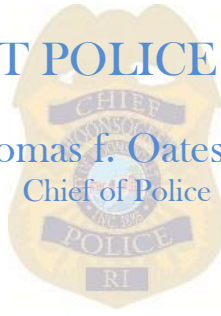


WOONSOCKET POLICE DEPARTMENT

Thomas J. Oates, III
Chief of Police



| TYPE OF ORDER | NUMBER/SERIES | ISSUE DATE | EFFECTIVE DATE |
|---|---------------|-------------------------|----------------|
| General Order | 340.05 | 7/23/2021 | 7/23/2021 |
| SUBJECT | | PREVIOUSLY ISSUED DATES | |
| Domestic Violence Investigations | | 11/13/2013, 2/1994 | |
| ACCREDITATION | | RE-EVALUATION DATE | |
| CALEA Standards: N/A RIPAC Standards: 6.12 | | 4/29/2021, 8/21/2023 | |
| INDEX | | DISTRIBUTION | |
| Investigations | | Sworn Personnel | |

DOMESTIC VIOLENCE INVESTIGATIONS

I. PURPOSE

The purpose of this policy is to facilitate the investigation and establish uniform policies for domestic violence responses.

II. POLICY

It is the policy of the Woonsocket Police Department to fully and vigorously investigate and prosecute all domestic violence offenses.

III. DEFINITIONS

DV/SA Form: A form completed by a law enforcement officer who responds to or investigates domestic violence, whether or not an arrest occurs, as required by Rhode Island General Law [§12-29-8](#) entitled, "Domestic Violence Reports." The form is completed in sexual assault cases when probable cause is established.

Domestic Violence and Sexual Assault Advocate: A civilian with experience in issues of violence against women and/or crisis intervention working with law enforcement agencies on domestic violence and sexual assault cases. The employment of an Advocate allows law enforcement agencies to focus their energies on the criminal investigation, while the Advocate provides crisis intervention services. Funding for the Advocate is

provided through the Federal STOP Violence Against Women Act Formula Grant Program, administered by the Rhode Island Governor's Justice Commission on behalf of the Rhode Island Police Chief's Association.

IV. PROCEDURES

A. Arrest

1. Preferred Response: An arrest is a preferred response to domestic violence situations when it is consistent with the remainder of this policy.
2. Law Enforcement Duties:
 - a. It shall be the responsibility of the law enforcement officer at the scene of the domestic violence scene to provide immediate assistance to the victim;
 - b. Determine if medical assistance is needed. If so, secure appropriate medical treatment including transportation to a medical facility if no other reasonable transportation exists;
 - c. Provide the victim with notice of victims' rights; and
 - d. Afford protection until the victim is safely away from the scene of the arrestee.
3. Probable Cause Elements:
 - a. An arrest shall be made upon a finding of probable cause. According to Rhode Island General Law [§ 12-29-3\(b\)\(1\)](#), "When law enforcement officers respond to a domestic violence situation and has probable cause to believe that a crime has been committed, the officer shall exercise arrest powers."
 - b. Arrest the perpetrator when there is probable cause to believe that any of the following have occurred:
 - 1) Felony assault;
 - 2) An assault resulting in bodily injury to the victim, whether or not the injury is observed by the responding officer;
 - 3) Physical action which was intended to cause another to be in reasonable fear of imminent serious bodily injury or death;
 - 4) Violation of a protective order; or
 - 5) Any other crimes prescribed by Rhode Island General Law [§12-29-2](#).
4. Victims – Persons Protected Under the Domestic Violence Act:
 - a. Family or household member: Spouses, former spouses, adult persons related by blood or marriage;
 - b. Adult persons who are presently residing together or who have resided together in the past three (3) years;
 - c. Persons who have a child in common regardless of whether they have been married or have lived together at any time; and
 - d. Persons involved in a "substantive dating relationship", at any time during the last twelve (12) month period, are protected under the Domestic Violence Act,

whether over or under the age of 18. A substantive dating relationship is determined by considering the length and type of relationship and the frequency of interaction between the individuals.

5. Other Considerations:

a. Counter Complaints/Primary Aggressor

- 1) A counter-complaint is when each party alleges that a crime has been committed against him or her by the other party.
- 2) Do not dismiss the incident by presuming two-party guilt. Officers are strongly discouraged from arresting both parties. Arresting both the victim and the abuser belittles the seriousness of the abuse.

- b. Investigate accusations by evaluating each party's complaint. If the officer believes mutual assaults occurred and mutual arrests are necessary to protect both victims, probable cause for each arrest should be detailed in separate incident reports.
- c. On scene, the officers' duty under the law is to determine the primary aggressor. The primary aggressor refers to the "most significant aggressor."
- d. Do not decide whether to arrest and charge based on the victim's consent, the victim's request, or the relationship between the parties.
- e. The signing of a complaint is not a prerequisite to arrest. If you find probable cause exists to believe a domestic violence crime has been committed, you may arrest without a warrant within the proper time frame.
- f. Temporary Restraining Order(s) (TRO) / Protective Order are not a prerequisite to arrest.
- g. An arrest without a warrant may be made within 24 hours of the incident.
- h. In the event an arrest is not made within 24 hours, apply for an arrest warrant before an arrest is made.

