if the child is not a direct victim of violence, officers shall include the name, age, and school of attendance for each child at the residence.
- c. If officers determine that a child has been a victim of physical, sexual or serious emotional violence (as defined in Wis. Stat. § 48.981), they shall immediately notify their shift commander, who shall in turn contact the Sensitive Crimes Division (SCD). In instances where the SCD is not responding, investigating officers shall make the proper notification to the Division of Milwaukee Child Protective Services at 414-220-SAFE (7233) and investigate.

5. Violence History

Indicate if there is a history of violence. This could include prior battery complaints, threats, etc.

6. How Pain and/or Injury Inflicted

Indicate the precise nature of pain, describe the injury, and how it was inflicted.

7. Medical Treatment

Obtain and document all pertinent medical information. If any evidence is collected by medical personnel (such as photographs), list that information in the report.

8. Photographs and Crime Scene Condition

- a. Properly document the crime scene by calling for a sergeant, crime scene trained officer (CST), forensic investigator, or community service officer to photograph all evidence relevant to the investigation, (e.g., injuries, physical evidence).
- b. Photograph the injuries of the victim regardless if there is visible evidence of violence or injury.
- c. Photograph and collect physical evidence such as blood splattered on walls, hair pulled out, fingernails torn out, etc.
- d. Supplement report(s) must indicate the date, time, location(s), number of photographs, and the name of the photographer.
- e. Collection and inventory of evidence.

9. Weapons

Indicate if any weapons were used or threatened to be used.

10. "No Contact Orders", Temporary Restraining Order/Injunction

State whether or not a temporary restraining order, injunction order, "No Contact Order" or 72 hour no contact order is in effect. If yes, a summary arrest is required by state law if the suspect can be readily located.

11. Violence to Family Pets

Identify and document evidence of violence/suspected violence to family pets. If there is a violation of Wis. Stat. § 951 Crimes Against Animals, officers shall investigate.

Note: Officers shall proceed with this investigation knowing that the victim may recant, minimize, refuse to testify, or fail to appear. In doing so, officers shall gather necessary evidence so that, should the matter be prosecuted, every effort has been made to proceed without the participation of the victim.

D. REPORTS TO BE DELIVERED TO THE DISTRICT ATTORNEY'S OFFICE

Shift commanders shall ensure that all reports for order-in cases are hand carried to the sallyport of the Criminal Justice Facility (CJF) no later than 8:00 a.m. of the day following the initial police contact. The reports shall be placed in the mail bin at the CJF sallyport.

114.40 REQUIRED HANDOUTS FOR VICTIMS/ ORDER IN

A. DOMESTIC VIOLENCE REFERRAL NOTICE (FORM PD-33)

Police officers shall give the *Domestic Violence Referral Notice* (form PD-33) to each victim of a domestic violence offense. This referral notice may also be given to potential victims. In addition, it may be given to abusers for referral to a batterer's program. Victims, when seeking case information and counsel, should be instructed to call the domestic violence advocate.

1. Intimate Partner Domestic Violence

All cases, both misdemeanor and felony, involving intimate partner domestic violence will be reviewed by the district attorney's office located at the Sojourner Family Peace Center at 619 W. Walnut Street. No suspects shall be ordered in to the Sojourner Family Peace Center. All non-intimate partner domestic violence incidents shall be reviewed at the Criminal Justice Facility, 949 N. 9th Street, Room 110 of the district attorney's office.

2. Victim and Witness Order In

Victims and witnesses shall be ordered in to the district attorney's office for both misdemeanor and felony cases of both intimate and non-intimate domestic violence cases.

3. VINE Information

The PD-33 contains information about the Department of Corrections VINELink information. This allows victims to track the detention and release of the offender in their case.

B. CRIME VICTIM REFERRAL (FORM PV-17)

Officers shall distribute the *Crime Victim Referral Notice* (form PV-17) to each victim of a criminal offense.

