

# 320

## Domestic Violence

### Edmonds Police Department Policy

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#### **320.1 PURPOSE AND SCOPE**

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

##### **320.1.1 DEFINITIONS**

Definitions related to this policy include:

**Domestic Violence (RCW 26.50.010)** – Physical harm, bodily injury, assault, or the infliction of imminent physical harm, bodily injury, or assault, between family or household members; sexual assault of one family or household member by another; or stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

##### **Family or Household Members – Domestic Violence Related Definition (RCW 10.99.020)**

Individuals who have the following types of relationships between one another:

- Spouses, former spouses
- Persons with a child in common, regardless of whether such persons have been married or have lived together at any time
- Adult persons related by blood or marriage
- Adult persons who reside together or have resided together in the past
- Persons 16 years of age or older who presently reside together or who have resided together in the past and who have or have had a dating relationship
- Persons 16 years of age with whom a person 16 years of age or older has or has had a dating relationship
- Persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren
- Domestic partners and former domestic partners (RCW 26.50.010)

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## **Family or Household Members – [Extreme Risk Protection](#) Order Definition (RCW 7.94.020)**

With respect to a respondent, any:

- Person related by blood, marriage, or adoption
- Dating partners of the respondent
- Person who has a child in common with the respondent, regardless of whether such person has been married to the respondent or has lived together with the respondent at any time
- Person who resides or has resided with the respondent within the past year
- Domestic partner of the respondent
- Persons who has a biological or legal parent-child relationship with the respondent, including stepparents and stepchildren and grandparents and grandchildren
- Person who is acting or has acted as the respondent's legal guardian

**Dating Relationship (RCW 26.50.010)** – A social relationship of a romantic nature.

**Intimate Partner** – A person who is or was married, in a state-registered domestic partnership, or in an intimate or dating relationship with another person at the present or at some time in the past.

Any person who has one or more children in common with another person, regardless of whether they have been married, in a domestic partnership with each other, or lived together at any time, shall be treated as an Intimate Partner.

**Petitioner** – The person who files the initial case. In most cases, the person who initiates the case is also the Protected Person. In criminal cases (No-contact Orders) the State/City is the Petitioner. In some situations, where there is an overarching family law case, such as a dissolution, or parenting plan, the person who initiated that case may be listed as the Respondent/Restrained Person on the Protection Order.

**Protected Person** – The person who asks the court to issue a Protection Order in a civil order (the State/City request the orders related to criminal cases). The Protected Person may be either the named Petitioner or Respondent, depending upon the type of case, as noted above. In the case of ERPOs, there is no Protected Person, rather there is a Petitioner, who may be an individual or a law enforcement agency.

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**Respondent** – The person who initially must respond to the case filed by the Petitioner and who is the “Restrained Person”. In an Extreme Risk Protection Order, the Respondent is always the person ordered to surrender firearms/concealed pistol license.

**Restrained Person** – The person to whom the order applies. A Restrained Person may be prohibited from having contact with the Protected Person or other family member, or having access to any firearm and concealed pistol license.

Court orders: Issued by the courts to protect victims of domestic violence and to prevent possession of firearms by domestic violence offenders or others that exhibit that they are at a high risk of harming themselves or others. These orders include:

- Domestic Violence No Contact Orders
- Domestic Violence Protection Orders
- Order to Surrender Weapons
- Extreme Risk Protection Orders
- All forms of orders related to domestic violence, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

### 320.2 POLICY

The Edmonds Police Department’s response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims’ and offenders’ access to appropriate civil remedies and community resources whenever feasible.

### 320.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

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#### 320.4 INVESTIGATIONS

The following guidelines should be followed by officers when investigating domestic violence cases:

- (a) Calls of reported, threatened, imminent or ongoing domestic violence 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) Per RCW 10.99.030, responding officers **shall** separate the parties and inquire of the victim:
  - If there are firearms or ammunition in the house that are owned by either party.
  - If the abuser has firearms outside of the home (off-site).
  - Does the abuser have a CPL.
  - Has the abuser kept a firearm in plain sight in a manner that is coercive, has threatened use of a firearm in the past or has firearms in a vehicle or other location?
- (c) When practicable, officers should obtain and document statements from the victim, the suspect and any witnesses, including children, in or around the household or location of occurrence.
- (d) Officers 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.
- (e) When practicable and legally permitted, video or audio record all significant statements and observations.
- (f) 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 Detective Unit in the event that the injuries later become visible.
- (g) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (h) If the suspect is no longer at the scene, officers 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) In cases where an officer determines probable cause exists for a violation of a domestic violence crime, the officer **shall** (RCW 10.99.030):

