



Wilmington Police Department

Directive: 5.04 Domestic Violence

CALEA Standards:



I. Purpose

The purpose of this directive is to prescribe preliminary courses of action for a Police response to domestic violence incidents.

II. Definitions

For the purposes of Domestic Violence (DV) investigations, DV reporting is limited to categories as defined in NCGS 50B.

Domestic violence defined (NCGS 50B-1): Where a family or household member commits or attempts to commit the following types of offenses against another:

- A. Attempting to cause bodily injury, or intentionally causing bodily injury, excluding acts of self-defense;
- B. Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury; or
- C. Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.

III. Procedure

- A. Responding officers shall determine the following:
 - 1. If the suspect is not present, obtain the suspect's description and possible whereabouts;
 - 2. If weapons were involved;
 - 3. If anyone has been injured;
 - 4. If the offender is under the influence of drugs or alcohol;
 - 5. If there were children present;
 - 6. If the victim has a current protective or restraining order, which is verified through the 911 Center or with the victim producing a valid copy of the order;
 - 7. If there is a history of domestic violence complaints;
 - 8. Determine if an injury is a result from an act of self-defense.
- B. On-Scene Investigative Officer Responsibilities - when responding to a domestic violence call, the officers shall:
 - 1. Physically separate the parties involved;
 - 2. Gain control of the situation;
 - 3. Control weapons used or threatened, treat as evidence;
 - 4. Arrange for timely medical attention if indicated;
 - 5. Interview all participants, to include third parties if possible. Conduct these interviews with the parties separated;
 - 6. Collect and record evidence and, if possible, take color photographs of injuries and related property damage;
 - 7. Document **every** response with appropriate written reports;

8. Provide victim with the incident report number and officers ID;
9. If the offender has left the scene and a crime has been committed, officers shall:
 - a. Search the immediate area
 - b. Ascertain the whereabouts of the offender
 - c. Seek an arrest warrant and attempt to serve same
 - d. Refer the matter to the investigative unit
10. Children present during the investigation should be interviewed in private, if possible;
11. If a juvenile (age 17 or less) is exposed to domestic violence, DSS should be notified in a timely manner;
12. If extraordinary circumstances exist, seek advice of a patrol supervisor. If needed, consider calling out the domestic violence investigator for further guidance.

C. Arrest

1. Officers should make an arrest when probable cause and legal authority exist. Field release and issuance of a citation **ARE NOT** permitted in domestic violence cases when grounds for an arrest are present.
2. If an arrest is not made where probable cause exists, officers shall fully explain the basis for their non-arrest decision.
3. Officers should emphasize to the victim and the offender that the criminal action is being initiated by the state and not the victim. Victims' desire for non-arrest of offender is NOT a consideration.
4. Officers shall comply with NC General Statute 50-B which requires an arrest when probable cause indicates that the person has violated a court order.
5. Officers shall immediately arrest or seek arrest warrants for persons found to be in violation of a NCGS 50B protective order.

D. Officers Required to Inform Victims: WPD officers are required to provide the following assistance information to victims, batterers, and, where appropriate, the children of these individuals:

1. Advise all parties about the criminal nature of family violence, its potential for escalation, and that help is available.
2. Secure timely medical treatment for victims.
3. Ensure the safety of the children present.
4. Remain on the scene until satisfied that there is no threat to the victim.
5. Remain on the scene to preserve the peace if one person needs to remove personal (not joint) property.
6. Provide the victim with Victim's Right form and obtain their signature on the receipt.
7. Where necessary, transport the victim to an available shelter or suitable alternative safe haven.

8. If children were present during the incident, contact a supervisor and DSS.
- E. Officers of the Wilmington Police Department shall maintain a pro-active arrest position, in accordance with the law in those situations where officers can articulate probable cause. An arrest for misdemeanor assault can be made even if the offense is not committed in the officer's presence.

IF A PRIMARY AGGRESSOR CAN BE IDENTIFIED AND YOU HAVE PROBABLE CAUSE, AN ARREST SHOULD BE MADE.

Dual arrests are highly discouraged in a domestic violence incident. Officers shall make every effort to determine the primary aggressor.

Dual arrest can lead to:

1. Victim re-victimization;
 2. Actual perpetrator claiming assault so the victim will be arrested;
 3. Victim not reaching out for help the next time an incident occurs due to fear of being arrested;
 4. Impeding the State's ability to successfully prosecute the case. This often leads to a dismissal by the State or a not guilty verdict for both arrestees. This can empower the actual aggressor and leave the victim helpless.
- F. Every** domestic violence call shall be documented using the Incident Report and DV Supplement for DV Violations **or** the Domestic Violence Field Report Form for domestic calls where no assault or allegation of a crime has occurred or has been alleged. Also, the Victim's Rights form shall be provided to the victim.