114.45 COURT ADMINISTRATION DIVISION

A. LIAISON OFFICER CASES

Court liaison officers will present the following misdemeanor summary arrests and order-ins to the district attorney's office:

1. Misdemeanor Domestic Violence Battery [Wis. Stat. § 940.19(1)]
2. Violation of 72 Hour "No Contact Orders" [Wis. Stat. § 968.075]
3. Misdemeanor Domestic Violence Bail Jumping [Wis. Stat. § 946.49]
4. Other Misdemeanor Domestic Violence offenses [e.g., Disorderly Conduct – Threats, Wis. Stat. § 947.01; Criminal Trespass to Dwelling, Wis. Stat. § 943.14]
5. Violations of Domestic Violence Restraining Order/Injunctions, [Wis. Stat. § 813.12(1)]; and Harassment Injunctions [Wis. Stat. § 813.125] will be processed in the district attorney's office by the domestic violence liaison officer unless there was also a battery committed during the violation. The offense is then elevated to a felony Battery Special Circumstances Wis. Stat. § 940.20(1m)(b) and the investigating officer shall process the case.
6. Violations of Harassment Injunctions [Wis. Stat. § 813.125], in which the defendant is in custody will be processed by the domestic violence liaison officer. If the defendant is not in custody, the case shall be processed by the investigating officer.
7. A second misdemeanor domestic violence offense during the 72 hour "No Contact" period is elevated to felony status by Wis. Stat. § 939.621. These cases will be processed by the investigating officer.
8. Officers failing to provide the required information shall be contacted and/or directed

to report to the district attorney's office by the Court Administration Division.

- B. Court Administration Division personnel shall immediately notify the Forensics Division by fax whenever the district attorney's office issues a disposition regarding an order-in domestic violence complaint. Forensics Division personnel shall withdraw the domestic violence misdemeanor suspect want if the disposition is "no process".

114.50 MANDATORY ARREST FOR RESTRAINING ORDER / INJUNCTION VIOLATIONS

A. PRIOR TO ARREST – TEMPORARY RESTRAINING ORDER

Prior to making an arrest for violation of and/or serving a temporary restraining order issued in Milwaukee County, officers shall check with the Milwaukee County Sheriff's Office Warrant Unit **REDACTED** to determine if it has been served on the respondent. If the terms of the temporary restraining order/injunction are in question, officers shall request the Milwaukee County Sheriff's Office to fax a copy of the temporary restraining order/injunction to them for review.

B. PRIOR TO ARREST – FINAL RESTRAINING ORDER OR INJUNCTION

A respondent/suspect must be arrested for violating a final restraining order or injunction even if he/she had not been served with a copy of the injunction. This is a significant difference from the situation with a Temporary Restraining Order. The final Domestic Violence Injunctions have a provision for "constructive knowledge."

C. CONSTRUCTIVE KNOWLEDGE

The law mandates an arrest for a violation of a domestic violence restraining order, (Wis. Stat § 813.12), child violence restraining order, (Wis. Stat § 813.122), individual at risk restraining order, (Wis. Stat § 813.123) or harassment restraining order (Wis. Stat § 813.125).

Constructive knowledge means that the respondent/suspect should be aware of the final injunction after being served with the Temporary Restraining Order and receiving notice of the Final Injunction hearing. If the respondent does not attend the hearing, he or she should assume that the injunction would be granted, since there would be no one there to argue against it. The law assumes, therefore, that the respondent/suspect has received constructive notice of the existence of the injunction (Wis. Stat § 813.12(7)(c)).

D. VALID ORDER OF PROTECTION/INJUNCTION ISSUED BY OTHER JURISDICTIONS

If the victim presents an order of protection/injunction from another jurisdiction, whether it is a civil or criminal order, officers shall notify their shift commander. The shift commander shall make a reasonable effort to confirm its validity and, if the shift commander believes it to be valid, the officer shall enforce the order according to the terms indicated in Wis. Stat. § 813.128.

E. CONTACT BY PETITIONER

A valid domestic violence restraining order/injunction is not voided if the petitioner allows or initiates contact with the respondent and/or by the admittance of the respondent into a dwelling that the restraining order/injunction directs him/her to avoid.

F. ADDITIONAL OFFENSES

If the respondent violates any other criminal laws in addition to the court order, he/she shall also be charged with those additional offenses.

