

DEPARTMENT GENERAL ORDER 04-16

OFFICE of the CHIEF OF POLICE
REPLACES: General Order 97-02
SOP 501.04.00

DATE: May 21, 2004

ADULT ABUSE PROCEDURES

I. PURPOSE

The purpose of this order is to provide a uniform method by which this department will provide services to victims of domestic violence under the Adult Abuse Statute.

II. DEFINITIONS

A. Abuse includes, but is not limited to the occurrence of any of the following acts, attempts, or threats against a person protected under RSMo 455.10 to 455.085:

- Assault: purposely or knowingly placing or attempting to place another in fear of physical harm; purposely causing injury to another person either with the intent to cause injury or through recklessness.
- Coercion: compelling another by force or threat of force to engage in an activity from which the victim has a right to abstain or to abstain from conduct in which the victim has the right to engage.
- Harassment and Stalking: engaging in a course of conduct involving more than one incident that causes alarm or distress to another person and serves no legitimate purpose. The course of the conduct must be such that would cause a reasonable person to suffer substantial emotional distress. (Note: does not include constitutionally protected activity)
- Sexual Assault: causing or attempting to cause another to engage involuntarily in any sexual act against that person's will.

- Unlawful Imprisonment: holding, confining, detaining or abducting another person against that person's will.
- B. Adult: Any person 18 years of age or older, or otherwise emancipated.
- C. Arrest: The taking of a person into custody and returning them to the department to be booked and processed.
- D. Family or Household member: Defined as spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past, an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and adults who have a child in common regardless of whether they have been married or have resided together at any time.
- E. Order of Protection: Either a full order of protection issued by the court following a hearing, or an ex-parte order issued before the respondent has received notice of the petition, or had an opportunity to be heard relative to the order.
- F. Petitioner: A family or household member who has filed for an order of protection.
- G. Respondent: The family or household member against whom a verified petition has been filed.
- H. Primary physical aggressor: the most significant rather than first aggressor. In making this determination, an officer should consider:
- The intent of the law to protect victims of domestic violence from continued abuse;
 - The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
 - The history of domestic violence between the persons involved.
- I. Domestic Assault Charges
1. Domestic Assault in the First Degree, RSMo 565.072
 - A person commits the crime of domestic assault in the first degree if he or she attempts to kill or knowingly causes or attempts to cause serious physical injury to a family or household member as defined in section 455.010, RSMo.
 - Domestic assault in the first degree is a class B felony unless in the course thereof the actor (suspect) inflicts serious physical injury to the victim, in which case it is a class A felony.

2. Domestic Assault in the Second Degree, RSMo 565.073

- A person commits the crime of domestic assault in the second degree if the act involves a family or household member as defined in section 455.010 RSMo, and he or she:
 - Attempts to cause or knowingly causes physical injury to such family or household member by any means, including but not limited to, by use of a deadly weapon or dangerous instrument, or by choking or strangulation; or
 - Recklessly causes serious physical injury to such family or household member; or
 - Recklessly caused physical injury to such family or household member by means of a deadly weapon.
- Domestic assault in the second degree is a class C felony.

3. Domestic Assault in the Third Degree, RSMo 565.074

- A person commits the crime of domestic violence in the third degree if the act involves a family or household member as defined in section 455.010, RSMo, and:
 - The person attempts to cause or recklessly causes physical injury to such family or household member; or
 - With criminal negligence the person causes physical injury to such family or household member by means of a deadly weapon or dangerous instrument; or
 - The person purposely places such family or household member in apprehension of immediate physical injury by any means; or
 - The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to such family or household member; or
 - The person knowingly causes physical contact with such family or household member knowing the other person will regard the contact as offensive; or
 - The person knowingly attempts to cause isolation of such family or household member by unreasonably and substantially restricting or limiting such person's access to other persons, telecommunications devices or transportation for the

purposes of isolation.

- Domestic assault in the third degree is a class A misdemeanor.
- A person who has pleaded guilty to or been found guilty of the crime of domestic violence in the third degree more than two times against any family household member as defined in RSMo 455.010, is guilty of a class D felony for the third or any subsequent commission of the crime of domestic assault. The offenses described in this subsection may be against the same family or household member or against different family or household members.

III. PROCEDURES

When a complaint is received in regard to a family disturbance or domestic violence, communications will dispatch a minimum of two officers. The officers will respond directly to the scene of the complaint even if the persons involved are well known to the officers. Upon arrival, the officers will separate the parties involved and interview them separately to determine what has occurred. As part of their investigation, officers will determine if there is an existing order of protection. If that is the case and the respondent is in violation of that order, the subject should be arrested for violation of the order of protection. Pursuant to current statutes, if law enforcement officers can be shown to be acting in good faith, the primary aggressor or respondent may be arrested, and the officers will be immune from civil liability.

