



# CONCORD POLICE DEPARTMENT

## STANDARD OPERATING PROCEDURE

### DOMESTIC VIOLENCE

**GENERAL ORDER:** 08.08

**CALEA STANDARD:** NA

**ISSUE DATE:** October 1, 2022

**ACTION:** Re-numbers general order dated October 1, 2016.

**EFFECTIVE DATE:** October 1, 2022

#### **08.08.0**      **PURPOSE**

The purpose of this General Order is to establish procedures for police response to calls of domestic violence.

#### **08.08.1**      **POLICY**

The Concord Police Department views domestic violence as a crime that requires direct police intervention and a coordinated community response. In arrest and non-arrest situations, officers should take appropriate measures to address the needs of victims of domestic violence and to offer help to victims, offenders, and involved children. The primary objectives are to de-escalate violent situations; reduce domestic assaults; reduce police call-backs; reduce injuries to officers, victims and other affected parties; and to reduce the liability risks for the department.

Therefore, it is the policy of this department to refer abusers and victims of domestic violence to social service, and to arrest persons found to be responsible for crimes in domestic situations.

#### **08.08.2**      **DEFINITIONS**

##### A. BODILY INJURY

Injury that causes substantial pain to the victim or impairment of the victim's physical condition.

##### B. DOMESTIC VIOLENCE

The commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense.

1. Attempting to cause bodily injury, or intentionally causing bodily injury.

2. Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3A, that rises to such a level as to inflict substantial emotional distress.
3. Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

#### C. PERSONAL RELATIONSHIP

As defined in G.S. 50B-1(b), a relationship wherein the parties involved are current or former spouses; are persons of opposite sex who live together or have lived together; are related as parents and children, including others in loco parentis to a minor child, or as grandparents and grandchildren; have a child in common; are current or former household members; are persons of the opposite sex who are in a dating relationship or have been in a dating relationship.

#### D. DATING RELATIONSHIP

As defined in G.S. 50B-1(b)(6), a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

#### E. INTIMATE PARTNER RELATIONSHIP

A spouse or former spouse, persons who share a child in common, a person who lives with a partner as a spouse, or persons in a dating relationship as defined in G.O. 08.08.2(D).

#### F. CRIMINAL CHARGE

For the limited purposes of this General Order, a criminal charge is a formal accusation made by a governmental authority asserting that a person has committed a criminal offense. This includes on-view arrest, citation, criminal summons, warrant for arrest, or indictment.

#### G. DOMESTIC VIOLENCE INTIMATE PARTNER (DVIP) OFFENDER CLASSIFICATION LEVELS

There are four distinct levels of DVIP offenders. Classification levels are used to match the type of notice given to the offender based on arrest history, to incrementally increase sanctions for each prohibited act and to request fast track prosecution for those who cannot be deterred.

D-LIST AGGRESSOR: A person with no previous criminal charge for domestic violence. Officers responding to the call validates domestic violence (as previously defined) has occurred and an intimate partner relationship exists, however not enough probable cause exists to effect an arrest.

C-LIST OFFENDER: A person with a first criminal charge for DVIP related offense and less than two convictions of prior misdemeanor assault.

B-LIST OFFENDER: A person with one prior assault conviction or commits a prohibited act for which the offender received notice as a C-List offender (violating pretrial release conditions, contacting victim, etc.)

A-LIST OFFENDER: A person with two or more assault convictions (making them eligible for the criminal charge of habitual misdemeanor assault), violated protection order, uses weapons to commit DV, convicted felon.

#### H. PROBABLE CAUSE

A standard of proof based on facts that would cause a reasonable person to conclude that it is probably true (more likely than not) that a crime has been committed and that the person to be arrested has committed the crime, or that evidence of the crime exists in the place to be searched.

#### I. SELF-DEFENSE

Justifiable use of physical force upon another person when he/she believes such force is necessary to defend him/herself or a third party from what is reasonably believed to be the use, or imminent use, of unlawful physical force by that other person.

