

TOWN OF OSCEOLA POLICE DEPARTMENT		POLICY: DOMESTIC ABUSE – INVESTIGATIONS	
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CHIEF: DONALD COOK		DATE: 04/10/2022	

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I. PURPOSE:

The purpose of this policy is to establish guidelines for responding to domestic abuse with a particular focus on violent criminal conduct. It shall be the goal of this department to deter defendants from committing future acts of violence, and hold abusers accountable for their criminal behavior.

When responding to calls related to domestic abuse, officers shall help victims, while taking precautions to reduce potential injuries to the victims and themselves.

II. POLICY:

It is the policy of the Township of Osceola Police Department to thoroughly investigate all domestic abuse incidents and arrest the Predominant Aggressor when a crime, or violation of an ordinance, has occurred. Early intervention is critical to the effort of reducing the frequency and escalation of domestic abuse, and ultimately lessening the inherent danger to the parties involved. Officers should always be aware that the potential for continued violence exists and that they may find themselves dealing with a violent suspect. The risk of violence often escalates when court orders are served and relationships end in separation.

Children who witness domestic violence often display various emotional, physical, and behavioral symptoms. This department is committed to meeting the needs of children who witness domestic violence by sharing information with service providers and by connecting children with resources in the community.

### III. DEFINITIONS:

**CRIMINAL DOMESTIC ABUSE:** Any of the following engaged in by an adult person (17 years of age or older) against his or her spouse or former spouse, against an adult (18 years of age or older) with whom the person resides or formerly resided or against an adult with whom the person has a child in common (§968.075(1)(a), Wis. Stats.):

1. Intentional infliction of physical pain, physical injury or illness. Some examples include:

**Physical Violence**

Hitting; Strangling; Pushing; Slapping; Grabbing; Kicking;  
Beating; Shoving; Suffocating; Forcing Sex; Biting; Pulling Hair;  
Burning; Using a Weapon

2. Intentional impairment of physical condition.
3. A violation of §940.225(1), (2) or (3), Wis. Stats. (Sexual Assault, Statutes excluding 4<sup>th</sup> degree.)
4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under sub. 1, 2 or 3.

**LETHALITY ASSESSMENT SCREENING:** A process of identifying victims of domestic violence who are at the greatest risk of being killed and encouraging them to utilize the services of a domestic violence service program.

NON-CRIMINAL DOMESTIC ABUSE:

1. Financial Abuse: refusing to give someone enough money to live or taking all of the money from a joint account.
2. Emotional /Verbal Abuse: name-calling, telling lies, demeaning remarks and manipulation.
3. Isolation: forcing someone to stop talking to his/her friends or relatives, hiding car keys or disabling a phone to prevent contact.
4. Power and Control: using the children as pawns, taking or breaking things valued by the victim, intimidating looks/body language, verbal threats and threats of suicide.

PREDOMINANT AGGRESSOR: The most significant, but not necessarily the first aggressor in a domestic abuse incident (§968.075 (1)(c)).

## IV. INITIAL CALL RECEPTION

- A.) When the Fond Du Lac County Dispatch Center receives a domestic related call, the dispatcher shall attempt to ascertain the following information:
- 1.) The location of the dispute. (e.g., House #, Apt #, house color, outside lights on, etc.)
  - 2.) The extent of injuries, to determine if an ambulance needs to be dispatched.
  - 3.) The number of people involved, and their names.
  - 4.) Whether weapons are involved or available.
  - 5.) Whether any of the disputants are intoxicated.
  - 6.) Whether there are any children involved or present.
  - 7.) The relationship of the caller to the disputants.
  - 8.) The existence of court injunctions or temporary restraining orders.
  - 9.) Master name data, if available.
- B.) Dispatch personnel shall evaluate the information received and dispatch police personnel accordingly. Surrounding agencies may be drawn upon depending on information obtained by dispatch.
- C.) Unwillingness on the part of the caller to provide any requested information should not preclude the dispatch of police personnel.
- D.) Dispatch shall make responding officers aware of all relevant information surrounding the incident.

## V. INITIAL OFFICER RESPONSE

- A.) Caution should be exercised when approaching the location of a domestic dispute and when handling the incident itself. The first responding officer shall wait until a backup (second) officer arrives at the scene before entering the site of the incident unless circumstances require immediate action.