114.55 TEMPORARY RESTRAINING ORDER/INJUNCTION NOT SERVED

If the temporary restraining order/injunction has not been served on the respondent, officers shall advise the respondent of its existence and terms. The officer shall then take the following steps:

1. Using one of the two copies the petitioner possesses, officers shall affix their rank, signature, PeopleSoft number, district, shift, date, and time of service on the copy and serve that copy on the respondent. If the petitioner has only one copy, that copy shall be served on the respondent as addressed above. Officers shall thoroughly document the details of service of the temporary restraining order.
2. Officers shall make a similar endorsement of service on the petitioner's remaining copy.
3. Officers shall notify the Milwaukee County Sheriff's Office of service by calling [REDACTED]
4. If the respondent violates the terms of the temporary restraining order after service has been made, the respondent is subject to mandatory arrest.

114.60 SHIFT COMMANDER RESPONSIBILITIES

Work location shift commanders shall be responsible for:

1. Determining the lawfulness of an order-in for a warrant instead of an immediate, mandatory arrest.
2. Confirming that the domestic violence hotline call [REDACTED] has been made.
3. Approving the completed *Domestic Violence Misdemeanor Suspect Want*.
4. Approving the completed *Suspect Alert Report* for felony domestic violence suspects. In addition, a teletype shall be sent regarding felony suspects.
5. Ensuring that all necessary reports and copies required for liaison officer processing are filed and forwarded.
6. Ensuring that victims and witnesses are ordered to appear for case review.

7. Ensuring that all efforts to locate/arrest the suspect have been exhausted and properly documented on reports.
8. Making a reasonable effort to confirm the validity of out of jurisdiction orders of protection/injunctions and if the shift commander believes it to be valid, officers shall enforce the order according to the terms indicated. Out of jurisdiction orders are presumed valid if all of the following are present:
 - a. The order gives the name of the parties.
 - b. The order contains the date the order was issued, which is prior to the date when enforcement is sought.
 - c. If the order has an expiration date, the date of expiration has not occurred.
 - d. The order is signed by or on behalf of a judicial officer.

Note: When in doubt, officers shall enforce the order and file the proper reports. Court liaison officers will have the reports reviewed at the district attorney's office.

114.65 FIREARMS

A. ILLEGAL TO POSSESS

If used in the commission of an offense, all firearms must be seized as evidence and placed on inventory. Firearms not seized as direct evidence of the underlying domestic violence crime shall be placed on inventory for safekeeping if the officer reasonably believes the weapon could pose a continuing threat to the occupants of the residence based upon the nature of the incident. The district attorney's office will review the seizure and authorize return of the weapon if appropriate under Wis. Stat. § 968.20 after a petition for return is filed by the lawful owner.

Any of the following persons in possession of any firearm shall be summarily arrested for violation of Wis. Stat. § 941.29. Check for prior convictions and injunctions, which prohibit the possession of firearms while still at the scene.

1. Convicted felon.
2. Respondent of domestic violence injunction(s).
3. Respondent of child violence injunction(s).
4. Respondent of harassment injunction, which includes a firearm surrender/prohibition.

B. LAUTENBERG DOMESTIC VIOLENCE GUN BAN

1. Effective September 30, 1996, it became a federal offense for a person, convicted of

a crime classified as a crime of domestic violence, to possess a firearm [Federal Regulations 18 U.S.C. Sec. 922 (g)(9)], Lautenberg Domestic Gun Ban]. Under this law, qualifying domestic violence crimes are those where:

- a. There was use or attempted use of physical force;
 - b. There was threatened use of a deadly weapon;
 - c. It is a crime against a partner in a domestic relationship;
 - d. It is a child abuse crime.
2. Mandatory arrest does not apply to the incident. If the officer has information that the subject has been arrested for a qualifying crime and is in possession or owns a firearm, the officer should attempt to obtain evidence of conviction and a copy of the reports forwarded to the appropriate federal agency. If such evidence is obtained, the officer may seize the suspect's firearm only if they have legal access to the weapon.

