

DOMESTIC VIOLENCE

1. **PURPOSE:** This written directive establishes procedures designed to reduce family homicides, family assaults, police call-backs, liability risks for the Department and injuries to officers.
2. **POLICY:** In all domestic violence situations, responding officers will take reasonable measures to assist and/or assure the immediate safety of every person who may be affected. Officers will also determine what actions will be most effective in preventing future violence. The Huntsville Police Department views domestic violence as a preventable crime and takes a pro-arrest stance toward its prevention.
3. **SCOPE:** This written directive applies to all personnel.
4. **RESPONSIBILITY:** It will be the responsibility of all sworn personnel to comply with guidelines established in this written directive.
5. **DEFINITIONS:** For the purpose of this written directive, the following terms shall mean:
 - A. **Qualifying Relationship for Domestic Violence Warrantless Arrest:**
 1. Current Spouse or Former Spouse.
 2. Parent/Child to include stepparent and step-child.
 3. Grandparent/Grandchild, to include step-grandparent and step-grandchild.
 4. Child in common.
 5. Present household members excluding non-romantic or non-intimate co-residents.
 6. A person who has or had a dating relationship with the defendant. Dating Relationship means a current or former relationship of a romantic or intimate nature characterized by the expectation of affectionate or sexual involvement by either party.
 - B. “Domestic Violence: “Any incident resulting in the abuse, assault, harassment, or the attempt or threats thereof” between family, household, or dating relationship members.”
 - C. **Domestic Dispute:** Any incident between family, household, or dating relationship members where the police have been called, regardless of whether a crime has occurred.
 - D. **Bodily injury:** Any substantial pain to the victim or impairment of the victim’s physical condition.
 - E. **Victim:** Any person who is the victim of domestic violence, including victims who are

unwilling to file charges or prosecute the offender.

F. Self-defense: The justifiable use of physical force when that person believes force is necessary to defend himself/herself, or a third party from what he/she reasonably believes to be the use or imminent use of unlawful physical force by another person.

G. Probable cause: The combination of facts that leads a Police Officer to believe that a crime has been committed and the accused is the person who committed it.

6. COMMUNICATIONS PERSONNEL PROCEDURES

A. Communications personnel who receive a domestic violence call can provide responding officers with vital information that could prevent harm to the victim and/or officer. The call taker/dispatcher will give a domestic violence call the same priority as any other life-threatening call and will dispatch at least two officers to the scene.

B. If the call taker/dispatcher receives a subsequent call to cancel the original call, he/she will still send officers to the location to make sure the family is safe and that a crime has not been committed.

7. OFFICERS' PROCEDURES AT THE SCENE

A. INVESTIGATION

1. The purpose of any on-scene investigation is to determine the facts of the incident through interviews with all involved parties, recording statements, preserving the crime scene and collecting evidence.

2. When responding to a domestic violence call, officers will:

a. Gain lawful control of the situation to ensure the safety of all parties.

b. Assess the need for medical attention and call for medical assistance if needed.

c. Interview all parties separately (i.e., victim(s), offender(s), and witnesses) using supportive interviewing techniques. Children should be interviewed in a manner appropriate for their age.

d. The Officer shall provide to the victim information that is required by Alabama Code Section 15-23-62 (DV Packet) or QR code for Crisis Services of North Alabama

e. The Forensic Nurse Examiner contact number is for law enforcement only and should not be given to the victim.

f. Provide victim(s) with Alabama Law Enforcement Agency's (ALEA) written

notice of Legal Rights and Remedies available pursuant to Alabama Code Section 13A-6-134 (C)(1);

- g. After each party has been interviewed separately, officers will confer to decide if an arrest should be made based upon Probable Cause and/or other appropriate action.
- h. Collect and record evidence.
- i. Take color photographs of injuries and property damage and upload as a file on the RMS Incident Report. To protect the privacy and dignity of the subject being photographed, Officers shall cover any private/intimate area that may be visible in any photographs. When possible, photographs of private/intimate areas should be taken by an employee of the same sex.
- j. Prepare an Incident/Offense Report, with a detailed narrative describing the incident and the action(s) taken by Officers to be forwarded to the Special Victims Unit.
- k. Record witness information and obtain a written statement if possible.
- l. Complete Domestic Violence Supplemental, if applicable to include alternate contact information (family or friend with phone number and or address); and
- m. If no criminal act was committed or alleged, complete a Field Interview Report. The Records Division will ensure a copy has been forwarded to the Special Victims Unit.

