

BLOOMINGTON POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

DOMESTIC VIOLENCE POLICY

Reviewed by: Lieutenant Ken Bays	Effective Date: January 16, 1996
Authorized by: Chief Dan Donath	Revision Date: August 21, 2020

PURPOSE

The purpose of this SOP is to establish policy and procedures for responding to domestic violence calls in compliance with the 725 Illinois Compiled Statutes 5/112A-27.

POLICY

The policy of this Department is to treat all acts of domestic violence as criminal conduct. Domestic violence incidents shall be treated in the same manner as all other requests for police assistance.

The policy of this Department is to utilize arrest powers when there is probable cause to do so.

The policy of this Department is to provide immediate effective assistance and protection to victims of domestic violence and to take appropriate action against offenders.

DEFINITIONS

Following are definitions of terms, listed by their Illinois Compiled Statutes, which often apply to domestic violence. Other criminal charges might apply as well.

Harassment means knowing conduct which is not necessary to accomplish a purpose which is reasonable under the circumstances, would cause a reasonable person emotional distress and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the evidence, the following types of conduct shall be presumed to cause emotional distress:

1. creating a disturbance at petitioner's place of employment or school;
2. repeatedly telephoning petitioner's place of employment, home, or residence;
3. repeatedly following petitioner about in a public place(s);
4. repeatedly keeping petitioner under surveillance by remaining present outside his or her home, school, place of employment, vehicle, or other place occupied by petitioner or by peering in petitioner's windows; or
5. improperly concealing minor child from petitioner, repeatedly threatening to improperly remove a child from the jurisdiction or from the physical care of petitioner, repeatedly threatening to conceal a minor child from petitioner, or making a single such threat following an actual or attempted improper removal or concealment, unless respondent was fleeing from an incident or pattern of domestic violence; or

6. threatening physical force, confinement, or restraint on one or more occupants.

Interference with personal liberty means committing or threatening physical abuse, harassment, intimidation or willful deprivation so as to compel another to engage in conduct from which he or she has a right to abstain or to refrain from conduct in which she or he has a right to engage.

Intimidation of a dependent means subjecting a person who is dependent because of age, health, or disability to participation in or the witnessing of: physical force against another or physical confinement or restraint of another which constitutes physical abuse regardless of whether the abused person is a family or household member.

Order of Protection means an emergency order, interim order or plenary order, which includes any or all of the remedies authorized by 725 ILCS 5/112A-14.

Petitioner means any name(s) of petitioner(s) for the Order of Protection and any named victim of abuse on which behalf the petition is brought, but also any other person protected by 725 ILCS 5/112A-14.

Respondent is the person to whom an Order of Protection is directed.

Willful deprivation means willfully denying a person who, because of age, health, or disability, required medication, medical care, shelter, food, therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental or emotional harm, except with regard to medical care and treatment when such dependent person has expressed the intent to forego such medical care or treatment.

Family or household members include spouses, former spouses, parents, children, stepchildren, and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute a dating relationship.

Domestic violence means attempting to cause or causing abuse of a family or household members or high-risk adult with disabilities, or attempting to cause or causing neglect or exploitation of a high-risk adult with disabilities which threatens the adult's health and safety, as defined in Section 103 of the Illinois Domestic Violence Act of 1986, as amended.

Strangle means intentionally impeding the normal breathing or circulation of the blood of an individual by applying pressure on the throat or neck of that individual or by blocking the nose or mouth of that individual.

High-risk adult with disabilities means a person age 18 or over whose physical and/or mental disability impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.

Domestic Battery: 720 Illinois Compiled Statutes, 5/12-3.2

A person commits domestic battery if he or she intentionally or knowingly without legal justification by any means:

1. causes bodily harm to any family or household members;
2. makes physical contact of an insulting or provoking nature with any family or household members.

Sentence. Domestic battery is a class A misdemeanor.

Aggravated Domestic Battery: 720 Illinois Compiled statutes, 5/12-3.3

A person who, in committing a domestic battery, intentionally or knowingly causes great bodily harm, or permanent disability or disfigurement or strangles, commits aggravated domestic battery.

Sentence. Aggravated domestic battery is a class 2 felony.