C. SURRENDER OF FIREARMS BY RESPONDENT OF INJUNCTION

Firearms shall be surrendered to the Milwaukee County Sheriff's Office in accordance with Wis. Stat. § 813.12(4m), 813.122(5m) and 813.125(4m). Persons requesting information regarding the safe and legal transportation of firearms shall be directed to call the MCSO at (414) 278-5030.

D. RECOVERY OF FIREARMS

Persons subject to an injunction who wish to recover their firearms from the victim's residence in order to comply with the surrender provision of an injunction should be advised to contact the Milwaukee County Sheriff's Office in compliance with Wis. Stat. § 968.075(5).

E. DEPARTMENT SEIZURE OF FIREARMS

The Milwaukee Police Department Property Control Division is not authorized to receive firearms surrendered pursuant to court injunctions. However, firearms seized for a violation of a court injunction requiring surrender shall be placed on inventory as "evidence" for the felony crime under Wis. Stat. § 941.29(2) and retained by the Property Control Division.

F. RELEASE OF FIREARMS

1. No firearm may be released by any member of the department without first determining if an injunction is currently in effect and whether a court order is required for the release of firearms pursuant to Wis. Stat. § 813.12(4m)(b); 813.122(5m)(b); or 813.125(4m)(d).
2. Persons who were under an injunction which has expired or has been vacated shall

be required to produce a court order mandating the release of any firearm which they owned or possessed during the term of the injunction pursuant to Wis. Stat. § 813.1285(7)(a).

114.70 DOMESTIC VIOLENCE INCIDENTS INVOLVING DEPARTMENT MEMBERS

This policy is intended to provide guidance for members at all levels in responding to and reporting incidents of domestic violence involving department members and law enforcement officers of other jurisdictions. When incidents of domestic violence are alleged to have occurred, the department will act quickly to protect the victim, investigate the allegations, and arrest the suspect when probable cause exists.

The Milwaukee Police Department's Code of Conduct establishes standards of conduct and performance consistent with the highest professional standards in policing. Our core values and guiding principles are intended to shape our conduct both on and off-duty. Department members have a responsibility to report incidents of domestic violence committed by another member. This, however, does not require employees who are victims to make a report. Department members and members' intimate partners who do not wish to report incidents as victims or participate in prosecution are strongly encouraged to contact a domestic violence advocacy group for assistance.

Federal Statute 18 USC 922 (g)(9) prohibits individuals convicted of misdemeanor domestic violence offenses from possessing firearms. There is no law enforcement exception to this statute. Officers found guilty by a court of qualifying misdemeanor crimes of domestic violence shall be dismissed from the department.

A. EARLY INTERVENTION AND PREVENTION

1. The Training Division shall provide a course of instruction during officer basic training on officer-involved domestic violence using the curriculum established by the State of Wisconsin Training and Standards Bureau. This training should be supplemented by information from organizational partners specializing in domestic violence and victim/witness advocacy.
2. The Training Division shall periodically provide in-service instruction and continuing education to members on officer-involved domestic violence with assistance from organizational partners specializing in domestic violence and victim/witness advocacy.
3. The State of Wisconsin requires police officers to take action when they become aware of incidents of domestic violence. Members having information or belief that another member has committed an act of domestic violence shall notify a supervisor who shall ensure that a preliminary investigation is commenced immediately pursuant to SOP 114.
4. Whether or not investigations result in probable cause to arrest, supervisors shall report allegations of domestic violence and intimate partner violence involving members to the member's commanding officer and the commanding officer responsible for the Early Intervention Program (EIP). The commanding officer

responsible for EIP shall determine if the information should be entered into the EIP system and shall make appropriate referrals for the provision of services.

5. In response to observations, a member's request, or the request or concerns of another person, whether or not the person is a department employee, supervisors shall make every attempt to provide non-disciplinary interventions and resources to assist members and prevent potential incidents of domestic violence. Supervisors shall familiarize themselves with the resources available for referrals and shall be prepared to direct members for assistance.