## VI. OFFICER INTERVENTION

- A.) Initial Encounter

- 1.) Assess the environment to include a safe approach (weapons, occupants, tension level, etc.)
  - 2.) Determine if medical assistance is needed or desired by either party.
  - 3.) De-escalate and neutralize the situation (remove potential weapons).
  - 4.) Separate and isolate all parties involved.
  - 5.) Ask about the presence or access to firearms. Any weapons that are used, displayed, or threatened will be secured as evidence. If weapons are present but not to be secured as evidence of a crime, discuss with the victim whether they should be removed for safety, and held at OTPD.
- B.) Interview All Involved Parties (Including Children)
- 1.) Maintain third-party neutrality.
  - 2.) Determine the type of threat, pain inflicted, or injuries present.
  - 3.) Ask about prior domestic abuse incidents.
  - 4.) Identify and interview all children who were present when the domestic violence occurred to determine if someone has physically or emotionally harmed them. Even if the child was not a direct victim of violence, the officer's intervention is an opportunity to validate the child's feelings and address specific fears.
    - a. The offense report shall include the name, age, and school of attendance for each child at the residence, even if the child was not a direct victim of emotional or physical violence.
    - b. During the school year, officers may be asked to review cases of domestic violence involving students and will provide follow-up.
    - c. If the disposition of the dispute leaves children in the home without a responsible adult, the investigating officer shall contact Child Protective Services for assistance.
    - d. In the event a child appears to be a victim of physical, sexual, or emotional abuse, the investigating officer shall take immediate action to investigate the matter, including notification of Child Protective Services.
- C.) Mandatory Arrest – Circumstances Requiring Arrest
- 1.) A law enforcement officer shall arrest and take a person into custody if the officer has reasonable grounds to believe that the person is committing, or has committed domestic abuse and that the person's actions constitute the commission of a crime; and any of the following apply: §968.075(2), Wis. Stats.
    - a. The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim is likely.
    - b. There is evidence of physical injury to the alleged victim.
    - c. The person is the predominant aggressor.
  - 2.) If the officer's reasonable grounds are based upon a report of an alleged domestic abuse incident, the officer is required to make a custodial arrest if the report is received, within 28 days after the day the incident is alleged to have occurred. §968.075(2)(b), Wis. Stats.
  - 3.) On occasion, officers will encounter a victim who is too afraid of the suspect to make a formal complaint. Likewise, officers deal with victims, who desire, or even demand, enforcement action, only to recant at a later date. The

officer is responsible for determining if the essential elements of a crime are present and will ultimately decide if an arrest shall be made.

- 4.) An officer's decision as to whether or not to arrest under this policy may not be based upon the consent of the victim to any subsequent prosecution or on the relationship of the parties. §968.075(3)(c), Wis. Stats.
  - 5.) An officer's decision not to arrest may not be based solely upon the absence of visible indications of injury or impairment. §968.075(3)(d), Wis. Stats.
  - 6.) The District Attorney will review each police report referred to their office and determine if a sufficient amount of probable cause exists to issue a criminal complaint. The fact that a victim may change his or her mind about the desirability of prosecuting after the initial complaint will not be a controlling factor for the District Attorney. In order to assist the District Attorney, officers should make an effort to obtain written statements from all parties involved.
  - 7.) If the suspect is not on scene and cannot be located within a reasonable amount of time, the investigating officer shall complete the investigation and refer the report to the District Attorney's Office requesting the issuance of a complaint and warrant or summons.
  - 8.) Investigations involving victims of domestic abuse, who are seventeen years of age and younger, should be treated as child abuse, and the investigating officer should involve the appropriate department of human services.
- D.) Determining the Predominant Aggressor
- 1.) When an officer has reasonable grounds to believe that adult spouses, former spouses, or other adult persons that reside or have resided together or have a child in common, are committing or have committed domestic abuse against each other, the officer does not have to arrest both persons, but should arrest the person whom the officer believes to be the Predominant Aggressor. §968.075(2)(am), Wis. Stats. (Refer to Appendix A)
  - 2.) When determining the Predominant Aggressor, the officer should consider the intent of this policy to protect victims of domestic violence. §968.075(2)(ar), Wis. Stats. Additional considerations include:
    - a.) The history of domestic abuse between the parties, if it can reasonably be ascertained by the officer, and any information provided by witnesses regarding that history.
    - b.) Statements made by witnesses.
    - c.) The relative degree of injury inflicted on the parties.
    - d.) The extent to which each person present appears to fear any party.
    - e.) Whether any party is threatening or has threatened future harm against another party or another family or household member.
    - f.) Whether either party acted in self-defense or in defense of any other person under the circumstances described in §939.48, Wis. Stats.
  - 3.) If an officer identifies the predominant aggressor, it is generally not appropriate for an officer to arrest anyone other than the predominant aggressor. Officers who believe that it is necessary to arrest two or more people from a single domestic incident, must review their investigation with

an operations supervisor and get the supervisors approval before making multiple custodial arrests. §968.075(2)(am), Wis. Stats.