#### J. EX-PARTE ORDER (AOC CV-304 AND AOC CV-305)

Emergency Relief Order signed by a District Court Judge stating that the matter has been filed with the Clerk of Court and reviewed by him or her. This order gives the party relief until a hearing can be conducted in District Court. This order is valid until the day of court and may be continued by the Judge to allow the person time to hire an attorney.

#### K. DOMESTIC VIOLENCE PROTECTIVE ORDER (AOC CV 306)

This order is issued after a court hearing in which the District Court Judge rules that the defendant must stay away from the plaintiff. This order is valid for one year from the date of issue.

### **08.08.3** **GENERAL PROCEDURES**

#### A. CUSTOMER SERVICE TEAM PROCEDURES

1. A member of the customer service team shall be responsible for entering Domestic Violence Protective Orders into the records management system after they are received from the Clerk of Court or Cabarrus County Sheriff's Office.
2. The **EX-PARTE DOMESTIC VIOLENCE ORDER (AOC CV-304 AND AOC CV-305)** shall remain in the files and active until the court date listed on the order.

3. The **DOMESTIC VIOLENCE ORDER (AOC CV-306)** shall remain in the files and active one year from the date the order was issued.
  - a. A scanned copy received from the Clerk of Court or Cabarrus County Sheriff's Office will be maintained by the customer service team after they are entered into the records management system.

#### B. PATROL OFFICER PROCEDURES

##### 1. On-Scene Responsibilities

When responding to domestic violence calls, an investigating officer must remember that the intent of this policy is to protect victims and to enforce the law. Victims of domestic violence may require a variety of assistance types to meet their immediate needs for safety, medical treatment, and information. Arrest, by providing immediate safety to the victim and taking control away from the aggressor, is the most significant assistance that officers can provide. In all calls involving domestic violence, the investigating officer shall:

- a. Restore order by separating and attempt to calm the parties involved.
- b. Assess the need for medical attention and call for medical support if indicated.
- c. Conduct Investigation: The purpose of any on-scene investigation is to determine if probable cause exists that a domestic violence related crime has been committed.
  - i. Interview all parties (victim(s), aggressor(s), and witness(s)) separately. Children should be interviewed in a manner appropriate for their age.
  - ii. Observe the scene and available evidence.
  - iii. Determine if one of the parties acted in self-defense.
- d. Determine if there are outstanding warrants, court orders, release conditions, civil orders issued under NCGS 50-B, or recent trespasses.
- e. Determine if involved parties are in an intimate partner relationship.
- f. If probable cause **DOES NOT** exist for an arrest and a domestic violence intimate partner relationship (as defined by 08.08.02 B & E) is **NOT** verified then the investigating officer will advise parties involved of proper legal action.

- g. If probable cause does **NOT** exist for an arrest and a domestic violence intimate partner relationship (as defined by 08.08.02 B and 08.08.02 E) **IS** verified.
- i. Investigating officer shall complete a field contact in the mobile field reporting system. Using the available pick list, the investigating officer will complete a field contact for the "**aggressor**" and for the "**victim**". In the event the investigating officer is unable to determine who is the "aggressor" or the "victim", the investigating officer will complete the field contacts using "**unable to determine**" from the pick list.
- All field contacts will be completely filled out to include name, race, sex, and date of birth. Included in the narrative block, the investigating officer will give a summary of the call, note any weapons on scene, if any children were present during the alleged assault, the CAD Event ID, and indicate if the Aggressor Letter (Form DV-1), Victim Letter (Form DV-3) was delivered. If DV-1 and/or DV-3 was not delivered, the investigating officer will indicate in the narrative field why it was not delivered.
- ii. The investigating officer shall check the name and date of birth of the aggressor to determine if he/she has or has not received the DV-1. The investigating officer will deliver the DV-1 unless it has previously been given to the aggressor.
- iii. Prior to giving a clearance code, the investigating officer shall contact communications and have the call reclassified as Domestic Violence Intimate Partner (10-88.4).
- h. If probable cause **DOES** exist for an arrest, the investigating officer shall:
- i. Arrest the offender (NCGS 15A-401).
- ii. Attempt to obtain a signed written statement from the victim prior to clearing the call.
- iii. Attempt to obtain a signed written statement from any available witness(s). Statements obtained from children are not to be signed and should be conducted in a manner appropriate for their age.
- iv. Obtain photographs of injuries to the victim.
- v. Photograph the scene and evidence.
- vi. Collect available evidence.

