

SALINA POLICE DEPARTMENT			Number
GENERAL ORDER			O2402
SUBJECT: DOMESTIC VIOLENCE			
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PURPOSE

The purpose of this policy is to establish agency priorities, guidelines, and procedures to be followed by officers in response to domestic violence calls, to include when the subject is a law enforcement officer.

POLICY

It is the policy of this Department to provide a proactive, victim-centered approach when responding to domestic violence. Additionally, it is the policy of this Department to take a position of zero tolerance on domestic violence. Any domestic violence incident will be thoroughly investigated, to include when officers or individuals in positions of power or influence are involved.

DEFINITIONS

- D1 Domestic Violence** - an act or threatened act of violence against a person with whom the offender is involved or has been involved in a dating relationship or an act or threatened act of violence against a family or household member by a family or household member. Domestic violence also includes any other crime committed against a person or against property, or any municipal ordinance violation against a person or against property, when directed against a person with whom the offender is involved or has been involved in a dating relationship or when directed against a family or household member by a family or household member.
- D2 Domestic Violence Offense** – any crime committed whereby the underlying factual basis includes an act of domestic violence.
- D3 Dating Relationship** – a social relationship of a romantic nature. In addition to any other factors the court deems relevant, the trier of fact may consider the following when making a determination of whether a relationship exists or existed: Nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and time since termination of the relationship, if applicable.
- D4 Family or Household Members** - persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.
- D5 Predominant Aggressor** - The individual who poses the most serious, ongoing threat, who might not necessarily be the initial aggressor in a specific incident.
- D6 Preferred Arrest Response:** - Officers are expected to arrest any person who commits a crime related to domestic violence as defined by law, unless there is a clear and compelling reason not to arrest, such as self-defense or lack of probable cause, after a comprehensive investigation to identify the predominant aggressor.

- D7** **Protection Order** – Any injunction or other court order issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including any permanent, temporary, or emergency order issued by a civil or criminal court (other than a support or child custody order issued pursuant to state divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other federal law) whether obtained by filing an independent action or pending the litigation in another proceeding so long as a civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.
- D8** **Self-Defense; Defense of Others; Defense of Property** - A person is justified in the use of force against another when and to the extent it appears to such person and such person reasonably believes that such use of force is necessary to defend such person or a third person against such other's imminent use of unlawful force. A person is justified in the use of deadly force under circumstances described above if such person reasonably believes that such use of deadly force is necessary to prevent imminent death or great bodily harm to such person or a third person. Nothing shall require a person to retreat if such person is using force to protect such person or a third person.

PROCEDURE**1. Communications Personnel Response**

- 1.1. Communications personnel should follow standard Dispatch protocols on domestic violence incidents. In addition, Communications personnel shall do the following:
- 1.1.1. Dispatch a minimum of two officers whenever possible.
 - 1.1.2. Assign a priority response whether or not the suspect is known to be on the premises.
 - 1.1.3. Document the call and action taken for the call, including those that involve or appear to involve a law enforcement officer.
 - 1.1.4. Attempt to elicit any and all information from the caller that may help the responding officers assess the situation, including the following:
 - a. The immediate safety of the caller and those at the scene;
 - b. Other persons involved or witnesses at the scene, including children;
 - c. The suspect's relationship to the victim;
 - d. Whether law enforcement has been called before because of this suspect and the number of times;
 - e. Previous history of domestic violence;
 - f. Presence of firearms or other weapons;
 - g. Whether the parties involved are under the influence of intoxicating substances or suffering from mental illnesses;
 - h. Whether the suspect is present, the suspect's description and possible whereabouts.
 - 1.1.5. Ascertain if either the suspect or victim has any outstanding warrants or is on probation or parole.
 - 1.1.6. Determine whether there is a valid protection order against the suspect or whether there have been orders in the past.
 - 1.1.7. Whenever possible and when it will not jeopardize the individual's safety, keep the caller on the line in order to relay ongoing information to the responding officers. An alternative may be to ask the caller to place the phone down but leave the line open if possible and safe to do so.

- 1.1.8. If a caller requests that law enforcement response be cancelled, advise the responding officers of the second call. Officers should continue to respond, investigate, and assess the situation to ensure that all parties are safe. The caller should be advised that officers will be dispatched for this purpose.