B. Absence of Alleged Abuser

1. Necessary Inquiries:

- a. The officer shall inquire as to whether a restraining order or no-contact order exists.
- b. If protective order exists, the officer shall check the police department's in-house file of restraining orders and no-contact orders. Also, available twenty-four (24) hours, seven (7) days, is the state's RONCO database file including all orders issued, modified, or canceled.

2. Absent Alleged Abuser:

- a. In the absence of an alleged abuser, an officer will utilize the following methods to effectuate an immediate arrest, giving the case top priority.

- b. If the alleged abuser does not live within the police department's district, contact the appropriate police department, and enlist its help to effectuate an arrest.
 - 1) Promptly send a copy of the complaint and warrant to the appropriate police department.
 - 2) Request an officer to promptly investigate the last known address of the alleged abuser.
- c. If the address of the alleged abuser is unknown, it is the police officer's responsibility to use their best efforts to promptly find and arrest the person on a priority basis.
- d. If there is a restraining order, refer to section E.
- e. If there is no outstanding order, advise the victim where and how to seek one.
- f. Law enforcement advocate services.
- g. Shelters available for victims.

C. Lack of Probable Cause

- 1. If no probable cause exists:
 - a. Remain on the scene until the victim and any children leave and/or are safe, providing any necessary transportation to ensure their safety when no other reasonable transportation exists;
 - b. Advise the victim of the right to file a criminal complaint against the alleged abuser should the probable cause be established at a later time;
 - c. Advise the victim of the right to apply for a restraining order in the Family or District Court; and
 - d. Complete an incident report to document the incident.
- 2. Application for Restraining Orders:
 - a. Make the victim aware that applying for the restraining order is a two-step process:
 - 1) **STEP ONE:** A temporary restraining order (TRO) is an initial remedy good for 21 days - no notice is required for the order to be granted - the order is valid and enforceable upon signature of the judge. However, the defendant must receive notice of the TRO to violate the TRO.
 - 2) **STEP TWO:** A permanent order, technically known as a protective order, is issued after notice to the defendant and a hearing by the court. It is valid for up to three (3) years and may be extended by the court.

D. Victim's Rights

- 1. Information:
 - a. Regardless of whether an arrest has been made, give the victim a copy of the VICTIM'S RIGHTS - DOMESTIC ABUSE pamphlet. Tell the victim of their rights.

- b. Inform the victim of available resources including Family and District Court restraining orders, domestic violence and offender programs for abusive partners, and shelters for battered women and their children.
2. Obtaining a Restraining Order:
- a. Be sure to advise the victim to apply for a restraining order/injunction in the Family or District Court in the area where they are staying, even if temporary.
 - b. Rhode Island General Law [§ 15-15-2](#) Family Court Restraining Order - Victims, who are married, formerly married, related by blood or marriage, have a child in common, or are in a substantive dating or engagement relationship wherein one or both parties are minors may petition the Family Court for a restraining order.
 - 1) A Family Court Restraining Order may be obtained when the court is unavailable after the close of business. Any judge of the Family Court may grant relief to the plaintiff if in the plaintiff's statement that immediate and irreparable injury, loss, or damage will result to the plaintiff. At the discretion of the judge, relief may be granted and communicated by the judge over the telephone to a police officer who shall record such an order on a temporary order form. The Prosecution Division shall ensure that such a copy will accompany the complaint with a copy of the plaintiff's written statement and is delivered the next court day until the clerk of the appropriate Family Court. This order remains in effect to the Family Court resumes the next business day. The victim must then refile for a restraining order with the Family Court. The defendant must be served with a copy of the emergency order or at a minimum receive verbal notice by the law enforcement agency of this emergency order for a violation to be an arrestable offense.
 - c. Rhode Island General Law [§ 8-8.1-2](#) District Court Restraining Order - Victims who do not meet the relationship requirements for a Family Court restraining order, BUT who have lived with the defendant at some time during the past three years, or who have been in a substantive dating relationship with the defendant during the past year may petition the District Court for a restraining order.
3. Foreign Restraining Orders:
- a. Foreign Restraining Orders are from jurisdictions outside of Rhode Island.
 - b. The Federal Full Faith and Credit Act now mandate that all states honor protective orders from all other states and jurisdictions.
 - c. Rhode Island General Law [15-15.1-4](#), entitled, "Non Judicial enforcement of order" dictates the officer's response to Foreign Protection Orders complaints, to include the following:

- 1) Presentation of the protective order that identifies both the protected individual and the respondent and on its face, is currently in effect constitutes probable cause to believe that a valid protection order exists.
 - 2) Presentation of a certified copy of the protection order is not required for enforcement.
 - 3) Registration or filing of an order in this State is not required for the enforcement of a valid foreign protection order under this chapter.
- d. Superior Court Restraining Order
- 1) Superior Court Restraining Orders are petitioned in Court by the victim/plaintiff, they have no criminal sanction attached to it. Police cannot arrest on a violation charge if the order is violated.
4. Where allowable under federal, state, or local ordinances, all firearms owned or at the disposal of the accused person shall be removed to ensure the victim's safety.

E. Violation of a Restraining Order/No Contact Order

1. Procedure
 - a. Step One: Verify that any restraining order or no-contact order given to a police officer is still valid.
 - b. Step Two: Determine if probable cause exists to believe a violation of the order's terms and conditions has occurred.
 - c. Step Three: If the order has been violated and the abuser has notice of the order, the officer will arrest.
 - d. Step Four: If notice or service has not been made, hand the abuser (defendant) a copy giving notice of the order (victim will have an extra copy). If the abuser (defendant) refuses to abide by the order, an arrest shall be made.
 - e. Step Five: **Initial the victim's (plaintiff's) copy of the restraining order, note the time and date of giving notice, and your (the officer's) name and badge number as well as the offense report number. Without the above, the court will not honor "actual notice". Fax a copy of the order to RONCO.**
 - f. Step Six: A court-issued restraining order or no-contact order can be violated only by the abuser (defendant). It is not legally possible for the victim (plaintiff) to violate the order.

F. Charging / Potential Victims

1. Charging
 - a. The legislature has included a separate penalty section R.I.G.L. [§12-29-5](#), which mandates counseling for domestic violence offenders, who have been convicted or placed on probation. This section must be charged for any crime involving domestic relationships. Domestic violence crimes include, but are not limited to, the following:

- 1) Simple Assault;
- 2) Felony Assault;
- 3) Strangulation;
- 4) Vandalism;
- 5) Disorderly Conduct;
- 6) Trespass;
- 7) Kidnapping;
- 8) Child snatching;
- 9) Sexual Assault;
- 10) Homicide;
- 11) Violation of Protective Order;
- 12) Stalking;
- 13) Failure to relinquish telephone;
- 14) Burglary and unlawful entry;
- 15) Arson;
- 16) Cyberstalking and cyberharassment; and
- 17) Electronic tracking of motor vehicles.

G. Police Reporting and Other Responsibilities

1. **The police officer must complete a report for any domestic violence incident along with a DVSA form, regardless of whether an arrest has been made,** as required by RIGL [§ 12-29-8](#), entitled, “Domestic Violence Reports”. The report will include but is not limited to the following:
 - a. Names of each of the parties;
 - b. Relationship of the parties;
 - c. Gender of each of the parties;
 - d. Birthdate of each of the parties;
 - e. Time and date of the incident;
 - f. Whether a child was involved and whether the alleged act of domestic occurred with the child present;
 - g. A determination must be made whether a child was involved and whether the act of domestic abuse was committed in the presence of the child. If so, RI General Laws 40-11-3 (a) mandates that any person who has a reasonable cause to know or suspect that any child has been abused or neglected...shall within (24) twenty-four hours transfer that information to the Department of Children Youth & families or their agent at 1-800 RI-CHILD;
 - h. Type and extent of alleged abuser;
 - i. Number and types of weapons involved;
 - j. Existence of any present or prior court protective order; and
 - k. Any other information which is relevant to complete analysis of all circumstances leading to the incident.
2. Collect evidence from the scene. Take photographs of the scene, including, but not limited to the children, ripped and/or bloody clothing, telephones ripped from

the walls, and damage to walls and doors. Take statements from witnesses as soon as possible.

H. Immunity

1. Police officers will not be held liable for false arrest in any civil action for an arrest based upon probable cause or for enforcement in good faith of a court order ([§12-29-3\(D\)](#)).

I. Domestic Violence and Police Department Members

1. Officers who are alleged abusers will be held to the same standard as alleged abusers in the community. Failure on the part of any officer to apply the Domestic Violence statutory provisions to a fellow officer is a ground for disciplinary action. Officers arrested for domestic violence by another agency are required to make a notification to the Chief of Police immediately.

RI 6.12

J. Training

1. All officers receive initial training on Domestic Violence at the Rhode Island Municipal Police Academy (RIMPA).
2. Officers receive refresher training on domestic violence issues at least once every three years, including legal updates.

Per order,

Thomas F. Oates, III

Chief of Police

Written directives published within PowerDMS are in full force and effect on the referenced dates and have been approved by the Chief of Police