- i. As required by NCGS 15A-831 the investigating officer shall deliver to the victim the Victim Information Pamphlet (Form DV-7) and the Domestic Violence 50B Resource Guide (Form DV-8).
- j. If a domestic violence intimate partner relationship (as defined by 08.08.02 B and 08.08.02 E) **IS** verified the investigating officer shall deliver to the victim DV-3.
- k. The investigating officer shall complete the victim information section of the Domestic Violence District Attorney Notification (Form DV-6) prior to leaving the scene.

## 2. Arrest Procedures

Arrest is the preferred response to domestic violence because arrest offers the greatest potential for ending the violence. Arrest provides immediate safety to the victim and takes control away from the offender. The following procedure is to be observed concerning arrests.

- a. After each party has been interviewed separately, review the evidence to determine if probable cause exists that a domestic violence act has occurred for which the alleged offender may be arrested under NCGS 15A-401. If so, the investigating officer shall make an arrest. The investigating officer shall not arrest a victim for force used in justified self-defense.
- b. The probable cause standard applied to domestic violence cases is no different from the standard applied to all other crimes. The investigating officer shall not consider the following factors when determining probable cause.
  - i. Marital status of the parties.
  - ii. Existence of a protective order (except if the violation of such order would constitute a crime).
  - iii. History of previous police calls involving the same victim and offender.
  - iv. The victim's willingness to prosecute the case.
  - v. The investigating officer's belief that the victim will not prosecute.
  - vi. Verbal assurance by either party that the violence will stop.
  - vii. Denial by either party that the violence occurred where there is evidence of domestic violence.
  - viii. The investigating officer's concern about reprisals against the victim by the offender.

- ix. The race, ethnicity, sexual preference, social class, or occupation of the victim and/or the offender.
- c. When the investigating officer responds to a domestic violence call and two people are assaulted, the investigating officer will determine if one of the parties has acted in self-defense. If so, arrest only the other party.
- d. If an assault has occurred, the investigating officer shall make an arrest and transport the alleged offender to the police department for formal questioning and processing. The investigating officer shall document any excited utterances made by the alleged offender and attempt to obtain a written, signed statement. All offenders shall be photographed (to include injuries or lack thereof), and fingerprinted.
- e. If the offender has left the scene and probable cause and conditions for making an arrest under NCGS 15A-401(b) **exist**, all reasonable efforts should be made to locate and arrest the alleged offender. If conditions under NCGS 15A-401(b) **do not exist**, then the investigating officer shall either transport the victim to the magistrate's office to apply for a warrant or personally apply for a warrant and then attempt to locate the offender. In either case, the investigating officer shall make sure the warrant is issued prior to the end of their tour of duty.
- f. All efforts will be made to locate the offender and effect the arrest. If the offender is not located prior to the end of the investigating officer's tour of duty, a BOLO will be given and the on-coming shift supervisor will be notified that the warrant is outstanding.
- g. If the offender has violated the provisions of a valid protective or restraining order under G.S. 50B-3 (2), (excluding the spouse from the household), or G.S. 50B-3 (9), (refrain from harassing or interfering with the other party), the offender shall be physically arrested without a warrant.
- h. When the investigating officer responds to a domestic violence call and the victim or offender is a law enforcement, correction, or probation/parole officer, the investigating officer will call the line supervisor to the scene. The role of the supervisor is to ensure that the department's policy is applied equally to all members of the community.
- i. If, based on available evidence, the investigating officer cannot establish probable cause for making an arrest; the investigating officer will explain the procedure for obtaining a warrant to the victim and, if necessary, provide transportation to the magistrate's office.