2. Initial Law Enforcement Officer Response – Special Considerations

- 2.1. When responding to a report of domestic violence, officers shall follow standard incident response procedures. In addition, officers shall do the following:
 - 2.1.1. Avoid parking law enforcement vehicles in front of the residence or other site of the disturbance when possible.
 - 2.1.2. When initially approaching the scene do not reveal on-air the name of the caller or the caller's whereabouts.
 - 2.1.3. Request entry in the event the incident is at a private residence. A warrantless entry is permissible if there is an objectively reasonable basis to believe that the safety of an occupant may be in jeopardy.
 - 2.1.4. Make contact and with all individuals present, including potential witnesses, victims, or perpetrator(s); separate all parties, keeping all individuals out of sight and hearing range of one another as safety permits.
 - 2.1.5. Restrain and remove the suspect if necessary.
 - 2.1.6. Assess for physical injuries, including inquiry about strangulation or possible internal, nonvisible injuries, and sexual violence; administer first aid; and request medical services as necessary.
 - 2.1.7. Summon emergency medical services at the request of the victim or suspect, or if it appears that strangulation or serious bodily injury has occurred.
 - 2.1.8. Inquire about weapons in the area or access to weapons; identify and take temporary custody of firearms or weapons in plain sight.
 - 2.1.9. Determine whether there are any potential language barriers and request an interpreter where necessary.
 - 2.1.10. Offer to contact a local advocate to provide support to the victim as available and provide a list of current contact information for local domestic violence victim advocacy organizations.

3. On-scene Investigation

- 3.1. Investigating officer(s) should do the following:
 - 3.1.1. Inform the victim in advance of actions to be taken.
 - 3.1.2. Conduct victim interviews in a location away from others at the scene. Interviews should include questions about:
 - a. acts of intimidation intended to prevent the victim from calling law enforcement or seeking other assistance;
 - b. recent or previous stalking behaviors;
 - c. objects or items that were given by the suspect; and
 - d. unwanted contact by the suspect that made the victim feel frightened or threatened.
 - e. obtain written statements from victim and witnesses if possible.

- 3.1.3. If appropriate, take digital color photographs of the victim and suspect whether or not there are any visible injuries.
- 3.1.4. Take photographs of injuries to all parties, including any healing or old injuries.
 - a. Ideally photographs should also be taken later in the event the injuries become more visible and pronounced.
 - b. Descriptive and specific documentation of the injuries should accompany the photos.
 - c. Officers should be sensitive to the victim's need for privacy, which may include the use of an officer of the same sex as the victim to photograph injuries.
- 3.1.5. Collect evidence to establish the facts of the crime, including photographs of the scene.
- 3.1.6. Check for the existence of a protection order or similar court orders through Dispatch or by whatever means available. If one is said to exist, ask the victim if they possess a copy. If not, verify the order through other means.
- 3.1.7. Obtain a comprehensive account of the events from all parties. Whenever reasonable and practical, interviews shall be audio and video recorded. However, if the victim or witness indicates that they do not wish to be recorded, this should be documented in the officer's report and a supervisor should be consulted.
- 3.1.8. Interview children at the scene in a manner appropriate to their age. Document any signs of trauma and any apparent wounds or healing of wounds on the children and take appropriate action, in accordance with law, to prevent imminent harm to the children, such as notifying the appropriate child protective agency.
- 3.1.9. Assess for and document all actual and suspected incidents of violence, including physical and sexual abuse, elder or child abuse, property damage, and animal cruelty.

4. Felonies and Misdemeanors

- 4.1. In domestic violence cases where the officer has probable cause to believe that a felony or misdemeanor crime is being or has been committed:
 - 4.1.1. The officer shall, without undue delay, arrest the person for whom the officer has probable cause to believe committed the crime if such person's actions were not an act of defense of a person or property. In determining the act in defense of person or property a thorough analysis should be made in the totality of circumstances, including, but not limited to:
 - a. A prior history of domestic violence, perpetrated by one party against the other.
 - b. The relative fear of one party to the other.
 - c. The size, strength and bulk of the parties and the ability of one party to be more able to physically dominate the other party.
 - d. Physical and circumstantial evidence that any of the parties acted in defense of self, others, or property.
 - e. Relative severity and extent of the injuries, and whether injuries are offensive or defensive injuries.
 - f. Statements from participants or witnesses, current or previously filed Protection Orders and any other evidence available to the officer.