NOTE: Per Alabama Code § 15-10-3 (b) -, “When a law enforcement officer investigates an allegation of domestic violence or elder abuse, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complaint, and the disposition of the case.” If probable cause exists and no arrest is made, officers will document their reasons for not making an arrest.

- 3. The Special Victims Unit will investigate all documented incidents of domestic violence, child abuse events, and all sex crimes, except death investigations... Financial crimes and property crimes, regardless of whether a domestic violence relationship exists, are the responsibility of the respective investigative squad.
- B. **FORCED ENTRY:** Officers should make reasonable efforts to make contact with the reporting party but should not hesitate to force entry should it become necessary to protect victims. Forced entry is permissible any time there is probable cause to believe the safety of a potential victim is in jeopardy.
- 1. Probable cause of this type exists when the facts and circumstances within an officer’s knowledge, or of which he/she has reasonably trustworthy information, are sufficient to warrant a person of reasonable caution to believe that the safety of a potential victim is in jeopardy.

2. Officers must make a practical, common-sense determination whether, given all the facts and/or circumstances known (or with due diligence would have been known), there is a reasonable basis for believing that the victim's safety is in jeopardy.
3. In making this decision, officers may take into account everything they personally observe, all physical evidence and all things learned from witnesses or other persons supplying information (hearsay). In evaluating hearsay information, officers should take into account the credibility of the person supplying information and whether there is a reasonable basis for believing the content of the information.
4. Officers must document their reason for forced entry in an Incident/Offense Report and notify a supervisor. If practical, a supervisor should be notified prior to any forced entry.
5. In situations where there is no response from the complainant, and forced entry is unnecessary, officers will ensure that all information available has been obtained from the call taker/dispatcher. This information will be documented on a Miscellaneous Service Report and forwarded to the Special Victims Unit.

8. ARREST

- A. Arrest is the preferred response to domestic violence situations because arrest offers the greatest potential for ending violence. If a crime has been committed, the responding Officers will give serious consideration to making an arrest if Probable Cause exists.
 1. For the purpose of this Written Directive, Alabama Code Sections 15-10-3 (a) (7) & (8), 13A-6-133 and 13A-5-134. Arrest without warrant, authorize an officer to affect a warrantless arrest when:
 - a. An offense involves a crime of domestic violence pursuant to Alabama Code sections 13A-130 through 13A-6-132, and 13A-6-138, and the arrest is based on probable cause, regardless of whether the offense is a felony or misdemeanor.; and/or
 - b. Probable cause exists that one of the following crimes has been committed, while meeting the relationship criteria outlined in Section 5 (A) of this Written Directive.
 1. Domestic Violence in the First Degree 13A-6-130.
 - A. Assault 1st 13A-6-20
 - B. Aggravated Stalking 13A-6-91
 - C. Burglary 1st 13A-7-5
 2. Domestic Violence in the Second Degree 13A-6-131;
 - A. Assault 2nd 13A-6-21