E.) Lethality Assessment Program (LAP)

- 1.) The LAP screening is initiated only in cases of intimate partner relationships (i.e., husband-wife; separated or divorced husband-wife; boyfriend-girlfriend; ex-boyfriend-girlfriend; dating and cohabitating relationships; same-sex relationships; children in common)

AND

There also must be some manifestation of danger (even if an arrest had not been made in the most recent contact) such as:

- a. When you believe there's been an assault or other act of domestic violence. This standard is much lower than a showing of probable cause.
  - b. When the officer believes the victim faces danger once police clear from the scene
  - c. When the address or involved parties are repeaters
  - d. When the officer's training, experience and instincts as a professional tell them the situation is dangerous
- 2.) Investigating officer shall ask all of the questions, in order, as they are written on the lethality screening form.
  - 3.) The responses from the victim will help dictate whether an officer proceeds to contact Harbor House after the lethality screening. Responses include:
    - a. Yes to questions #1, #2 or #3 – A call to Harbor House is required
    - b. Yes to any four questions #4-11 – A call to Harbor House is required
    - c. Victim was not able to answer because of immediate medical needs
    - d. "No," or negative responses, to all of the assessment questions, or positive responses to no more than three of questions #4-11, may still warrant a call to Harbor House if the officer believes it is appropriate. Officers may call Harbor House whenever they believe the victim is in a potentially lethal situation.
  - 4.) Whenever the victim has responded negatively to all questions or given positive responses to no more than three of questions #4-11, the officer should ask the victim the following question: "Is there anything else that worries you about your safety? (If "yes") What worries you?" The response to the question may help the officer better determine whether to contact Harbor House.

F.) Non-High Danger

- 1.) If the victim is not assessed as High-Danger after the officer completes the Lethality Screening, the officer will:
  - a. Advise the victim that domestic violence is dangerous, and sometimes fatal.
  - b. Review the factors from the Lethality Screening so that the victim can be on the lookout for them.
  - c. Encourage the victim to contact Harbor House and provide the contact information.
  - d. Provide the victim with police contact information.

G.) High Danger

- 1.) If a High-Danger assessment is made through the Lethality Screening, or the officer believes it is appropriate, the officer will:
  - a. Advise the victim that they are in danger, and that people in their situation have been killed.
  - b. Call Harbor House – The officer will tell the victim that the officer would like to call Harbor House to get some advice on how to help the victim and that the officer would like for the victim to consider speaking with the Harbor House advocate.

#### H.) Required Paperwork For All Domestic Investigations

- 1.) Minimally, a written offense report shall be prepared for all non-criminal domestic abuse incidents. The parties involved in the disturbance, including the children of the disputants, should be identified in the report.
- 2.) An offense report, including taped narrative, shall be prepared for all criminal domestic abuse incidents. A taped narrative report is also required for all non-custodial referrals sent to the District Attorney's Office.
- 3.) The Domestic Abuse Victim Worksheet shall be completed on all domestic abuse incidents from the appropriate county.
- 4.) If possible, a written statement should be obtained from the victim.
- 5.) A victim information sheet should be completed and provided for the appropriate county.
- 6.) Victim Services explanation sheet shall be provided to the victim.
- 7.) The 72-Hour Domestic Abuse No Contact Prohibition Arrest Notice Form shall be completed.
- 8.) If Harbor House was not contacted during a LAP screening, they shall be contacted now as the officer completes their paperwork and before leaving the victim.

#### I.) No Immediate Arrest Made

- 1.) If reasonable grounds to arrest have been established, but the officer feels that, due to unusual circumstances, an immediate arrest would be inappropriate, the officer shall notify a supervisor. The supervisor shall review the circumstances and decide upon an appropriate course of action. In cases where reasonable grounds to make a custodial arrest exist, but an arrest is not made, the officer shall document in the offense report the reasons for not making a custodial arrest. The report shall then be immediately forwarded to the District Attorney's Office. §968.075(4), Wis. Stats.