- 4.1.2. An arrest made as indicated above shall be made despite any inability or unwillingness of the victim to articulate the circumstances surrounding the incident and regardless of the victim's stated desire for prosecution. The victim need not sign a complaint; the arrest procedure will be initiated by the investigating officer.
- 4.1.3. Upon completion of a domestic violence investigation, the officer will (if probable cause exists) determine the appropriate charges for the arrested person. If the arrested person committed city ordinance violations only, the case will be referred to Municipal Court. If state statute violations (not covered by city ordinance) are committed, the case will be referred to District Court. An arrest affidavit must be completed in all cases when referring to District Court.
- 4.1.4. Any person arrested for a Domestic Violence crime or any other crime that involves an offense against a person shall have as a condition of the release a prohibition from having contact with the alleged victim of the offense. This no-contact bond will be in effect for a minimum of seventy two (72) hours and may be continued by the court.
- 4.1.5. Before being released on a personal recognizance bond, any person charged with a Domestic Violence crime will be held by the Saline County jail for a sufficient time, up to a maximum of six (6) hours from the time the person was taken into custody, to allow arrangements to be made to ensure the safety and security of the alleged victim of the offense. The arresting officer will seek supervisory approval and advise the jail staff regarding the need to delay the release of the person charged to allow time for appropriate arrangements. Refer to Salina Police Department General Order, O2302 Arrest/Notice to Appear for further guidance.
- 4.2. Suspect Has Left Scene Prior to Officers Arrival
 - 4.2.1. When probable cause exist for a felony or misdemeanor domestic violence crime and the suspect is not at the scene, **and** there is probable cause to believe that the suspect may cause injury to self or others unless immediately arrested, or has intentionally inflicted bodily harm to another person, the officer shall broadcast an attempt to locate and enter the suspect in the Law Enforcement Records Management System (LERMS) "Alert" section.
 - 4.2.2. When the suspect is located and arrested, the arresting officer shall cause all locate notifications to be cancelled.
 - 4.2.3. If the suspect is not arrested pursuant to the attempt to locate prior to completion of the investigating officer's shift, the officer (if probable exist) shall complete an affidavit for an arrest warrant. The officer shall consult with a supervisor if unable to complete the arrest affidavit.
 - a. Continuation of locate notifications shall be contingent on the totality of facts.
 - b. If a request for an arrest warrant has been made and subsequently the suspect is located and arrested before the warrant is issued, the arresting officer shall immediately notify the appropriate prosecutor's office of the arrest. The officer shall notify them by using the Affidavit/Warrant Cancellation email system.
- 4.3. Officers Shall Not Do the Following:
 - 4.3.1. Make any statement that would discourage a victim from reporting an act of domestic violence.

- 4.3.2. Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel.
- 4.3.3. Avoid taking action because the victim stated prosecution was not desired.

5. Role of the Supervisor

- 5.1. Supervisors shall do the following:
 - 5.1.1. Respond to assist officers investigating incidents of domestic violence when requested by an officer or whenever the incident appears to involve a law enforcement officer, prominent community member, or public official.
 - 5.1.2. Supervise the on-scene investigation, if not already completed, to ensure that appropriate action is taken.
 - 5.1.3. Review all domestic violence reports for accuracy and consistency and conduct after-action reviews, when necessary, to ensure that officers are conducting investigations that are comprehensive, victim-centered, and perpetrator-focused.
 - 5.1.4. Assess for co-occurring and interconnected crimes when responding to domestic violence calls, to include but not be limited to stalking, sexual violence, strangulation, firearms prohibitions, protection order violations, intimidation and threats, and abuse of children, elders, and animals.