B. RESPONDING TO REPORTS OF MEMBER-INVOLVED DOMESTIC VIOLENCE

1. When conducting a preliminary investigation of member-involved domestic violence, responding officers and supervisors shall follow the provisions of the department's domestic violence policy and the additional measures outlined in this section.
2. Because of the dynamics of domestic violence situations involving fellow law enforcement officers, responding officers shall immediately request that a supervisor respond to allegations of officer-involved domestic violence or intimate partner violence regardless of the involved officer's jurisdiction. The responding supervisor shall be of higher rank than the involved department members.
3. When a call of domestic violence involving a department member is received by the Technical Communications Division (TCD), the member taking the call shall immediately notify a supervisor. If a call is received at a work location other than TCD, the member taking the call shall immediately transfer the call to TCD and notify a supervisor. A TCD supervisor shall ensure that a field supervisor and the appropriate number of officers are dispatched and respond to the incident.
4. Supervisors shall immediately respond to allegations of member-involved domestic violence or intimate partner violence calls upon being dispatched or otherwise notified. They shall inform a shift commander of their findings, whether or not they have probable cause to believe that a crime has occurred.
5. Responding supervisors or their shift commanders shall notify the Internal Affairs Division of allegations of domestic violence or intimate partner violence. Internal Affairs Division personnel shall respond to investigate all allegations of member-involved domestic violence or intimate partner violence. Internal Affairs Division supervisors shall ensure that the appropriate reports are filed for internal investigations and for presentation to the District Attorney's Office. When probable cause exists, supervisors on the scene shall ensure that the suspect is arrested or sought for arrest. Internal Affairs Division personnel shall ensure that arrest reports are properly completed, containing the necessary information for detention, processing, and charging.
6. The Chief of Police shall be informed of all actions, investigative findings, and information regarding investigations commenced under this section.
7. During day shift hours, the shift commander or higher ranking officer shall notify the

appropriate bureau commander or designee of the member(s) involved in an incident of domestic violence or intimate partner violence. On the night shifts, weekends, and holidays, shift commanders shall notify the field inspector or night watch commander and the involved member's commanding officer. Non-exigent notifications to the commanding officer of the district in which the incident occurred can be made via *Department Memorandum*.

8. When responding to domestic violence calls regarding officers of other jurisdictions, a supervisor shall notify a supervisor at the appropriate agency as soon as possible of the facts and circumstances and if the out of jurisdiction officer is arrested or being sought for arrest, keeping in mind the preferences, safety, and privacy concerns of the victim(s).
9. Supervisors with knowledge that a member is under investigation for domestic violence shall relieve them of responsibilities at domestic violence scenes as soon as it is safely possible to do so.
10. In the event of a report of domestic violence in which there is probable cause to arrest a chief of police, sheriff, other law enforcement executive, elected official, or other public official, an inspector of police or higher authority shall notify the office, body, or individual in government with direct oversight of the person to be arrested.
11. As soon as practical, an on-scene supervisor shall debrief officers who responded to officer-involved domestic violence incidents to review confidentiality requirements with regard to internal investigations.
12. On-scene supervisors shall ensure that victims are given the opportunity to speak with a domestic violence advocate and that victims receive additional information regarding shelters, victims' rights, judicial processes, and other resources as required by state law and SOP 114.
13. Whether or not an internal or criminal investigation results from a response to a call of domestic violence or intimate partner violence, members shall refrain from discussing the private business of other members unless there is a reason to do so in the performance of their official duties. This does not preclude members from reaching out in good faith to supervisors, the City's Employee Assistance Program, domestic violence advocacy groups, and other department or city resources intended to help employees and their families.

C. POST-RESPONSE INVESTIGATION, ADMINISTRATION, AND PRECAUTIONS

1. The Internal Affairs Division shall conduct separate criminal and internal investigations into allegations of domestic violence and intimate partner violence. When there is no probable cause but sufficient concern exists, the department shall initiate an internal investigation and the Chief of Police shall determine the member's status or impose discipline based on the outcome of the investigation.
2. Internal Affairs Division supervisors shall carefully manage investigations commenced under this section, reporting all actions, investigative findings, and

decisions to the commanding officer of the Internal Affairs Division. Supervisors in the Internal Affairs Division shall ensure that Internal Affairs Division members' follow-up investigations, interviews, reports, and presentation of cases to the District Attorney's Office are completed in a timely manner with no unnecessary delays. The division commander shall provide information regarding the investigation and judicial proceedings through the chain of command to the Chief of Police.

