

POLICY 320 DOMESTIC VIOLENCE

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.

Direction regarding the handling of protection orders is found in the Protection Order and Firearm Relinquishment Policy.

320.1.1 DEFINITIONS

Definitions related to this policy include (RCW 7.105.010):

Coercive control - A pattern of behavior that is used to cause another to suffer physical, emotional, or psychological harm, and in purpose or effect unreasonably interferes with a person's free will and personal liberty. Examples of coercive control include but are not limited to engaging in any of the following:

- a. Intimidation or controlling or compelling conduct by:
 1. Damaging, destroying, or threatening to damage or destroy, or forcing the other party to relinquish, goods, property, or items of special value
 2. Using technology to threaten, humiliate, harass, stalk, intimidate, exert undue influence over, or abuse the other party, including by engaging in cyberstalking, monitoring, surveillance, impersonation, manipulation of electronic media, or distribution of or threats to distribute actual or fabricated intimate images
 3. Carrying, exhibiting, displaying, drawing, or threatening to use, any firearm or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate the other party or that warrants alarm by the other party for their safety or the safety of other persons
 4. Driving recklessly with the other party or minor children in the vehicle
 5. Communicating, directly or indirectly, the intent to:
 - a. Harm the other party's children, family members, friends, or pets, including by use of physical forms of violence
 - b. Harm the other party's career
 - c. Attempt suicide or other acts of self-harm
 - d. Contact local or federal agencies based on actual or suspected immigration status
 6. Exerting control over the other party's identity documents
 7. Making, or threatening to make, private information public, including the other party's sexual orientation or gender identity, medical or behavioral health information, or other confidential information that jeopardizes safety
 8. Engaging in sexual or reproductive coercion

- b. Causing dependence, confinement, or isolation of the other party from friends, relatives, or other sources of support, including schooling and employment, or subjecting the other party to physical confinement or restraint
- c. Depriving the other party of basic necessities or committing other forms of financial exploitation
- d. Controlling, exerting undue influence over, interfering with, regulating, or monitoring the other party's movements, communications, daily behavior, finances, economic resources, or employment, including but not limited to interference with or attempting to limit access to services for children of the other party, such as health care, medication, child care, or school-based extracurricular activities
- e. Engaging in vexatious litigation or abusive litigation as defined in RCW 26.51.020 against the other party to harass, coerce, or control the other party, to diminish or exhaust the other party's financial resources, or to compromise the other party's employment or housing
- f. Engaging in psychological aggression, including inflicting fear, humiliating, degrading, or punishing the other party

"Coercive control" does not include protective actions taken by a party in good faith for the legitimate and lawful purpose of protecting themselves or children from the risk of harm posed by the other party.

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. See the Protection Orders and Firearms Relinquishment Policy for definitions of the protection orders and no-contact orders available in Washington.

Domestic violence - Physical harm, bodily injury, assault, or the infliction of fear of physical harm, bodily injury, or assault; nonconsensual sexual conduct or nonconsensual sexual penetration; coercive control; unlawful harassment; stalking; or the perpetration of any of the crimes listed in RCW 10.99.020 by one intimate partner to another intimate partner or by one family or household member to another family or household member (RCW 7.105.010).

Family or household members - Any of the following relationships:

- a. Persons related by blood, marriage, domestic partnership, or adoption
- b. Persons who currently or formerly resided together
- c. Persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren, or a parent's intimate partner and children
- d. A person who is acting or has acted as a legal guardian

Intimate partners - Any of the following relationships:

- a. Spouses or domestic partners
- b. Former spouses or former domestic partners
- c. Persons who have a child in common regardless of whether they have been married or have lived together at any time, unless the child is conceived through sexual assault
- d. Persons who have or have had a dating relationship where both persons are at least 13 years of age or older.

Sexual conduct - Any of the following:

- a. Any intentional or knowing touching or fondling of the genitals, anus, or breasts, directly or indirectly, including through clothing

- b. Any intentional or knowing display of the genitals, anus, or breasts for the purposes of arousal or sexual gratification of the respondent
- c. Any intentional or knowing touching or fondling of the genitals, anus, or breasts, directly or indirectly, including through clothing, that the petitioner is forced to perform by another person or the respondent
- d. Any forced display of the petitioner's genitals, anus, or breasts for the purposes of arousal or sexual gratification of the respondent or others
- e. Any intentional or knowing touching of the clothed or unclothed body of a child under the age of 16, if done for the purpose of sexual gratification or arousal of the respondent or others
- f. Any coerced or forced touching or fondling by a child under the age of 16, directly or indirectly, including through clothing, of the genitals, anus, or breasts of the respondent or others

Stalking - Any of the following:

- a. Any act of stalking as defined under RCW 9A.46.110
- b. Any act of cyber harassment as defined under RCW 9A.90.120
- c. Any course of conduct involving repeated or continuing contacts, attempts to contact, monitoring, tracking, surveillance, keeping under observation, disrupting activities in a harassing manner, or following of another person that:
 - 1. Would cause a reasonable person to feel intimidated, frightened, under duress, significantly disrupted, or threatened and that actually causes such a feeling.
 - 2. Serves no lawful purpose; and
 - 3. The respondent knows, or reasonably should know, threatens, frightens, or intimidates the person, even if the respondent did not intend to intimidate, frighten, or threaten the person.

320.2 POLICY

The Mountlake Terrace 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. The department will facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible. The Mountlake Terrace Police Department will collect information required by law regarding the presence or access to and the surrender of firearms, dangerous weapons, and concealed pistol licenses by the perpetrator or restrained person and forward this information to the appropriate prosecutor and court.

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.

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. 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.
- c. 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.
- 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 Investigations Division in the event that the injuries later become visible.
- f. Officers 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, 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.
- h. Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
 - 1. Officers 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. Officers shall also seize all firearms in plain sight or discovered in a lawful search. Officers 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). Officers should issue a receipt for the seized items.
 - 2. Officers 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 (CPL), 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, 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.
- j. 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. 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.
 - 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.

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 whether any type of court order will be in effect when the suspect is released from jail.

320.4.3 IF NO ARREST IS MADE

If no arrest is made, the officer shall (RCW 10.99.030):

- 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).
 3. Initiation of a criminal case by the victim.
- b. Advise the parties of the importance of evidence preservation.
- c. Document the resolution in a report.

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 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 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 (RCW 10.99.040).

320.6 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(1)).
- b. When an officer 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 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)).

320.7 REPORTS AND RECORDS

- a. Officers 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 any CPL and be properly coded to alert any officials reviewing the report to the existence of the information concerning firearms (RCW 10.99.030(3)(c)).
- 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).
- 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 appropriate prosecutor within 10 days of the date the incident was reported (RCW 10.99.035).
- d. The Special Services Sergeant 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 Special Services Sergeant should ensure that the original receipt issued for any firearm, dangerous weapon, or CPL 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 (RCW 9.41.801).

320.8 SURRENDER OF PROHIBITED ITEMS

The officer serving a court order that includes an order to surrender and prohibit weapons (OTSPW) 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 CPL be immediately surrendered. Officers 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 the OTSPW, the officer should advise the restrained person of the possible court sanctions and consideration should be given to obtaining a search warrant for seizure.
 2. Advise the restrained person that they may not transfer or sell firearms after the order is issued.
 3. Although a court may identify specific firearms to be surrendered, the restrained person must relinquish all firearms in their custody, control, or possession.
- c. Issue a receipt for any surrendered items.
 1. The officer should ensure the original receipt is forwarded to the Special Services Sergeant 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.