

<b>Anchorage Police Department</b> Regulations and Procedures Manual	<b>Operational Procedures</b> <b>3.01.025</b>	
<b>Policy and Procedure Title</b> Domestic Violence Response and Inv.	<b>Effective Date</b> November 10, 2021	Page 1 of 9
<b>Replaces Prior Policy:</b> November 30, 2011	<b>Approved by:</b> Chief Ken McCoy	

**This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.**

### **3.01.025 Domestic Violence Response and Investigation**

#### **POLICY**

There is no specific offense of domestic violence. The term is used to describe a range of criminal offenses occurring within particular relationships. It is the policy of the Anchorage Police Department that physical arrests shall be made in cases where there is probable cause to believe that a violation of the domestic violence laws has occurred.

Also, paramount to the investigating officer is the responsibility to protect the victim of domestic violence. This will be accomplished by following the requirements of Alaska State Statute and Anchorage Municipal Code.

#### **DEFINITIONS**

**Domestic Violence** is defined in AS 18.66.990 as a violation or attempt to commit a violation of any provision of the following state statutes or a similar local ordinance, when the victim is a household member.

Murder, Incest, Manslaughter, Unlawful exploitation of a minor, Criminally negligent homicide, Indecent exposure, Assault, Robbery, Reckless endangerment, Extortion, Stalking, Coercion, Kidnapping, Burglary, Custodial, interference, Trespass, Sexual assault, Arson, Sexual abuse of a minor, Criminally negligent burning, Murder of an unborn child, Assault of an unborn child, Human trafficking, Online enticement of a minor, Violating a protective order [section (a)(1)], Criminal mischief, Harassment [section (a)(2)-(4)], and Terroristic threatening

**Domestic Violence Protective Order** is a special type of restraining order issued by the court when convinced that the applicant has been a victim of domestic violence by a household member (defined below). The applicant is known as the petitioner and the person the order is against is called the respondent. The orders are defined as a domestic violence protective order (1 year), an ex-parte domestic violence protective order (20 days) and an emergency domestic violence protective order (72 hours). Failure of the

respondent to abide by the terms of the domestic violence protective order can result in arrest for violating a protective order.

**Fourth Degree of Consanguinity** describes a relationship by descent from the same ancestor. To determine the degree of consanguinity, count the generational steps between people on a family tree, working upward to a common ancestor and then downward again. For example, first cousins are related to the 4<sup>th</sup> degree.

**Household Member** is defined as:

Adults or minors who are current or former spouses;

Adults or minors who live together or have lived together;

Adults or minors who are dating or who have dated;

Adults or minors who are engaged in or who have engaged in a sexual relationship;

Adults or minors who are related to each other up to the fourth degree of consanguinity whether of the whole or half blood or by adoption;

Adults or minors who are related or formerly related by marriage;

Persons who have a child of the relationship; or

Minor children of a person in a relationship described above.

**Principal Physical Aggressor** is the person responsible for the domestic violence crime to which the police were called.

**Probable Cause:** Reliable information in sufficient quantity and detail that would lead a reasonable person to believe that a crime has been committed or was attempted and that the suspect committed the crime.

**Similar Local Ordinance** is defined as an Anchorage Municipal Ordinance that has similar elements to those offenses listed in Alaska Statute as being a crime of domestic violence. Each investigation is unique, but officers should review the elements of the following municipal ordinances for similarities:

Assault, Vehicle Tampering, Stalking, Violation of Conditions of Release, Child Abuse, Trespass, Child Neglect, Unauthorized Entry, Illegal Use of the Telephone, Indecent Exposure, Malicious Destruction of Property, Family Violence, Graffiti

**Strangulation** is defined as a form of asphyxia (lack of oxygen) characterized by closure of the blood vessels and/or air passages of the neck as a result of external pressure on the neck.

## REFERENCES

AS 11.41 series, AS 11.46.300-330, AS 11.46.400-430, AS 11.46.475-486, AS 11.56.740(a) (1), AS 11.56.745, AS 11.56.750-755, AS 11.56.757, AS 11.56.807-810, AS 11.61.120(a) (2)-(4), AS 11.61.140, AS 12.25.030, AS 12.30.027, AS 18.65.510-590, AS 18.66.100-180, AS 18.66.990, AMC 8.10.010, AMC 8.10.020, AMC 8.10.030, AMC 8.10.040, AMC 8.10.050, AMC 8.10.080, AMC 8.10.090, AMC 8.20.0, AMC 8.20.020, AMC 8.20.030, AMC 8.30.110, AMC 8.45.010, AMC 8.45.020

## PROCEDURES

### **I. GENERAL:** Significance of Domestic Violence – When officers recognize that an incident is domestic violence related several issues surface:

A. State statute gives officers the authority to arrest a perpetrator of domestic violence on probable cause alone, even if the offense is a misdemeanor which did not occur in the officer's presence. AS 12.25.030 allows the officer to make an arrest without a warrant if the officer has probable cause to believe that the suspect has committed domestic violence, violated a protective order or violated conditions of release imposed on an original charge involving stalking or domestic violence. No private person arrest is required.

