

# Domestic Violence

## 319.1 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 office to take enforcement action when appropriate, to provide assistance to victims and to guide deputies in the investigation of domestic violence.

### 319.1.1 DEFINITIONS

Definitions related to this policy include:

**Court order** - 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.

**Domestic violence** - Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, sexual assault, coercive control, unlawful harassment, or stalking of one intimate partner by another intimate partner or of one family or household member by another family or household member (RCW 10.99.020; RCW 7.105.010).

## 319.2 POLICY

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

## 319.3 OFFICER SAFETY

The investigation of domestic violence cases often places 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 due caution and reasonable care in providing for the safety of any deputies and parties involved.

## 319.4 INVESTIGATIONS

The following guidelines should be followed by deputies 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) 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.

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- (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.
- (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 Detective 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) 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.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
  - 1. Deputies who have probable cause that a crime has been committed shall lawfully seize all firearms and ammunition that they reasonably believe were used or threatened to be used in the commission of the offense. Deputies shall also seize all firearms in plain sight or discovered in a lawful search. Deputies shall request consent to take temporary custody of any other firearms and ammunition that the alleged suspect may have access to (RCW 10.99.030).
  - 2. Deputies shall separate the victim and inquire whether there are any firearms or ammunition in the home, whether the suspect has access to any firearms either on the premises or stored elsewhere, whether the suspect has a concealed pistol license, and whether a firearm has ever been used by the suspect under other circumstances that could be threatening or coercive (RCW 10.99.030).
- (i) 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.
- (j) 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. Whether the suspect lives on the premises with the victim.
  - 2. Claims by the suspect that the victim provoked or perpetuated the violence.
  - 3. The potential financial or child custody consequences of arrest.

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4. The physical or emotional state of either party.
  5. Use of drugs or alcohol by either party.
  6. Denial that the abuse occurred where evidence indicates otherwise.
  7. A request by the victim not to arrest the suspect.
  8. Location of the incident (public/private).
  9. Speculation that the complainant may not follow through with the prosecution.
  10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
  11. The social status, community status, or professional position of the victim or suspect.
- (k) 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.

### 319.4.1 HOSPITALIZED VICTIM

When responding to a medical facility regarding an injured person, deputies 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.

### 319.4.2 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 with a Domestic Violence information handout.
- (c) Advise the victim that there may be additional information available of the Sheriff's Office webpage, including links to "VINE: Victim Information and Notification Everyday" which is a service that will notify them when the offender is released from jail.
- (d) Advise the victim whether any type of court order will be in effect when the suspect is released from jail, if known.

### 319.4.3 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.

### **319.5 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 office's domestic violence information handout, 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 the victim has sustained injury or complains of pain.
- (f) Ask the victim whether the victim has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a safety concern 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 (RCW 10.99.040).

### **319.6 DISPATCH ASSISTANCE**

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

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

### **319.7 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 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.

#### **319.7.1 CANADIAN COURT ORDERS**

Any foreign court order properly issued in Canada shall be enforced by a deputy as a foreign court order above. Any notice, if required, should be made in compliance with RCW 26.55.020.

### **319.8 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 the notice or receipt of the order, 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.

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.

### **319.9 STANDARDS FOR ARRESTS**

Deputies investigating a domestic violence report should consider the following:

- (a) The primary duty of deputies when responding to a domestic violence situation is to enforce the laws allegedly violated and to protect the complaining party (RCW 10.99.030(1)).
- (b) When a deputy responds to a domestic violence call and has probable cause to believe that a crime has been committed, an arrest shall be made pursuant to the criteria in RCW 10.31.100 (RCW 10.99.030(2)(a)).
- (c) When a deputy has confirmed that a valid court order exists and has probable cause to believe the defendant has violated that order, the deputy shall make a physical arrest (RCW 10.99.055; RCW 10.31.100(2)). Whenever a member of this office 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).

### **319.10 REPORTS AND RECORDS**

- (a) Deputies responding to a domestic violence call shall take a complete offense report, including the disposition of the case (RCW 10.99.030(2)(b)).
  - 1. The report shall include all information about firearms and concealed pistol licenses and be properly coded to alert any officials reviewing the report to the existence of the information concerning firearms (RCW 10.99.030).
- (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 10.99.035).

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- (c) Whenever there is probable cause to believe that a crime has been committed and unless the case is under active investigation, the Detective and Support Services 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 10.99.035).
- (d) The Support Services 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 10.99.035).
- (e) The Support Services Supervisor should ensure that the original receipt issued for any firearm, dangerous weapon, or pistol license surrendered after service of a protection order is filed with the court within 24 hours of service of the order and retain a copy of the receipt electronically if available (RCW 9.41.801).

### **319.11 ENTRY OF COURT ORDERS**

The Support Services Supervisor shall ensure that orders received from the court are entered into the WACIC or other applicable criminal intelligence information system for one year or until the expiration date specified on the order (RCW 10.99.040; RCW 10.99.050).

### **319.12 SERVICE OF COURT ORDERS**

The deputy serving a protection order, no-contact order, or restraining order that includes an order to surrender all firearms, dangerous weapons, and a concealed pistol license under RCW 9.41.800 shall (RCW 9.41.801):

- (a) Advise the subject that the order is effective upon service.
- (b) Request that any firearms, dangerous weapons, and any concealed pistol license be immediately surrendered. Deputies shall take possession of any firearms discovered in plain view, lawful search, or consent from the subject.
  - 1. If the subject indicates by word or action an intent to not comply with a request to surrender firearms, dangerous weapons, or a concealed pistol license, consideration should be given to obtaining a search warrant for seizure.
- (c) Issue a receipt for any surrendered items.
  - 1. The deputy should ensure the original receipt is forwarded to the Support Services Supervisor as soon as practicable for filing with the court.

All firearms and weapons collected shall be handled and booked in accordance with the Property and Evidence Policy.

#### **319.12.1 ELECTRONIC SERVICE OF COURT ORDERS**

When a deputy petitions the court ex parte for an emergency protection order on behalf of the victim and the court does not include an order to surrender and prohibit weapons or an extreme risk protection order, or has verified that all firearms, dangerous weapons, and any concealed pistol license have been temporarily removed by law enforcement, service of the order on the respondent may be made electronically pursuant to the requirements of RCW 10.99.040.

### **319.13 ORDERS TO SHOW CAUSE**

When the Office receives notice from the court of an order to show cause regarding the surrender of weapons, the Civil Division should consult with legal counsel, as appropriate, to address any requirements involving the Office, including the following (RCW 9.41.801):

- (a) Fulfilling any additional service requirements for the order to show cause.
- (b) Providing the court a complete list of firearms and other dangerous weapons surrendered by the person pursuant to the court order that are in the possession of the Office.
- (c) Providing the court with verification that any concealed pistol license was surrendered by the person pursuant to the court order and that the agency with authority to revoke the license has been notified.
- (d) Filing an affidavit with the court where there is reasonable suspicion that the person who is subject to the court order is not in full compliance with the terms, including the basis for the belief.