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- Seize all firearms and ammunition believed to have been used or threatened to be used in the commission of the offense.
  - Seize any firearm in plain sight or found during a lawful search.
  - Request consent to take temporary custody of any other firearms and ammunition to which the alleged abuser has access until that matter can be heard by the court.
- (j) The arresting officer **shall** document all information about firearms and concealed pistol licenses' in the incident report and booking paperwork to alert the prosecutor and reviewing judicial officer to the heightened risk to the victim due to firearms being present.
- (k) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (l) When completing an incident or arrest report for violation of a court order, officers 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 officer should attach a copy of the order to the incident or arrest report.
- (m) In cases where an officer has not exercised arrest powers or decided to initiate criminal proceeding, the officer shall notify the victim of their right to initiate a criminal proceeding.
- (n) Officers 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.

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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.
- (o) Unless doing so would jeopardize the criminal investigation, the victim should be apprised of investigative plans such as when the suspect or witnesses are going to be interviewed and any plans for making an arrest.

#### **320.4.1 HOSPITALIZED VICTIM**

When responding to a medical facility regarding an injured person, officers should make a reasonable attempt to determine whether the injury was a result of domestic violence prior to contacting the victim or person who reported the incident.

If domestic violence is suspected, contact should be made with the medical facility representatives out of the view and hearing of the victim and any potential suspects when practical.

#### **320.4.2 IF A SUSPECT IS ARRESTED**

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim that a court order may be issued by the judge when the suspect is released from jail.

#### **320.4.3 IF NO ARREST IS MADE**

If no arrest is made, the officer 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.

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#### **320.5 VICTIM ASSISTANCE**

Victims may be traumatized or confused. Officers should:

- (a) Recognize that a victim's behavior and actions may be affected.
- (b) Provide the victim with the department's domestic victim resource pamphlet, even if the incident may not rise to the level of a crime.
- (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 officer 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.

#### **320.6 DISPATCH ASSISTANCE**

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable.

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

#### **320.7 FOREIGN COURT ORDERS**

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers 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-

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state court order shall be enforced, regardless of whether the order has been properly registered with this state.

#### **320.8 VERIFICATION AND SERVICE 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, officers 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.
- (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.

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

#### **320.9 STANDARDS FOR ARRESTS**

Officers investigating a domestic violence report should consider the following:

- (a) The primary duty of officers when responding to a domestic violence situation is to enforce the laws allegedly violated and to protect the complaining party (RCW 10.99.030(5)).
- (b) When an officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, he/she shall make an arrest pursuant to the criteria in RCW 10.31.100 and RCW 10.99.030(6)(a).
- (c) When an officer has confirmed that a valid court order exists and has probable cause to believe the defendant has violated that order, the officer shall make a physical arrest (RCW 10.99.055; RCW 10.31.100(2)). Whenever a member of this department serves or assists in serving a court order and that service is completed, a return of service form shall be completed and submitted to the Washington Crime Information Center (WACIC).

#### **320.10 REPORTS AND RECORDS**



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- (a) Officers responding to a domestic violence call shall take a complete offense report, including the disposition of the case (RCW 10.99.030(6)(b)).
- (b) All such reports should be documented under the appropriate crime classification and should use the distinction “Domestic Violence” in the Type of Crime box of the crime report form (RCW 10.99.030(11)).
- (c) Whenever there is probable cause to believe that a crime has been committed and unless the case is under active investigation, the Investigation Supervisor shall ensure that all domestic violence crime reports are forwarded to the County Prosecutor’s Office within 10 days of the date the incident was reported (RCW 10.99.030(9)).
- (d) The Records Supervisor shall ensure that accurate records of domestic violence incidents are maintained and submitted to the Washington Association of Sheriffs and Police Chiefs, in accordance with state law (RCW 10.99.030(12))