3. When alleged offenders in member-involved domestic violence or intimate partner violence have used or threatened to use a firearm or other weapon, the weapon shall be seized as evidence. In all cases, whether or not a weapon is involved, if the member is a sworn officer and an investigation into domestic violence or intimate partner violence is commenced, the department-issued firearm shall be seized. Supervisors on the scene shall seek the voluntary surrender of offenders' firearms in the residence that are not owned by the department. In cases in which officers of other law enforcement agencies are arrested for domestic violence, members shall make every effort to locate, seize, and inventory the suspect's service firearm(s) and shall seek the voluntary surrender of the offenders' firearms in the residence that are not owned by the offenders' department.
4. When a member is served as a respondent with a protection order, he or she shall report this information to a supervisor, who shall notify the member's commanding officer and the Internal Affairs Division.
5. State law prohibits the possession of firearms by persons enjoined under domestic abuse restraining orders and certain injunctions. Members who receive a notice from a court to surrender firearms shall immediately comply with the order or face discipline up to and including termination.
6. Wisconsin State Statutes do not automatically require peace officers to surrender their service weapons upon the issuance of certain injunctions. However, department issued firearms can be seized with or without a court order. When department firearms have been seized pursuant to injunctions or otherwise in the course of domestic violence investigations, they shall not be returned except upon the order of an assistant chief or the Chief of Police.
7. Members conducting criminal or internal investigations of officer-involved domestic violence or intimate partner violence shall proactively seek information on restraining orders and injunctions issued regarding their cases.
8. If members are permitted by the court to carry a firearm on-duty during pending domestic violence proceedings or while subject to an injunction, a higher-ranking supervisor shall issue the firearm at the beginning of the shift and retrieve it at the end of the shift. This process shall be documented in a manner approved by the member's commanding officer or higher authority. The member shall not enter a residence shared with the victim or meet with the victim or other person named in a restraining order or injunction while on-duty and armed with a department-issued firearm.
9. During an investigation of officer-involved domestic violence or resulting court

proceedings, an assistant chief or the Chief of Police will determine whether or not an officer shall work in the field, in an administrative capacity, or be placed on an administrative leave.

D. COMMUNICATION AND FOLLOW-UP WITH VICTIMS

1. An Internal Affairs Division supervisor shall assign a member with knowledge of the case to assist the victim of officer-involved domestic violence in a coordinated and consistent manner throughout the investigation and judicial proceedings. In addition, the Internal Affairs Division shall partner with the commanding officer of the Sensitive Crimes Division to ensure that victims and witnesses are afforded access to the programs and confidential services available through the department's partnerships with domestic violence advocacy groups.
2. Department members who are victims of domestic violence shall be offered the care, support, and treatment offered to other victims pursuant to SOP 114. Additionally, supervisors shall refer employees who are victims and alleged suspects to the Early Intervention Program and the city's Employee Assistance Program.
3. Members shall maintain confidentiality regarding victims and witnesses of member-involved domestic violence unless necessary to disclose for judicial proceedings or as otherwise in the official performance of their duties.
4. Members should be aware of the possibility of victim or witness intimidation in domestic violence situations. If members have knowledge or belief that another member has threatened or attempted to coerce a victim or witness, they shall immediately report this information to a supervisor who shall notify the Internal Affairs Division. The Internal Affairs Division shall thoroughly investigate allegations of intimidation or coercion.
5. In cases of domestic violence or intimate partner violence in which the victim and alleged suspect are department members, commanding officers shall assess the need to relocate the involved members to other work locations. This is intended to minimize the potential for further conflict, stress, or additional victimization. The department shall remain cognizant that alleged offenders are innocent until proven guilty or until violations of standard operating procedures or the Code of Conduct have been substantiated. Supervisors shall consult with the parties involved when making decisions so as not to give the impression that they are being penalized or disciplined by the process. Relocation may be temporary or long-term, depending on the circumstances of each case.



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