B. **Mandatory Arrest:** AS 18.65.530 states that a peace officer, with or without a warrant, shall arrest a person if the officer has probable cause to believe that the person has, within the previous 12 hours, committed domestic violence, violated a domestic violence protective order or violated conditions of release imposed on an original charge involving stalking, domestic violence, or sexual abuse and sexual assault. The statute also lists exceptions to mandatory arrest. The exceptions are:

1. Homicide cases,
2. When an officer receives authorization from a prosecuting attorney not to arrest, and
3. When only the principal physical aggressor is arrested.

C. **Principal Physical Aggressor:** If an officer receives complaints of domestic violence from more than one person arising from the same incident, the officer shall evaluate the conduct of each person to determine who the principal physical aggressor was. If the officer determines that one person was the principal physical aggressor, the other person or persons need not be arrested. To determine the principal physical aggressor the officer shall consider:

1. Prior complaints of domestic violence,
2. The relative severity of the injuries inflicted on each person,

3. The likelihood of future injury from domestic violence to each person,
  4. Whether one of the persons acted in defense of self or others.
- D. **Physical Arrest:** When an officer determines there is probable cause to believe that a person committed domestic violence, the officer shall make an arrest to be in compliance with Department policy and state law. This will be a physical arrest with a bail set in accordance with the bail schedule. A misdemeanor citation is not appropriate.
- E. **Juvenile Suspects:** A juvenile suspect requires an arrest to fall within the law and APD policy. However, because guidelines for juvenile remands are different than those of adults, a physical arrest with remand to McLaughlin may not be possible. Officers are required to contact McLaughlin and explain the circumstances of the offense, allowing McLaughlin to accept or reject placement of the juvenile. The officers are required to document that contact in the police report. Should McLaughlin not remand the suspect, victim safety is the top priority when making a determination as to the proper placement for the juvenile suspect. Officers should consider options such as a relative, Covenant House or foster placement.
- F. **Mandatory Arrest:** Note that the law requires mandatory arrest with probable cause if the offense occurred within the previous 12 hours. If the offense is reported more than 12 hours after it occurred, the officer is no longer required to make a mandatory arrest but still may arrest without a warrant. In most cases when an officer determines probable cause exists, an arrest is the preferred disposition.
- G. **Statutory Responsibilities:** Officers will comply with statutory responsibilities to the victim which include transporting the victim and any family member to a safe place, assisting the victim in removing essential personal items from the residence, assisting the victim and any member of the victim's family in obtaining medical treatment necessitated by the offense and both orally and in writing informing the victim of the rights and services available to them.
- H. **Deadly Weapons:** Officers may also seize any deadly weapon in plain view and if a deadly weapon was used or possessed during the domestic violence the officer may seize all deadly weapons owned, used, possessed or within the control of the alleged perpetrator.
- I. When investigating a crime involving domestic violence, the officer may not threaten or suggest the arrest of all parties involved in a manner that would have a tendency to discourage requests for intervention by law enforcement.
- J. **Victim Notification:** After arrest, if the defendant is released from other than a correctional facility, the arresting authority shall make reasonable efforts to notify the alleged victim of the defendant's release and provide the victim

with a copy of the order setting any conditions of release. Officers must document their efforts at notification of the victim in the report. If the defendant is remanded to a correctional facility, the officer shall provide a copy of the completed ATN with the victim's contact information to the Department of Corrections in order to facilitate them making the proper notification upon the defendant's release.

- K. **Mandatory Reporting:** When an arrest is made, the officer will document the circumstances in a police report. A report is also required when an officer investigates a complaint of "domestic violence" as defined above and does not make an arrest. In such cases, officers shall describe in writing the reasons for not making an arrest. This information should be included in the narrative portion of the report and is based upon your description of the incident, not a single statement.
- L. **Prosecutor Contacts:** If contact was made with a prosecutor or district attorney, officers are discouraged from detailing, in the report, the conversation and the specific reasons that were provided for not making an arrest. Often, these written statements make a future prosecution more difficult if new information or evidence becomes available.