Interfering with the reporting of DV: 720 Illinois Compiled Statutes, 5/12-6.3

A person commits the offense of interfering with the reporting of domestic violence when, after having committed an act of domestic violence, he or she prevents or attempts to prevent the victim of or a witness to the act of domestic violence from calling a 9-1-1 emergency telephone system, obtaining medical assistance, or making a report to any law enforcement official.

Sentence. Interfering with the reporting of domestic violence is a class A misdemeanor.

Stalking: 720 Illinois Compiled Statutes, 5/12-7.3

A person commits stalking when he or she, knowingly engages in a course of conduct directed at specific person, and he or she knows or should know that this course of conduct would cause a reasonable person to:

1. fear for their safety or the safety of a third person
2. suffer emotional distress

A person commits stalking when he or she, knowingly and without lawful justification, on at least 2 separate occasions follows another person or places the person under surveillance or any combination thereof and:

1. At any time transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint and the threat is directed towards that person or a family member of that person, or;
2. Places that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement or restraint to or of that person or a family member of that person.

A person commits stalking when he or she has been previously convicted of stalking another person and knowingly without lawful justification on one occasion:

1. Follows that same person or places that same person under surveillance; and

2. Transmits a threat of immediate or future bodily harm, sexual assault, confinement or restraint to that person or a family member of that person.

Aggravated Stalking: 720 Illinois Compiled Statutes, 5/12-7.4

A person commits aggravated stalking when he or she, in conjunction with committing the offense of stalking, also does any of the following:

1. causes bodily harm to the victim;
2. confines or restrains the victim; or
3. Violates a temporary restraining order, an order of protection, or an injunction prohibiting the behavior.

ORDERS OF PROTECTION

An Order of Protection is a statutory remedy which is designed to give "family or household members" relief under statutory provisions (725 ILCS 5/112A, et seq., 750 ILCS 60/101 et seq.). Violations of an order may be enforceable with or without civil or criminal contempt of court proceedings in criminal court. Illinois law does not provide for "peace bonds"; nor are "restraining orders" available in most domestic relations situations.

An Order of Protection may be issued independently in a civil action, as part of a divorce proceeding or in conjunction with a criminal action or delinquency action.

A victim may pursue an Order of Protection if she or he has been physically, emotionally or sexually abused.

1. The victim may contact an Advocate in the Domestic Violence Unit (contact information is at the end of the SOP) if the victim has questions regarding his or her rights within the Illinois Domestic Violence Act. All of these services, including having the respondent served with the Order of Protection, are free to the victim.

The remedies available to a petitioner for an Order of Protection include but are not limited to the following:

1. Prohibition of abuse, neglect, or exploitation;
2. Exclusive possession of residence;
3. Prohibiting respondent from entering or remaining present at petitioner's school, place of employment, or other specified places at times when petitioner is present;

Prohibiting the respondent from entering or remaining in the residence or household while the respondent is under the influence of alcohol or drugs and constitutes a threat to the safety and well being of the petitioner or the petitioner's children.

It is a crime for a respondent to violate the conditions imposed by an Order of Protection when those conditions are a prohibition of abuse, neglect or exploitation; grant of exclusive possession of residence; stay away orders; and prohibition of entry or any other remedy when the act committed constitutes a crime against a protected party.

1. An arrest can be made in any county where a violation occurs.
2. The Order of Protection need not be issued in the county where the violation occurs to be valid.

3. If an Order of Protection is in effect and an officer has probable cause to believe a violation of one of the conditions listed above has occurred, an arrest shall be made.

The county sheriff shall be responsible for entering all Orders of Protection into LEADS the same day the order is issued by the court whether or not the order has been served.

The duty of a law enforcement officer is to take all reasonable steps to prevent further abuse to include enforcing applicable remedies listed in an active order of protection.

RESPONSE PROCEDURES

Communications

1. Upon receiving a call involving domestic violence, communications personnel will obtain minimal response information, including: a) caller's identity, b) exact location, c) injury, c) weapons description, e) identity of victim and perpetrator, and f) whether the perpetrator is still at scene.
2. Communications personnel should make periodic checks on officer(s) at the scene.
3. Domestic violence presents a situation which should be handled as a top priority; the closest available police unit, within the jurisdiction, should be assigned if possible.