6. Protection Order Enforcement

- 6.1. If it has been determined that a protection order or any court mandated restraining order is known to exist, officers shall do the following:
 - 6.1.1. Obtain a copy of the order if available by the victim and verify if active through Dispatch. If no copy is available, officers may use alternative means to verify and establish the terms and conditions as well as service of the order. A copy of the order is not required for enforcement. Officers should never avoid taking action simply because the victim does not have a copy of the order.
 - 6.1.2. Enforce the order even if it was issued by another jurisdiction.
 - 6.1.3. Determine if the order or applicable law prohibits firearm possession by the suspect. If so, officers shall:
 - a. encourage the voluntary relinquishment of firearms and ammunition for safekeeping;
 - b. seize unlawfully possessed firearms and ammunition located in plain view or pursuant to a consensual or other lawful search; or
 - c. request a search warrant.
 - 6.1.4. Enforce custody provisions in accordance with jurisdictional law and language of the order.
 - 6.1.5. Document order information in the report including verification and terms of order.
 - 6.1.6. Document violation and prepare a report even if the suspect is not on scene. Attempts shall be made to locate and arrest the suspect.
 - 6.1.7. Never penalize or arrest the petitioner for violation of the restrictions detailed in the order.

7. The Arrest Decision

- 7.1. Officers shall never ask the victim if they want the suspect to be arrested.
- 7.2. Officers shall make a warrantless custodial arrest in accordance with applicable law (K.S.A. 22-2401), as part of the preferred arrest response; if probable cause exists to believe that a person has committed a crime involving domestic violence as defined by law or has violated a protection order. **Issuance of a notice to appear citation and field release are not permitted in domestic violence case where grounds for custodial arrest are present.**
- 7.3. Nothing in this policy shall be construed to require an officer to:
 - 7.3.1. Arrest either party involved in an alleged act of domestic violence when the officer determines there is no probable cause to believe that a crime has been committed; or
 - 7.3.2. Arrest both parties involved in an alleged act of domestic violence when both claim to have been victims of such domestic violence.
- 7.4. Officers shall follow Department policy on identifying and responding effectively to a child, present or not present, whose parent is arrested.
- 7.5. When making arrest decisions, officers shall consider which individual appears to be the predominant aggressor.
- 7.6. If an arrest is not made, the officer must provide an explanation in the report as to the reason why.
- 7.7. When an arrest cannot be made due to lack of probable cause, the officer should:
 - 7.7.1. Explain to the victim the reasons that an arrest is not being made, and
 - 7.7.2. Facilitate contact, when appropriate, with a local domestic violence service provider for information regarding counseling and other services.
- 7.8. Dual arrests are strongly discouraged. If an officer has probable cause to believe that two or more persons committed a crime and probable cause exists to arrest both parties, the arresting officer shall contact their supervisor before proceeding with the arrests. In the event of a dual arrest, the report shall include a detailed explanation indicating the probable cause for each arrest. The report shall include:
 - 7.8.1. There is probable cause that both persons committed a crime involving domestic violence, and
 - 7.8.2. Neither person acted in defense of property, self, or another person.

8. Domestic Violence by Law Enforcement

- 8.1. In cases where one (or more) party of a domestic violence incident is a law enforcement officer, responding officers shall follow standard domestic violence procedures as outlined in this policy, regardless of jurisdiction. In addition, the following procedures shall be followed:
 - 8.1.1. Notifications:
 - a. When communications personnel receive a call that involves or appears to involve a law enforcement officer, they shall immediately (1) notify and dispatch a supervisor, regardless of the involved individual's jurisdiction, and (2) notify responding officers that the call involves a law enforcement officer.

- b. If previously unaware that the call for service involves a law enforcement officer, responding officer(s) shall immediately notify communications personnel and request that a supervisor of higher rank than the involved officer report to the scene. If there is no one of higher rank on duty, the Patrol commander should be notified.
 - c. The on-scene supervisor shall follow the mandatory call-out list for notifications as soon as possible.
 - d. In the event that the officer is from another jurisdiction, the supervisor shall ensure that a supervisor from the accused officer's jurisdiction is notified.
 - e. In the event that the reported incident involves the chief executive of a law enforcement agency, the appropriate prosecutors and the individual with direct oversight of the accused individual shall be notified.
 - f. All notifications and attempts to notify shall be fully documented.
- 8.1.2. Arrest warrants charging law enforcement officers with domestic violence and protective orders issued at a later time shall be served by no fewer than two officers with at least one being of senior rank to the officer being served.
- 8.1.3. In cases where an accused officer is arrested and firearms have not previously been seized, lawful attempts shall be made to seize the firearms by the Department or applicable law.
- a. supervisor, when possible, shall relieve the accused officer of all service weapons regardless of whether the officer is a member of the responding agency.
 - b. If the accused officer is a member of an agency in another jurisdiction, the service weapon shall be relinquished to officials at that agency.
- 8.1.4. The Department policy regarding administrative investigations of alleged misconduct shall be followed. This may include taking administrative action if it has been determined that Department policy was violated.