## II. INITIAL RESPONDER'S RESPONSIBILITIES

- A. **Arrival:** Any call for service can escalate at any time. However domestic violence calls can be particularly volatile. Officers are reminded to practice good officer safety tactics.
- B. **Investigation:** When investigating an incident where domestic violence is suspected, the officer must be able to establish both that a violation of law occurred and that the relationship between the victim and suspect fits within the scope of "household members" defined above. Additionally, because of the unique position of the victim, officers need to make reasonable efforts to gather independent evidence of the offense. This evidence will often be in the form of physical evidence and testimonial evidence from people other than the victim (children, witnesses, complainants, family, friends and neighbors).
  - 1. Separate all parties for interview purposes, especially the victim and suspect. Conduct audio-recorded interviews with all victims and witnesses. Officers are encouraged to interview all juveniles who may have been victims or witnesses to the incident, while taking into consideration the age and abilities of the juvenile. Officers shall also make an effort to conduct a recorded statement with the defendant, being mindful of Miranda issues.
  - 2. Seize all physical evidence at the time of the call.
  - 3. Take photographs. Good investigation technique calls for:

- a. being aware that bruising can become visible later and follow-up photos to capture that evidence might be in order.
  - b. being discreet when photographing physical injury. Covering unaffected anatomy can help insure the usefulness of the photograph as evidence in court.
  - c. being alert to exculpatory evidence. If a complainant alleges vandalism or assault but no damage or injury can be found, a photograph showing no damage is an important form of evidence.
4. Officers should pay close attention to victim complaints of strangulation. This sophisticated method of power and control is particularly dangerous. Incidents of strangulation, which are defined in statute as a dangerous instrument (AS 11.81.900(A)(15)(B) when properly investigated and documented, should result in felony charges against the suspect. Officers who arrive on scene may find the suspect with visible injuries and the victim with none. If both claim self defense, officers need to avoid the temptation just to arrest the person who is perceived to have won the fight, or the person with no injuries. Special care must be taken to identify the principal physical aggressor.

- C. **Disposition:** If, after thoroughly investigating the complaint of domestic violence, the officer determines probable cause exists to believe that a crime involving domestic violence has occurred, the officer shall make a physical arrest as outlined above. If probable cause does not exist, the officer shall document the circumstances of the investigation in a police report.
1. Officers should charge under either municipal code or state statutes for the specific crime committed, noting the offense as domestic violence related. This is accomplished by adding “DV” to the criminal charge and marking “DV” on the face sheet of the police report, arrest sheet and ATN.
  2. The victim has the right to attend the bail hearing, if one is held, should they choose to do so. Officers shall inquire if the victim wishes to telephonically participate and note that action in their police report.
  3. The officer shall notify the victim, both orally and in writing, of the rights of victims and the services available to them. This can be accomplished by reading and leaving a copy of the “DV Booklet”, currently the Anchorage Community Emergency and Advocacy Resources booklet.
  4. Steps should be taken to protect the victim from further domestic violence. This includes, but is not limited to, providing the victim transportation, assisting the victim in removing personal items,

assistance in obtaining medical treatment, and the seizure of weapons as appropriate. Should the defendant be released on their own recognizance, the officer must notify the victim of that. If necessary, an officer may also, with the knowledge and consent of the victim, apply for an emergency protective order.

5. If the suspect is not present when the officer arrives and the investigation reveals probable cause to believe a crime of domestic violence occurred, officers should search the immediate area and make other reasonable efforts to attempt to locate the suspect. In the event the officer is unable to locate the suspect, the officer shall immediately apply for an arrest warrant. Upon obtaining the warrant it is the officer's responsibility to notify APD or AST for timely entry of the warrant, noting in the report the DSN of the person entering the warrant.
  - a. Officers who obtain an arrest warrant for a domestic violence offense should continue to make reasonable efforts to locate the suspect.
  - b. When serving an original warrant for a domestic violence offense, the arresting officer should attempt an interview with the defendant, whether or not the arresting officer is the same officer who originally obtained the warrant.
6. Officers shall make appropriate notification to outside agencies as required by current procedure and document doing so in the police report.
  - a. In all cases of domestic violence where the parties involved have children; officers must notify the Office of Children's Services with the APD case number. This can be accomplished by selecting "OCS" in the follow-up drop-down menu, thereby causing the report to be forwarded automatically. The officer may also elect to call 1 (800) 478-4444 (press 8) and provide the necessary information.

**D. Domestic Violence Unit:** The Domestic Violence Unit reviews all domestic violence reports to make sure that all necessary investigative steps were taken to ensure the victim's safety as well as offender accountability. Follow-up investigation will occur on any report as needed to include, but not limited to:

1. Contact the victim to inquire whether they need any further assistance.
  - a. taking additional photographs
  - b. complete audio recorded interviews

- c. attempt to serve outstanding domestic violence warrants
- d. provide assistance to the prosecuting agency to ensure successful prosecution

The Domestic Violence Unit is located in the Domestic Violence Office at the Boney Courthouse. The officers also provide assistance to any citizen who comes into the courthouse needing assistance with a domestic violence situation.

Patrol officers shall complete a thorough investigation in accordance with policy at the time of the report. If follow-up investigation is needed that they cannot complete themselves, officers may provide direct notification to one of the Domestic Violence Unit officers and request that they complete the follow-up.