Officers' Response

1. Officer(s) will respond to and investigate complaints of person(s) who are victims of domestic violence in a safe and expeditious manner. All such calls should be regarded as potentially "high risk" calls for police officers and victims, and should, if possible, utilize a back-up unit.
2. LEADS should be consulted to determine whether an Order of Protection has been issued or if the perpetrator has an outstanding warrant.
3. Officer(s) should advise telecommunicators of the status of the call as soon as possible after arrival and stay in contact with the telecommunicator.

OFFICER'S RESPONSIBILITIES AT THE SCENE

Initial Response. When an officer responds to a domestic violence call and both victim and perpetrator are present at the location of the incident, the police officer responding should:

1. Separate the parties and ensure the safety of persons present; and
2. Conduct a preliminary investigation, including taking, if practical, an audio recorded statement from the victim, perpetrator and witnesses.

Assistance to the Victim. If the officer determines that a person has been abused by a family or household member, the officer will take all reasonable steps to prevent further abuse, including, but not limited to:

1. Arresting the offending party, where appropriate;
2. Accompanying the victim into his or her residence to remove necessary personal items;
3. Furnishing the victim with information (in his or her primary language where possible), which informs the victim of their rights under the Illinois Domestic Violence Act of 1986 and other available services. The officer will provide their name and I.D. number and the agency's phone number;
4. Providing the victim, when applicable, with appropriate social service agency referrals.

5. Advising the victim to seek medical attention if appropriate and arrange transportation to a medical facility if necessary. Officers should also arrange transportation to a shelter or a safe place if appropriate.
6. Advising the victim of evidence which has been collected by the officer, and of the importance of preserving evidence, the types of evidence which could be collected at a later time, and how it can be used and by whom.

EVIDENCE COLLECTION

An officer should process the crime scene and collect evidence as in any other criminal case. When applicable, evidence collection should include color photographs of injuries sustained, as well as photographs of the premises, which serve to corroborate the purported incident and include any weapons or other articles which can be used to corroborate the occurrence of violence (e.g., broken glass, torn clothing, blood-stained articles, or damaged personal possessions of the victim).

The Officer shall determine the existence of an Order of Protection either by telephone or through Dispatch or by referring to the copy of such order provided by the victim or other individual present.

An officer shall complete a written report of his or her observations of the victim, abuser, visible injuries, the presence of weapons, the victim's statement as to the frequency and severity of prior instances of abuse by the same family or household member, and all other circumstances and facts pertinent to the incident, including whether or not children were present.

ARREST

In cases involving domestic violence, an officer shall make an arrest without a warrant when probable cause exists.

1. The victim should not be made to sign a complaint.
2. The offense of Violation of Order of Protection should be issued even if other charges are pending.
3. Reports of violations of Order of Protection should be investigated like any other criminal offense.
4. An Order of Protection is valid regardless of how the offender obtained entry to the Victims' residence or otherwise violated the Order.
5. If a family or household member aged 60 or older is abused, neglected, or exploited, the officer shall make a report to the Illinois Department on Aging, Elder Abuse and Neglect Program either by calling 1-800-252-8966 or by calling PATH.

VIOLATION OF ORDER OF PROTECTION

1. If an Order of Protection is in effect and an officer has probable cause to believe a violation of one of the law enforcement enforceable conditions has occurred, an arrest shall be made.
2. Persons protected by an Order of Protection do not have the power to waive the injunction against the violator. Only a court can void an Order of Protection.
3. An Officer must determine that the offender has been served with a copy of the Order of Protection or has actual knowledge of it. The officer should check the victim's copy of

the Order of Protection or verify provisions of the order by radio or telephone communications via LEADS.

4. If the offender denies knowledge of the Order of Protection and his or her denial is credible, the officer should provide the offender with a copy of the order, verbally advise them of the contents, and note in the report that a copy of the order, if available, was given and explained to the offender.

COURT ORDER RELATED TO PEACE OFFICERS

1. If the respondent in an Order of Protection is a peace officer, the investigating officer shall determine if the order prohibits the peace officer from possessing any firearms during the duration of the order (725 ILCS 5/112A-14.5).
2. If the respondent officer is employed by the Bloomington Police Department, the investigating officer shall take any necessary enforcement actions, promptly submit the appropriate report and notify the Chief of Police of the incident through the chain of command.
3. If the respondent officer is not a member of the Bloomington Police Department, the investigating officer shall promptly notify his/her supervisor. The supervisor shall ensure prompt notification to the respondent officer's department.