#### J.) Booking Procedure

- 1.) An officer may not release a person whose arrest was required under the mandatory arrest law until the person posts bail or appears before a judge (§968.075(2m), Wis. Stats).
- 2.) Subsequent to an arrest, officers shall book the defendant at the county jail where the cash bond identified by the bond schedule will be applied. If the defendant has violated any other criminal laws; e.g., criminal damage to property, criminal trespass to dwelling, harassment, intimidation of victim or witness, she or he may also be charged with those additional offenses.

- 3.) Prior to completing booking, officers shall check to verify that the TRAJA Act requirements do or do not apply. The results of this check shall be documented in the officer's narrative (See Appendix A.)
  - 4.) A defendant, who is a danger to the safety of others, does not have to be released on bail prior to an initial appearance before a judge. The "danger to the safety of others" must be caused by a "physical condition" such as intoxication (§969.07, Wis. Stats).
- K.) Follow-up activities
- 1.) At the time of the investigation, the officer shall make telephone contact with the Harbor House domestic abuse program and provide the victim with help line cards from Harbor House. The officer shall also inform the victim that Harbor House may provide either the victim and/or another adult family or household member assistance in obtaining a temporary restraining order or court injunction pursuant to §813.12, Wis. Stats.
  - 2.) The services at Harbor House focus on providing assistance to female victims and children. However, Harbor House will connect male victims of domestic violence with services in the community.
  - 3.) If the victim shows evidence of being injured, color photographs should be taken at the scene or hospital. Consideration should also be given to photographing injuries a few days after the incident when the injuries may be more visible. If strangulation occurred, and bruises are not visible on the neck, alternate light source photography should be considered.
  - 4.) If property damage has occurred, it should be photographed (at the discretion of the officer).
  - 5.) The officer should encourage the victim to complete the Domestic Abuse Victim Worksheet. Officers should provide assistance and support to the victim while the worksheet is being completed.
  - 6.) Provide directions and/or transportation to the shelter for all female victims and their children, if needed.
- VII. CONTACT PROHIBITION FOLLOWING AN ARREST
- A.) During the 72-hours immediately following the arrest of a suspect for a domestic abuse crime, the arrested person shall avoid the residence of the alleged victim of the domestic abuse incident and, if applicable, any premises temporarily occupied by the alleged victim, and avoid contacting or causing any person, other than law enforcement officers and attorneys for the arrested person and alleged victim, to contact the alleged victim. The 72-hour contact prohibition ends when the victim waives that right.
  - B.) During the 72 hours immediately following the suspect posting bail for a domestic abuse crime, the arrested person shall avoid the residence of the alleged victim of the domestic abuse incident and, if applicable, any premises temporarily occupied by the alleged victim, and avoid contacting or causing any person, other than law enforcement officers and attorneys for the arrested person and alleged victim, to contact the alleged victim.
  - C.) The officer responsible for the arrest of a person for a domestic abuse crime shall complete a Contact Prohibition and notify the alleged victim of abuse of the



existence of a 72-hour contact prohibition. The officer shall also explain the procedure for enforcement of the order and provide a copy of the form to the victim. The victim does have the right, at any time during the 72-hour, to sign a written waiver of the contact prohibition. Should the victim wish to waive the 72 hour contact prohibition after the officer has completed the initial investigation, the victim should report to the Township of Osceola Police Department or clerk of courts and sign a written waiver of those rights. A new form should be used to document the waiver (§968.075(5), Wis. Stats.)

- D.) The jail official who releases a person arrested for a domestic abuse crime shall inform the arrested person orally and in writing of the consequences of violating the contact prohibition. The arrested person's release shall be conditioned upon his or her signed agreement to refrain from any threats or acts of domestic abuse against the alleged victim or other person. Should the arrested person violate the contact prohibition, he/she should be arrested for Bail Jumping (§946.49, Wis. Stats).

#### VIII. NON-CRIMINAL DOMESTIC DISPUTES

- A.) It is the policy of the department that an arrest for domestic abuse will be made when a crime has been committed. Officers may issue summonses for ordinance violations when a corresponding state statute does not exist or there are insufficient reasonable grounds for a custodial arrest for a crime.
- B.) When investigating domestic disputes that do not involve criminal activity, officers may suggest that one or more of the involved parties leave the premises.