A. Domestic Violence Investigations

1. Officers investigating an incident of domestic violence will complete an incident report to document the event. In addition, officers will complete a supplemental report page that has been designed by the St. Louis County Prosecuting Attorney's Office. Entitled "**Domestic Violence Supplemental Report**," the form is intended to provide background, situational, and evidentiary detail in regard to domestic violence incidents that will enable prosecution in these cases without the victim. The form shall be completed in each and every instance where officers of this command document a domestic violence case with an incident report. The supplemental report form shall be used for both male and female victims of domestic abuse.
2. Investigating officers shall not threaten the arrest of all parties for the purpose of discouraging request for police intervention by any party. When complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately. If an arrest is necessary, the officer shall attempt to identify the primary physical aggressor and, using probable cause, arrest that subject.

3. If no arrest is made, the officer shall make a written report of the incident and completely describe the offending party and the victim, and state the reason no arrest was made and all other pertinent information. Any officer called to the same address within 12-hour period, who finds probable cause to believe the same offender has again committed a violation of domestic violence, shall arrest the offending subject. The first report of the preceding 12-hour period may be considered as evidence of the offender's intent.
4. In all cases where visible injuries exist, the victim's injuries should be photographed. When possible, taped or written statements from the victim should be obtained. Any other evidence of the crime at the scene should be seized by the officer.
5. In the event the victim is seeking medical attention, the reporting officer should request the victim to sign a consent to release medical records. These records of the injury stemming from the domestic violence assault should be seized and retained as evidence.
6. Officers will provide the victims of adult abuse/domestic violence with information in regard to the legal remedies and community resources (such as a shelter) available to them. However, should the victim lack the means to accomplish such travel on their own, officers will provide or arrange transportation to a shelter, medical facility, or other place of safety, as necessary. In the event the victim may be injured, an ambulance will be requested to assist at the scene, and the victim transported to a medical facility.

B. Report Writing Checklist

Officers shall document the following:

1. Time of arrival and incident.
2. Relevant 911 information (radio tape).
3. Immediate (spontaneous) statements of either party.
4. For each party interviewed, document:
 1. relationship of parties involved/witnesses
 2. name, DOB, address, phone - work/home
 3. each party's account of events
 4. responses to officer's questions
 5. past history with each party involving domestic violence
 6. officer's observations
 7. detailed description of injuries, including those not visible (e.g., sexual assault, strangulation)

8. each party's emotional state and demeanor
 9. any alcohol or drug impairment
5. Name and phone numbers of contact persons that can always reach the victim.
 6. Children present, note age and general welfare.
 7. Officers shall document any evidence collected, and medical treatment received by either party.
 8. Officers shall document probable cause for an arrest for domestic violence, and note the existence of any warrants or prior arrest or convictions involving domestic violence.

C. Risk Questions

Officers shall obtain from the victim and include in the report the responses to the following questions:

1. Do you think he or she will seriously injure or kill you or another family member? What makes you think so/not?
2. How frequently and seriously does he or she intimidate, threaten or assault you? Is the abuse getting worse?
3. Describe the most frightening event of violence involving him/her.

IV. WARRANT APPLICATION.

All warrant applications dealing with domestic violence cases, both felony and misdemeanor, in which there is physical evidence or a spontaneous utterance on the part of the suspect, are to be submitted to the domestic violence unit within the prosecuting attorney's office. However, warrant applications in regard to those domestic violence cases where neither of the preceding conditions are met, or which involve violence between siblings, or a parent and child, will be submitted to the warrant office or municipal court in the normal manner. In those instances where the prerequisites do exist, officers shall schedule an appointment with the appropriate prosecuting attorney whenever possible. In the event of an emergency situation, the prosecuting attorney should accept the case as a priority item. Officers will include the domestic violence supplement with their warrant application.

V. ORDERS OF PROTECTION

When an Exparte Order of Protection is received by this department, the original document will be retained by the Administration Division while copies are forwarded to the Field Operations Bureau and the dispatch center at ECDC. The receiving employee will attach a log sheet to the order, detailing the parties involved, and the date and time of any inquiries in connection to the order. In addition, ECDC personnel will enter each court order into the MULES computer system. This will allow officers throughout the state of Missouri to access and act on information contained in the order, as well as permitting officers from this command to obtain similar information concerning incidents in other jurisdictions.

Copies of various Orders of Protection will be attached to the Officer's Information board and will be reviewed at roll call.

A. Obtaining Orders of Protection

Officers shall inform victims that ex parte Orders of Protection are obtained by making application at the Adult Abuse Office of the Circuit Clerk located at 7900 Carondelet, in Clayton. This application may be made Monday through Thursday, 8:00 AM to 7:00 PM, Friday 8:00 AM to 5:00 PM or Saturdays, 9:00 AM to Noon.

1. The Associate Circuit Court issuing the ex parte order will give one copy to the Petitioner to be carried at all times. One copy will be sent to the Police Department where the Petitioner lives, one copy will be forwarded to the Sheriff's Department for service on the Respondent, and one copy will remain in the court file.
2. Reporting officers will be responsible for ensuring the information is entered into the MULES system within 24 hours of the issuance, modification, or termination.
3. Upon cancellation of the Order, the officer shall ensure the order is canceled out of MULES.

BY ORDER OF:

THOMAS J. BYRNE
Chief of Police

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