

# Domestic Abuse

## 310.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic abuse through vigorous enforcement and to address domestic abuse as a serious crime against society. The policy specifically addresses the commitment of this agency to take enforcement action when appropriate, to provide assistance to victims and to guide deputies in the investigation of domestic abuse.

### 310.1.1 DEFINITIONS

Definitions related to this policy include:

**Court order** - All forms of orders issued by a court 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.

## 310.2 POLICY

The Milwaukee County Sheriff's Office'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 agency to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

## 310.3 OFFICER SAFETY

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

## 310.4 INVESTIGATIONS

The following guidelines should be followed by deputies when investigating domestic abuse cases:

- (a) Calls of reported, threatened, imminent or on-going domestic abuse and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, deputies should obtain and document statements from the victim, the suspect and any witnesses, including children, in or around the household or location of occurrence.
- (c) Deputies should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.

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- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Criminal Investigations Division in the event that the injuries later become visible.
- (f) Deputies should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) Deputies should complete the Domestic Violence Lethality Screen For Law Enforcement Form with any identified victim.
- (h) If the suspect is no longer at the scene, deputies should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.
- (i) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (j) When completing an incident or arrest report for violation of a court order, deputies should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting deputy should attach a copy of the order to the incident or arrest report.
- (k) Deputies should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
  - 1. Marital status of suspect and victim.
  - 2. Whether the suspect lives on the premises with the victim.
  - 3. Claims by the suspect that the victim provoked or perpetuated the violence.
  - 4. The potential financial or child custody consequences of arrest.
  - 5. The physical or emotional state of either party.
  - 6. Use of drugs or alcohol by either party.
  - 7. Denial that the abuse occurred where evidence indicates otherwise.
  - 8. A request by the victim not to arrest the suspect.
  - 9. Location of the incident (public/private).
  - 10. Speculation that the complainant may not follow through with the prosecution.
  - 11. The racial, cultural, social, professional position or sexual orientation of the victim or suspect.

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#### **310.4.1 IF A SUSPECT IS ARRESTED**

If a suspect is arrested, deputies should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information on the CR215 form to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

#### **310.4.2 IF NO ARREST IS MADE**

If no arrest is made, the deputy should:

- (a) Advise the parties of any options, including but not limited to:
  - 1. Voluntary separation of the parties.
  - 2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.

#### **310.4.3 LAW-ENFORCEMENT-INVOLVED DOMESTIC VIOLENCE**

When responding to domestic abuse incidents involving law enforcement officers, the following procedures should be followed:

- (a) Once deputies arrive on scene of a domestic abuse incident involving a law enforcement officer, the deputy should contact dispatch and request a supervisor, regardless of the involved officer's jurisdiction. In responding to domestic violence incidents where the victim is a law enforcement officer, standard domestic violence response and investigation procedures should be followed.
- (b) A supervisor of higher rank than the involved officer shall respond to the scene.
- (c) The supervisor responding to the scene shall make notification to the agency Shift Commander, as soon as possible. In turn, the Shift Commander will brief the Sheriff of the authorized designee regarding the early investigative findings.
- (d) The Internal Affairs Division shall be notified regarding any agency member involved domestic violence investigations. If authorized based on agency protocol, the Internal Affairs Division will conduct a separate workplace administrative investigation. The conduct of any agency employee shall comply with all existing Sheriff's Office rules, regulations, policies, procedures, and training.

#### **310.5 VICTIM ASSISTANCE**

Victims may be traumatized or confused. Deputies should:

- (a) Recognize that a victim's behavior and actions may be affected.
- (b) Provide the victim with the agency's domestic abuse information handout, even if the incident may not rise to the level of crime.

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1. Providing information regarding the availability of shelters and services and notice of legal rights is mandatory when there is reasonable grounds to believe that a person is a domestic abuse victim (Wis. Stat. § 968.075).
- (c) Alert the victim to any available victim advocates, shelters and community resources.
- (d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
- (e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.
- (f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the deputy determines that a need exists.
- (g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) Seek or assist the victim in obtaining an emergency order if appropriate.

### **310.6 DISPATCH ASSISTANCE**

Deputies should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

### **310.7 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 deputies 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.

### **310.8 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, deputies should carefully review the actual order when available, and, where appropriate and practicable:

- (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.

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- (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.

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

### **310.9 LEGAL MANDATES AND RELEVANT LAWS**

Wisconsin law provides for the following:

#### **310.9.1 STANDARDS FOR ARRESTS**

Deputies investigating a domestic abuse report should consider the following:

- (a) Deputies with reasonable grounds to believe a person is committing or has committed within the last 28 days, an act of domestic abuse, and the actions constitute a crime, shall arrest the person unless a supervisor grants an exception because any of the following apply (Wis. Stat. § 968.075(2)):
  - 1. There is no reasonable basis for believing that continued domestic abuse against the alleged victim is likely.
  - 2. There is no evidence of physical injury to the alleged victim.
  - 3. No involved person subject to arrest was a predominant aggressor.
- (b) In the event two adults may be arrested for an act of domestic abuse against each other, the investigating deputy should only arrest the predominant aggressor. The deputy shall consider all of the following in identifying the predominant aggressor (Wis. Stat. § 968.075):
  - (a) The history of domestic abuse between the parties, if it can be reasonably ascertained by the deputy, 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 under the circumstances described in Wis. Stat. § 939.48.
- (c) A deputy shall not issue a citation to a person arrested for domestic abuse under Wis. Stat. § 968.075 (Wis. Stat. § 968.085). Nor may a deputy release a person who was legally arrested for domestic abuse until the person posts bail under Wis. Stat. § 969.07 or appears before a judge (Wis. Stat. § 968.075).

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- (d) A deputy with probable cause to believe that a person has violated a court order in violation of Wis. Stat. § 813.12 or a foreign court order as provided in Wis. Stat. § 813.128 shall arrest and take the person into custody (Wis. Stat. § 813.12(7); Wis. Stat. § 813.128).
  - 1. If a deputy reasonably determines that a valid foreign protection order exists but cannot be enforced because the person has not been notified or served with the order, the deputy should make reasonable efforts to inform the person of the order, serve the order upon the person and allow the respondent a reasonable opportunity to comply before arresting the person (Wis. Stat. § 813.128).
- (e) A deputy shall arrest and take a person into custody if the deputy has reasonable grounds to believe that the person has been advised of the 72-hour contact prohibition under Wis. Stat. § 968.075(5) and the person violated the contact prohibition.

### 310.9.2 REPORTS AND RECORDS

A deputy who does not make an arrest when he/she has reasonable grounds to believe a person has committed an act of domestic abuse shall include a statement in the written report indicating why the person was not arrested. The deputy will ensure the report is sent to the appropriate prosecutor immediately after the investigation has been completed (Wis. Stat. § 968.075 (4)).

### 310.9.3 DOMESTIC ABUSE CONTACT PROHIBITIONS NOTICE

Unless there is a signed waiver by an alleged victim, any employee of the Milwaukee County Sheriff's Office releasing a person arrested for domestic abuse shall inform the arrested person orally and in writing of the contact prohibition requirements of Wis. Stat. § 968.075, the consequences of violating the requirements and the provisions of Wis. Stat. § 939.621 (increased penalty for violating the contact prohibition). The arrested person shall sign an acknowledgment on the written notice that he/she has received notice of, and understands the requirements, the consequences of violating the requirements and the provisions of Wis. Stat. § 939.621. If the arrested person refuses to sign the notice, the person shall not be released from custody.