- B. Intimidating a Witness 13A-10-123
 - C. Stalking 13A-6-90
 - D. Burglary 2nd 13A-7-6
 - E. Burglary 3rd 13A-7-7
 - F. Criminal Mischief 1st 13A-7-21
3. Domestic Violence in the Third Degree 13A-6-132:
- A. Assault 3rd Degree 13A-6-22
 - B. Menacing 13A-6-23
 - C. Reckless Endangerment 13A-6-24
 - D. Harassment 13A-11-8 (a)
 - E. Criminal Coercion 13A-6-25
 - F. Criminal Surveillance 13A-11-32
 - G. Harassing Communications 13A-11-8 (b)
 - H. Criminal Mischief 2nd 13A-7-22
 - I. Criminal Mischief 3rd 13A-7-23
 - J. Arson 3rd 13A-7-43
 - K. Criminal Trespass 3rd 13A-7-4
 - L. Interference with Domestic Violence Emergency Call 13A-6-137
 - a. Note: A Domestic Violence relationship is not required to be charged with this offense.
4. Violation of a Protection Order 13A-6-142, 15-10-3 (a)(7)2. A violation of a domestic violence protection order is a Class A misdemeanor which shall be punishable as provided by law. A third or subsequent conviction is a Class C felony. Domestic Violence 3rd and a Violation of a Protection Order cannot be combined in an effort to obtain two (2) convictions.
5. Violation of Conditions of Release is considered a Violation of a Protection Order. (Bond Conditions) 13A-6-141 (1) (b).

6. Domestic Violence 3rd Felony for Sentencing:

- A. A third or subsequent conviction under 13A-6-132 subsection (a) is a Class C felony. To include convictions of misdemeanor Domestic Violence in municipal court and convictions for Domestic Violence 1st 13A-6-130, Domestic Violence 2nd 13A-6-131, Domestic Violence by Strangulation or Suffocation 13A-6-138 and or a domestic violence conviction or other substantially similar conviction from another state or jurisdiction.
- B. The arresting officer is responsible for obtaining the warrant from the county magistrate for Domestic Violence 3rd and/or Violation of a Protection Order that will be sentenced as a Felony based on 2 or more previous convictions.

7. Convictions for Domestic Violence cannot be combined with convictions of Violation of Protection Order to make either charge eligible for Felony sentencing.

8. Felony crimes of Domestic Violence 1st, 2nd and Domestic Violence by Strangulation or Suffocation will require the notification of a Special Victims Unit Investigator if the offender is in custody and before an arrest is made.

NOTE: If the victim of an alleged kidnapping is present on the scene, but the offender is not, an Incident/Offense Report should be completed and routed to the Special Victims Unit (if domestic relationship exists). If victim is NOT present and is presumed to be with the offender, A Major Crimes Investigator should be notified. Otherwise, discretion should be used to determine investigator callout.

B. Per Alabama Code Section 13A-6-134 and departmental policy, officers receiving complaints from opposing parties shall evaluate each complaint separately to determine the primary aggressor. If the officer determines that one person was the primary physical aggressor, the officer need not arrest the other person alleged to have committed domestic violence. In determining the primary aggressor, the officer shall consider all of the following:

- 1. Prior complaints of domestic violence.
- 2. Relative severity of injuries inflicted to each person, including whether the injuries are offensive versus defensive in nature.
- 3. Likelihood of future injury to each person.
- 4. Whether the person had reasonable cause to believe he or she was in imminent danger of becoming a victim of any act of domestic violence; and
- 5. Whether one of the persons acted in self-defense.

C. A law enforcement officer shall not threaten, suggest, or otherwise indicate possible arrest

of all parties to discourage the request for intervention by law enforcement from any party. The decision to arrest or not to arrest will not be based on any of the following:

1. The specific consent or request of the victim.
 2. Officer's perception of the willingness of a victim or witness to the domestic violence to testify or otherwise participate in a judicial proceeding.
 3. Marital status of the parties. Verbal assurances by either or both parties that the violence will cease.
 4. The officer's concern about reprisals against the victim by the offender; or
 5. Race, ethnic background, sexual preference, social class, or occupation of the victim and/or the offender.
- D. It is Department policy that an arrest should be made if probable cause exists. If an arrest is not made after determining Probable Cause, then that reason will be properly documented in the officer's official report.
- E. When the alleged offender is not present, the Officer(s) will attempt to ascertain his/her whereabouts. If, within a reasonable amount of time, the offender is located:
1. The officer(s) will attempt to make contact and continue the investigation.
 2. Upon further investigation, if officer(s) determines that probable cause exists, an arrest should be made. If an arrest is not made, the reason or circumstances shall be documented in the incident report.
 3. If the incident is a crime of Domestic Violence 1st, 2nd or Domestic Violence by Strangulation or Suffocation, a Special Victim Unit investigator will be contacted prior to making an arrest.
 4. If the arrest is made for a misdemeanor, the officer will swear to the complaint before the Municipal Court Magistrate; and
 5. Citation and Complaint Forms will not be used in lieu of arrest in domestic violence situations.

9. NON-ARREST SITUATIONS

- A. If a crime or alleged crime has been committed and the offender is present at the scene, if no arrest is made, the investigating officer(s) will thoroughly document such in the Incident/Offense Report, explaining the reason for the non-arrest.
- B. When the alleged assailant is no longer at the scene and cannot be located, the officer(s) will:

1. Remain with the victim and offer assistance by explaining the warrant procedure and/or setting up an appointment with the Warrant Magistrate to obtain an arrest warrant; and
2. Offer to transport the victim and any minor children to a victim's shelter or other place of safety. The transporting officer will notify Communications of the transport, including beginning and ending mileage if applicable. If transport is to be made to a victim's shelter, the geographical location should not be broadcast via radio. Any arrangements should be made by secure phone.

NOTE: This offer of transportation is to be made whether or not the victim has obtained a warrant or plans to participate in the legal process.

10. MUTUAL INJURY/SELF-DEFENSE

- A. Officers must determine whether any injuries were caused as a result of self-defense. Arrest of both parties is appropriate when self-defense is NOT a factor, the predominant aggressor cannot be determined and/or subjects were actively fighting each other. See 13A-6-134 for further.
- B. Appropriate action requires that officers evaluate claims of self-defense rather than making arrests and leaving self-defense claims to the courts. The arrest of a person who has used justifiable self-defense re-victimizes them when they become defendants in the Criminal Justice System.
- C. No arrest shall be made when an officer has probable cause to believe injuries were inflicted ONLY in self-defense.
- D. The reasonableness of the force used is a key question when evaluating claims of self-defense. In domestic violence cases, victims should only use the amount of force necessary to stop the offender's attack. Past and present history of violence and the differences between size and strength of the parties involved should also be considered.

11. REPORTING AND RECORDS REQUIREMENTS

- A. An Incident/Offense Report shall be completed on domestic violence events where at least one of the following exists:
 1. An act of violence is committed, attempted or threatened either in the presence of the officer(s) or reported to the officer(s); or
 2. At any time, an investigating officer or supervisor believes that a report is appropriate or necessary.
- B. The completed report will be routed to the Special Victims Unit by the Shift Commander using RMS workflow.

- C. A Domestic Violence Supplemental Report will be completed with all case reports made for a domestic violence-related offense. This information will be used to assist in prosecution and further investigation.

NOTE: Domestic Violence-related Harassing Communications will not require completion of a Domestic Violence Supplemental Report.

1. Each applicable item will be checked, and non-applicable items will be left blank.
2. Personnel will make written documentation of the victim's physical and emotional state, as well as describe and document any and all evidence that is available.
3. A written statement will be obtained from the victim, using the statement form provided on the back of the Domestic Violence Supplemental, along with any alternate contact information. Officers should insist that an alternate phone number be provided, especially if he/she does not have a primary phone number.
4. A written statement will be obtained from any witnesses whenever possible. Witness information should also be noted on the Incident/Offense Report in the appropriate section.
5. Photographs of any physical injury will be made and retained as evidence. If the case investigator is present at the scene, the photographs may be released to him/ her, at the investigator's discretion. Photographs can also be used to document other pertinent facets of a crime such as damage to property, interior damage caused during the altercation, etc.
6. If children are present during the incident that should be noted in the report to assist with sentencing enhancement.
7. Records personnel are responsible for scanning all received witness statements onto the related incident report in RMS. The hard copy will be maintained in the record's division.