06-22-16

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Donald M. Cook  
Chief of Police

Date 04/10/2022

## APPENDIX A

**TraJa Act requirements (939.621)**

**When you are making a domestic arrest complete these requirements prior to confinement:**

1. Personally check RMS and CCAP to see if the subject has been arrested for a domestic within the previous 72 hours, or within the last 10 years.
2. If the subject requires immediate detention due to behavior, OCJ jail staff can then assist with this.

**The repeater enhancement may be applied in the following situations:**

1. When a person commits an act of domestic abuse within 72 hours following an arrest for a previous domestic abuse.
2. The 72-hour period applies whether or not the victim waived the no-contact provision.

**And/or**

1. When a person has two (2) or more prior domestic abuse convictions **within the previous ten (10) years.**
2. A prior domestic abuse conviction includes crimes where a court imposed a domestic abuse surcharge or waived a domestic abuse surcharge.

**\*For the 72 hour or 10-year criteria, the victim of the second act does not have to be the same as the victim of the prior act.**

3. The results of these checks shall be specifically documented in the officer's narrative report. Include dates, times, (etc) listed for the listed CCAP offenses, or document if none were found if that is the case.
4. The repeater changes the arrest to a felony. List the statute (939.621) on the booking sheet/notice of confinement and mark it as a felony arrest.
5. Whether a surcharge was imposed or waived may be found on an offender's CCAP record under the "View history and details of Charge(s)/Sentence(s)" link, where a count may be modified with the descriptor "Domestic Abuse."
6. Do not rely on a criminal history checks as they are often not up to date or are incomplete.
7. List the criminal acts that lead to the arrest separately.

**Documentation examples:**

1. "I was able to determine from (list source) that the (AR) had been arrested on (date, time, location), which is within 72 hours of this offense. He will therefore be charged with a felony"
2. "I checked Wisconsin CCAP and was able to determine that (AR) has (two or more) prior domestic arrests that meet the criteria to make this a felony arrest. Those cases are: (List each applicable charge, date, time, location)." For each of the cases list whether the court imposed a domestic abuse surcharge or waived a domestic abuse surcharge.

## Lethality Assessment Screening

Officer:	Date:	Case #:
Victim:	Offender:	
<input type="checkbox"/> Check here if victim did not answer any of the questions.		
<b>▶ A "Yes" response to any of Questions #1-3 automatically triggers the protocol referral.</b>		
1. Has he/she ever used a weapon against you or threatened you with a weapon?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
2. Has he/she threatened to kill you or your children?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
3. Do you think he/she might try to kill you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
<b>▶ Negative responses to Questions #1-3, but positive responses to at least four of Questions #4-11, trigger the protocol referral.</b>		
4. Does he/she have a gun or can he/she get one easily?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
5. Has he/she ever tried to choke you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
6. Is he/she violently or constantly jealous or does he/she control most of your daily activities?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
7. Have you left him/her or separated after living together or being married?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
8. Is he/she unemployed?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
9. Has he/she ever tried to kill himself/herself?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
10. Do you have a child that he/she knows is not his/hers?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
11. Does he/she follow or spy on you or leave threatening messages?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Ans.
<b>▶ An officer may trigger the protocol referral, if not already triggered above, as a result of the victim's response to the below question, or whenever the officer believes the victim is in a potentially lethal situation.</b>		
Is there anything else that worries you about your safety? (If "yes") What worries you?		
Check one: <input type="checkbox"/> Victim screened in according to the protocol <input type="checkbox"/> Victim screened in based on the belief of officer <input type="checkbox"/> Victim did not screen in		
If victim screened in: After advising her/him of a high danger assessment, did the victim speak with the hotline counselor?		<input type="checkbox"/> Yes <input type="checkbox"/> No

*Note: The questions above and the criteria for determining the level of risk a person faces is based on the best available research on factors associated with lethal violence by a current or former intimate partner. However, each situation may present unique factors that influence risk for lethal violence that are not captured by this screen. Although most victims who screen "positive" or "high danger" would not be expected to be killed, these victims face much higher risk than that of other victims of intimate partner violence. MNADV 08/2005*

Based on your answers, **you're in danger & I'm concerned for your safety.** People in your position have been killed. I would like to contact a Domestic Violence advocate. You don't have to talk to them, but I would like you to think about it while I'm on the phone.  
 ~ You're just talking; It'll be a private conversation; They understand this is difficult for you.

**Harbor House Domestic Abuse Programs (920) 832-1666**

APPENDIX C

Domestic Arrest Flow Chart