**E. Domestic violence protective orders:** All protective orders issued by the Alaska court, a court of another state or territory, a U.S military tribunal or tribal court shall be served and enforced as if it was issued by and Alaska court. (AS 18.66.140)

1. Service: After petitioning the court and having a domestic violence protective order granted, the order must be served on the respondent in order for it to be enforced. Although most protective orders are processed and served by the Warrants section, Patrol is often called upon to serve them as well.
2. Officers who come into contact with a respondent of a protective order which has not yet been served shall make reasonable efforts to obtain a copy of the order and serve it on the respondent. If a copy is not available, the officer shall verbally inform the respondent of the specific terms of the protective order and then document that action on a Return of Service form. The terms of the order are annotated in APSIN. The officer shall also obtain the respondent's contact information to ensure later service of a copy of the order.
3. When serving protective orders, officers shall:
  - a. Receive the order, verifying that it has been properly issued. This can be done by verifying the order in APSIN or with the issuing court;
    - 1) If the order is a Tribal order, the order must appear authentic. The order does not need to be filed with an Alaskan court and it does not need to be entered into APSIN/NCIC. Officers are not to investigate beyond looking at the order itself. Any jurisdictional or due process issues will be addressed by the prosecutor and/or an Alaskan court.



- b. Serve the order on the respondent by reading the order and providing a copy of the order to the respondent;
  - c. Contact appropriate personnel to have the record of service entered into APSIN, and note their DSN on the Return of Service form;
    - 1) Tribal orders can be entered in APSIN as a locate with information to include whether the order was served/unserved, the date/time/location of the service, who the signing official is, the conditions of the order, and when the order expires.
  - d. Complete a Return of Service form and submit it to the Records Section.
    - 1) A Return of Service form should be completed for Tribal orders.
- 4. Enforcement of the order: Complaints of violation of a domestic violence protective order shall be investigated as a crime involving domestic violence as outlined above. When investigating an allegation of a violation of a domestic violence protective order, officers must establish three elements:
  - a. The suspect had knowledge and legal service of the order;
  - b. The act alleged violated a specific prohibition expressed in the order;
  - c. Probable cause that the respondent actually committed the violation exists.
- 5. Officers must take care to confirm that the act alleged constitutes a criminal violation of the order prior to making an arrest. Those provisions which are criminal involve contact with the victim (sections a-e on all the orders) as well as the possession of firearms (sections i and j on the long-term order). If the violation is clearly criminal in nature and there is probable cause, the officer shall make an arrest. If the alleged violation is civil in nature (orders to pay child support, pay specific bills, or return property), officers shall not make an arrest, but a report is still required.
- 6. A written report must be completed for any violation of the protective order, criminal or civil, whether or not the order has been served on the respondent. It is important to document these non-criminal acts in the event it becomes necessary to have documentation for possible future criminal charges such as stalking. Dispatch will screen the call

for service to determine if the report will be taken by an officer or by records. If either of the following criteria is met, an officer will be dispatched to take the report. If not, the report will be taken by records.

- a. a). If there is any possibility that the officer may be able to locate the respondent and serve the restraining order.
  - b. b). If there is the allegation or possibility that a new crime has been committed.
7. “Blending” of State and Municipal charges should be avoided. Therefore, if a respondent violates the terms of a protective order, which must be charged under State Statutes, other associated violations should also be State charges.

**F. Violation of Conditions of Release:** The violation of conditions of release allows the police to enforce conditions of bail imposed upon a defendant by a judge or magistrate while the defendant is awaiting trial.

1. Conditions vary from one case to the next. In domestic violence cases the defendant will generally be prohibited from having contact with the victim(s) or returning to the victim’s residence among other possible stipulations.
2. Officers can verify a defendant’s conditions in several different ways. Contacting the Municipal Prosecutor or District Attorneys Office, whichever is appropriate given the original charge, is the ideal way to do so. Recognizing this may not be possible given the time of day, officers should consider sources such as the jail or magistrate. The victim may have a copy of the defendant’s conditions or have a specific contact name or number with the Prosecutor or District Attorney. The defendant might have a copy of the conditions of release available for your review or make admissions to the officer regarding what the conditions are.
3. Currently, the Municipal Prosecutor’s Office enters the conditions of release for DV cases into APSIN, attached to the defendant. The APD Dispatch supervisor also has access to the Municipal Prosecutor’s database and can verify the listed conditions.
4. If a victim makes a report of violation of conditions of release, the officer shall investigate the complaint as a crime of domestic violence as described above.
5. If an officer is unable to determine at the time of the report whether or not the reported behavior violated a condition of the defendant’s release, the officer shall document the incident in a police report. The

investigating officer is also required to follow up on the report by contacting the Prosecutor or DA as soon as possible.

**\*\*\*END OF DOCUMENT\*\*\***