12. CRIME VICTIMS' ASSISTANCE AND RIGHTS

- A. In all domestic violence situations, especially where the victim has refused the officer's offer of transportation, the investigating officer(s) will advise the victim of the availability of a shelter and other services in the community.
- B. All personnel must comply with Alabama Code Section 15-23-62. Within seventy-two (72) hours, unless the victim is unavailable or incapacitated as a result of the crime, after the initial contact between a victim of a reported crime and the law enforcement agency either responding to the report of the crime, or having responsibility for investigating the crime, the law enforcement agency shall provide to the victim a form designed and produced for the agency. This form outlines certain options that are available to the victim. This requirement is satisfied by giving the victim a DV packet provided by the department.

- C. If an arrest is made, the officer will advise the victim of the option to be contacted when the offender is released from jail. The arresting officer will advise the Detention Officer on arrival at the Detention Center, or by phone and provide him/her with the victim's name, phone number, and case number. A Detention Center employee should contact the victim when the offender is released.

13. SUPERVISORY PERSONNEL: Field supervisors should monitor the receipt of domestic violence calls within their area of responsibility.

- A. Supervisors will be advised in all cases where a felony has been committed. It will be the supervisor's responsibility to determine whether an investigator should be notified. The on-call Special Victims Unit Investigator should be notified under the following circumstances:

- 1. Any domestic violence-related felony has occurred (including child abuse but not including any death investigation), if the offender is in custody.
- 2. A supervisor, after screening the details of the situation, determines that an investigator's expertise or advice is needed.

- B. A supervisor will respond to all family violence calls where the victim or offender is a City of Huntsville employee, or a city, county, state or federal law enforcement employee.

- 1. In the event a Huntsville Police Department employee is the offender in a domestic violence event, the supervisor will notify the on-call Special Victims Unit Investigator and the on-call Internal Affairs Investigator.
- 2. When the arrest of a law enforcement employee is necessary, an Internal Affairs Investigator will make the arrest. If, for some reason the Internal Affairs Investigator is unable to make the arrest, the Internal Affairs Investigator will direct a supervisor to go ahead and make the arrest.

14. EVIDENTIARY PROCEDURES FOR THE SPECIAL VICTIMS' UNIT

- A. Investigators

- 1. Policy Purpose and Overview

- a. This policy establishes procedures and timelines for submitting evidence collected by the Special Victims Unit (SVU) investigators to ensure integrity, timely processing, and compliance with department standards. All SVU-collected evidence must be submitted within 72 hours of collection. Proper documentation, preservation, and secure transfer are required to maintain the chain of custody.

- 2. Documentation Requirements

- a. Every item of evidence must be documented with a comprehensive report detailing the evidence type, collection location, and the collection circumstances. When appropriate, include photographic documentation. Additionally, completed evidence submission forms in FLEX must accompany all evidence.

3. Exceptions to 72-hour Submission

- a. If investigators are unable to submit evidence within the 72-hour timeframe due to extenuating circumstances, they must notify their supervisor by email and document the reason for the delay in the case file. This documentation ensures accountability and transparency.

4. Inspections

- a. SVU supervision shall conduct a weekly inspection of lockers. Vehicles and offices will be inspected monthly to ensure compliance. At no time are investigators allowed to store evidence in their office or vehicle. A single log should be maintained by SVU supervision depicting all inspections for compliance.

5. Policy Enforcement and Accountability

- a. Non-compliance with the evidence submission policy shall result in disciplinary actions. Delays may impact case timelines and prosecution success. This policy underscores the Special Victims Unit commitment to upholding professional standards essential for effective prosecution, accountability and supporting victim's rights.