- j. Prior to presenting the arrestee to the magistrate, the investigating officer will complete a criminal and NC AOC record check to verify a prior arrest record. If arrestee meets the elements for NCGS 14-33.2 (Habitual Misdemeanor Assault) then the arrestee will be criminally charged with this offense. When habitual misdemeanor assault is criminally charged the investigating officer shall notify the district attorney's office via email prior to the end of their tour of duty.
- k. Once the offender is presented to the magistrate the investigating officer will ensure delivery of the Offender Letter (Form DV-2) by including DV-2 with the offender's copy of the magistrate's release order. Delivery shall be indicated in the arrest report narrative. If DV-2 was not delivered, the investigating officer will indicate in the arrest report narrative why it was not delivered.

### 3. Post-Arrest Procedures

Field release and the issuance of a citation will not be allowed in domestic violence crimes. All persons arrested for domestic violence crimes will be taken into custody and brought before a magistrate. The investigating officer should emphasize to the victim and the offender that the criminal action is being initiated by the state, not the victim. It is the responsibility of the investigating officer to relate the seriousness of the crime to the magistrate and to request an appropriate bond and release conditions. The investigating officer shall:

- a. Inform the magistrate of all pertinent information concerning defendant's history of violence, threats, the number of previous calls, the potential for further violence if released immediately, and the existence of court orders, release conditions, or civil orders.
- b. Request that the defendant be held in jail as authorized under the guidelines for NCGS 15A-534.1 (Crimes of Domestic Violence; Bail and Pretrial Release) if the investigating officer believes that there is a potential for further violence.
- c. Complete a thorough and accurate incident report to include:
  - i. Selecting "YES" in the domestic violence block.
  - ii. If a domestic violence intimate partner relationship exists, then the investigating officer will select "YES" in the DVIP block.
  - iii. Complete the Domestic Relationship Incident Report (Form DV-5).



- d. Complete a thorough and accurate arrest report to include:
    - i. If a domestic violence intimate partner relationship exists then the investigating officer will select "YES" in the DVIP block.
  - e. Obtain 911 call(s), available in-car camera and/or body worn camera footage, and any other available evidence.
  - f. Comply with requirements of NC General Statutes - Chapter 15A Article 46 (Crime Victims' Rights Act).
  - g. Complete the Domestic Violence Checklist (Form DV-4) to ensure all required reports, documentation, and evidence is included. Attach completed DV-4 in incident module.
4. Victim Assistance

Whether or not an arrest is made, the investigating officer should determine which services/information should be made available to the victim as provided for in NCGS 50B-5. Police officers responding to domestic disputes are authorized to take whatever steps are reasonably necessary to protect the complainant from harm, advise the complainant of shelter(s), medical care, counseling, and other services. Upon request by a complainant and where feasible, police officers are authorized to transport the complainant to appropriate facilities such as hospitals, magistrates' offices, or public/private facilities for shelter, and to accompany the complainant to his/her residence within the jurisdiction in order for the complainant and any minor children who are presently in the care of the complainant to remain elsewhere pending further proceedings. The investigating officer shall:

- a. Remain on the scene long enough to determine if the victim feels he/she will be safe after the police leave or if assistance is required in going to another location.
- b. Provide the victim with the Victim Information Pamphlet (Form DV-7) containing basic information about, and the telephone numbers of available services. Encourage the victim to contact the agencies whose services are indicated.
- c. If requests are made by a victim or victim's advocate for police assistance in removing personal belongings at some time after the initial incident, all efforts should be made to assess the potential for further conflict and to respond when the potential for conflict is least likely. The investigating officer should also be aware of the existence of any legal restrictions concerning the property.

#### 5. Disposition from Domestic Violence Calls

- a. When clearing from the scene of a domestic violence call, a disposition must be given to the communications center using the 10.24.Z codes established for this purpose.
- b. Domestic Violence 10.24.Z Codes are as follows:
  - Z.1 Transport victim to other location
  - Z.2 Transport suspect to other location
  - Z.3 Transport victim to magistrate office
  - Z.4 No indication of violence both parties
  - Z.5 Indicates report of assault, no evidence, no witness
  - Z.6 Indicates report of assault, physical evidence, no witness
  - Z.7 Indicates report of assault, no physical evidence, witness name and address
  - Z.8 Indicates report of assault of other person than complainant, no physical evidence
  - Z.9 Indicates report of assault of other person than complainant, physical evidence
  - Z.10 (Not Used)
  - Z.11 Indicates report of assault, physical injury, medical treatment needed
  - Z.12 Indicates report of assault, physical injury, medical treatment not needed
  - Z.13 Indicates violation of 50B order, subject no longer on scene
  - Z.14 Indicates report of assault, transported to facility
  - Z.15 Assisted victim in removing personal items from house