9. Victim Safety Precautions

- 9.1. Officers shall do the following:
- 9.1.1. Remain at the scene of the incident until the situation is under control.
 - 9.1.2. Provide victims with a Salina Police Department pamphlet which shall contain at a minimum the following information:
 - a. The availability of emergency and medical telephone numbers, if needed;
 - b. the Department case number;
 - c. the address and telephone number of the prosecutor's office the victim should contact to obtain information about victim's rights pursuant to K.S.A 74-7333 and 74-7335 and amendments thereto;
 - d. the name and address of the crime victims' compensation board and information about possible compensation benefits;
 - e. that details of the crime may be made public;
 - f. victims' rights under K.S.A. 74-7333 and 74-7335 and amendments thereto; and
 - g. known available resources which may assist the victim;
 - h. a statement advising that in some cases the person arrested can be released from custody in a short amount of time;

- i. a statement that in some cases a bond condition may be imposed on the person arrested that prohibits contact with the victim for 72 hours, and that if the person arrested contacts the victim during that time, the victim should notify law enforcement immediately; and
 - j. any available services within the jurisdiction to monitor changes of the person arrested, including, but not limited to, the Kansas victim information and notification everyday services if available in such jurisdiction.
- 9.1.3. Advise the victim what to do if the suspect or others harass or intimidate the victim, witnesses, or others.
- 9.1.4. Assist the victim in establishing a safety plan, whether or not they plan to remain with the suspect.
- 9.1.5. Officers should document the level of danger posed to the victim by completing the Lethality Assessment form in order to determine the perpetrator release decisions and developing a safety plan for the victim.
 - a. The Lethality Assessment is an instrument and a protocol for officers to follow to help identify victims who are in danger of being seriously harmed, including death. An officer using a lethality assessment will ask victims of domestic violence the listed eleven questions that have been determined to be critical factors in identifying victims with the greatest potential of being harmed.
 - b. During the screening process, if the protocol referral is triggered, the officer will advise the victim that people in similar situations have been seriously harmed, including death, and the officer would like the victim to speak with a domestic violence advocate. The officer will provide victims with the Domestic Violence Association of Central Kansas (DVACK) phone number and encourage them to contact an advocate.
 - c. A Domestic Violence Lethality Screen must be completed whenever an officer interview victims of domestic violence and submit it to Records to be merged with the case.

10. Incident Documentation

- 10.1. Officers shall complete a thorough, detailed report following response to or investigation of a report of domestic violence, whether or not an arrest is made and all such incidents will be sent to the Kansas Bureau of Investigations (KBI.)
- 10.2. In addition to routine documentation regarding the incident, officers should ensure that elements as they relate to the domestic violence relationship are captured, including, but not limited to the following:
 - 10.2.1. Observations upon approach, including the demeanor of the victim, suspect, and witnesses;
 - 10.2.2. Relationship of parties involved;
 - 10.2.3. History of relationship;
 - 10.2.4. Current or past protection orders;
 - 10.2.5. Prior calls to the location involving the suspect;
 - 10.2.6. Probation or parole status of the suspect;

- 10.2.7. Information on co-occurring crimes to include, but not be limited to, stalking; sexual violence; strangulation; firearms prohibitions; protection order violations; intimidation and threats; and abuse of children, elders, and animals;
- 10.2.8. Details of any children present;
- 10.2.9. All threats and intimidation tactics used by the suspect;
- 10.2.10. Presence or use of firearms or weapons.

11. Post-Incident Follow-Up

- 11.1. When appropriate, officers should conduct a follow-up contact with victims of domestic violence and inquire whether additional violence or intimidation has occurred.
- 11.2. Subsequent incident(s) shall be treated as separate events, assigned a new case number, and investigated in accordance with this policy.

12. Training

- 12.1. All sworn officers shall receive comprehensive mandatory instruction on this policy, including legal updates, on an annual basis.

BY ORDER OF

CHIEF OF POLICE