SEVENTY TWO (72) HOUR NO CONTACT

An arrest shall be made when an officer has determined the automatic 72-hour no-contact provision of a bond is in effect and has been violated.

No officer shall decline to arrest an offender because:

1. The parties live together;
2. The parties have sought civil remedies;
3. The victim has been previously unwilling to participate in the complaint or arrest process;
4. Verbal assurances are given that the violence will cease;
5. The parties are of the same sex; or
6. Either or both parties are under the influence of drugs and/or alcohol.

If an arrest is not made:

1. The report shall be forwarded to the Domestic Violence investigators and may be forwarded to the State's Attorney for review. The victim/parties should be advised of same.
2. The victim should also be advised of the following:
 - a. That a complaint need not be signed at the time of an incident for further action by the State's Attorney;
 - b. Of their right to request assistance from the Domestic Violence Unit; and
 - c. Of the importance of preserving evidence.

If the offender has left the scene, the officer should attempt to locate them.

All possible charges, including non-domestic violence charges, should be listed on the arrest report.

INCIDENT REPORTING AND DOCUMENTATION

Whenever an officer receives a domestic violence complaint, a report must be prepared, whether or not an arrest is made.

Every officer investigating a domestic violence incident shall prepare a written report which will include the following:

1. Observations of the victim, abuser, visible injuries, and the presence of weapons
2. Victim statement as to the frequency and severity of prior incidents by the same person;
3. The number of prior requests for police assistance;
4. That the victim was advised of his or her rights under the Domestic Violence Statute;
5. Statements indicating whether children were present and witnessed the incident;
6. Interviews and statements from all other persons present at the time of the incident;
7. All other circumstances and facts pertinent to the incident; and,
8. Police personnel shall complete the Danger Assessment form when completing a domestic violence report. The Danger Assessment form can be found in the forms file in the Police folder of the F drive titled DV Danger Assessment form. Once completed, the form shall be scanned into the EJS report.
9. Disposition of the allegation.
10. If no arrest is made when the suspect is present, the report will clearly show sufficient reasons for not making an arrest.

NOTE: If minor children are present during the domestic violence incident, the incident shall be reported to Illinois Department of Children and Family Services (1-800-25ABUSE), and be documented in the police report. The CANTS-5 form will be completed and mailed to DCFS at the address listed on the form following a report to the hotline when the DCFS call taker indicates they will be taking a report and investigating. If the DCFS call taker indicates they will be documenting our call, but no investigation is forthcoming, then the CANTS-5 form need not be submitted.

VICTIM SERVICES

Law enforcement agencies should have written networking agreements with local service providers.

The initial responding officers should provide written as well as verbal referrals to the victim for local services.

Local services may include, but are not limited to:

1. Hospital emergency rooms:

Advocate BroMenn Medical Center
Virginia and Franklin
Normal, IL.
454-1400

St. Joseph Hospital
2200 E. Washington
Bloomington, IL.
662-3311

2. Local domestic violence programs:

Countering Domestic Violence
827-7070
Domestic Violence Unit
(legal advocacy)
104 W. Front St., Room 605
888-5521

1. Elder abuse programs;
PATH Senior Service Programs
827-4005 or
1-800-570-PATH

2. Community mental health agencies:
McLean County Center for Human Services
108 W. Market Street
Bloomington, IL.
827-5351

3. Local sexual assault crisis centers:
Rape Crisis Center
827-4005 (PATH answers)

4. Youth service providers:
Abuse/Neglect:
DCFS
828-0022 or 1-800-252-2873

Crisis/Runaway:
PATH
827-4005

Project Oz
827-0377

Substance Abuse
Lighthouse
827-6026

5. Homeless shelters:
Home Sweet Home
303 E. Oakland
Bloomington, IL.
828-7356

Safe Harbor
611 W. Washington Street
Bloomington, IL.
829-7399 or 829-9476 (October 1 - April 15 ONLY)

LIMITED LAW ENFORCEMENT LIABILITY

Section 112A-25 of the Illinois Domestic Violence Act of 1986 (725 ILCS 5/112A-25) limits an officer's and this Department's liability: "Any act of omission or commission by a law

enforcement officer acting in good faith in rendering emergency assistance or otherwise enforcing this article shall not impose civil liability upon the law enforcement officer or his or her supervisor or employer unless the act is a result of willful or wanton misconduct."