#### C. SUPERVISOR'S PROCEDURES

##### 1. Patrol Supervisor

- a. The on-duty supervisor shall:
  - i. Whenever possible, respond to domestic violence calls for safety and monitoring purposes.
  - ii. Respond to all domestic violence calls when two parties have received injuries and self-defense cannot be determined.
  - iii. Respond to all domestic violence calls when the victim or offender is a law enforcement, corrections, or parole officer. The supervisor will complete the arrest or comply with G.O. 08.08.3 (B)(g).
  - iv. Carefully review all paperwork and evidence to ensure that a competent on-scene investigation is conducted and that departmental policy and procedures are observed by responding officers.

**D. DOMESTIC VIOLENCE INTIMATE PARTNER DETECTIVE PROCEDURES**

1. A detective shall serve as the Domestic Violence Intimate Partner Investigator.
2. The detective shall review all field contacts, incident reports, and arrest reports which are submitted for DVIP incidents. The detective shall review the arrest history of the individuals in order to determine their appropriate classification and the proper notification requirements. The detective shall ensure that offender levels are continuously reviewed and alerts are entered into the records management system.
3. The detective shall review all incidents of DVIP and will work with the District Attorney Liaison to determine further action needs.
4. The detective shall work with the appropriate community service providers to ensure the needs of the victim are attended to.

**08.08.4 TRAINING****A. DEPARTMENT TRAINING COORDINATOR**

1. Shall be responsible for developing and implementing a comprehensive training program for co-workers of the department regarding domestic violence. The goals of the training shall be to inform officers of:
  - i. The domestic violence laws of North Carolina.
  - ii. The department's domestic violence policy and procedures.
  - iii. The dynamics of family violence.
  - iv. Police officer safety techniques.

**08.08.5 EVALUATION**

- A. The Chief of Police, or designee, shall ensure the review of this policy on an annual basis and make any revisions deemed necessary. The purpose of the evaluation will include, but will not be limited to:
  1. Determining whether policy goals have been met, or if the policy and procedures should be modified.
  2. Determining the effectiveness of the officers' response and data collection system.
  3. Assessing the community response to the department's performance, and the effectiveness of interagency coordination.
  4. Identifying additional training needs.

**08.08.6**    **LIAISON**

- A. The Chief of Police or designee will maintain a liaison with the District Attorney's Office, Chief District Judges, and other local, county, or state governmental or private agencies whose services are relevant to a coordinated community response to domestic violence incidents.

**08.08.7**    **STATE MANDATED RESPONSIBILITIES**

- A. As soon as practicable, but within 72 hours after identifying a victim covered by this order, the state requires the victim be provided with the information contained with NCGS 15A-831 (DV-7).
- B. As soon as practicable, but within 72 hours after the arrest of a person believed to have committed a crime covered by this Article, the arresting officer shall inform the investigating law enforcement agency of the arrest.
- C. As soon as practicable, but within 72 hours after the arrest of a person believed to have committed a crime covered by this order, the investigating officer shall notify the victim of the arrest.
- D. As soon as practicable, but within 72 hours of the arrest of the accused, the investigating officer shall forward to the district attorney's office, DV-6, which contains the victim's name, address, date of birth, social security number, race, sex, and telephone number, unless the victim refuses to disclose any or all of the information, in which case, the investigating officer shall so inform the district attorney's office.
- E. As described in 08.08.3 (B)(h)(i) of this order, the victim shall, on DV-6, indicate whether the victim wishes to receive any further notices from the department. If the victim elects to receive further notices, the victim shall be responsible for notifying the department of any changes in the victim's name, address, and telephone number.



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