

## Domestic Abuse

### 310.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic abuse through vigorous enforcement and to address domestic abuse as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic abuse.

#### 310.1.1 DEFINITIONS

Definitions related to this policy include:

**Court order** - All forms of orders issued by a court related to domestic abuse, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

**Domestic Abuse (Wis. Stat. § 968.075)**- Any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:

- (a) Intentional infliction of physical pain, physical injury or illness.
- (b) Intentional impairment of physical condition.
- (c) A violation of Wis. Stat's. § 940.225 (1), (2), or (3).
- (d) A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described above.

**Intimate partner**- A romantic or dating relationship between adults in which domestic abuse conduct as listed above (a.-d.) occurred, however, the relational criteria for domestic abuse as defined above are not met.

### 310.2 POLICY

The Beloit Police Department's response to incidents of domestic abuse and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic abuse is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

### 310.3 OFFICER SAFETY

The investigation of domestic abuse cases puts officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise reasonable care for the safety of any officers and parties involved.

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### **310.4 INVESTIGATIONS**

The following guidelines should be followed by officers when investigating domestic abuse cases:

- (a) Calls of reported, threatened, imminent or on-going domestic abuse and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls in which it appears someone may be in danger or in need of assistance.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) Officers should utilize their body-worn camera to record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Shift Commander in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
  - 1. Whether the suspect lives on the premises with the victim.
  - 2. Claims by the suspect that the victim provoked or perpetuated the violence.
  - 3. The potential financial or child custody consequences of arrest.
  - 4. The physical or emotional state of either party.

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5. Use of drugs or alcohol by either party.
6. Denial that the abuse occurred where evidence indicates otherwise.
7. A request by the victim not to arrest the suspect.
8. Location of the incident (public/private).
9. Speculation that the complainant may not follow through with the prosecution.
10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
11. The social status, community status, or professional position of the victim or suspect.

### 310.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody, review the parameters of the 72 hour no contact order, and ask the victim if they wish to enforce the order.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

In the event there is no probable cause to make an arrest, officers should advise the parties of appropriate resource referrals (e.g. counselors, friends, relatives, etc.).

### 310.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

- (a) Advise the parties of any options, including but not limited to:
  1. Voluntary separation of the parties.
  2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.

### 310.4.3 LETHALITY ASSESSMENT PROGRAM (LAP)

In partnership with the Beloit Domestic Violence Survivor Center, the Lethality Assessment Program--Maryland Model shall be used at domestic abuse calls for service. Department members shall use the lethality assessment screening tool at the scene of all domestic abuse incidents to identify victims in potentially lethal situations. The screen shall also be administered to victims of intimate partner abuse for the same purpose. Officers administering the lethality screen shall ask the victim the prescribed questions and, when a victim is assessed as being in high-danger, call

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the Beloit Domestic Violence Survivor Center and encourage the victim to speak with a hotline advocate.

A LAP agency representative shall be selected by the Patrol Captain and is responsible to:

- (a) Maintain a file of all lethality assessments.
- (b) Prepare all reports required by the LAP and submit to the LAP team coordinator at Beloit Domestic Violence Survivor Center.
- (c) Facilitate all training related to the LAP.
- (d) Serve as a liaison with participating LAP agencies and representatives.

#### 310.4.4 INITIATING A LETHALITY ASSESSMENT SCREEN (LAS)

The Lethality Assessment Screen (LAS) shall be completed by the responding officer when one or more of the following conditions exist:

- (a) There is reason to believe an assault or an act that constitutes domestic abuse occurred, whether or not there is an arrest.
- (b) The officer has reason to believe that once the victim is no longer in their presence the potential for assault or danger is high.
- (c) There have been repeated domestic abuse calls for service at that location or involving the same parties.
- (d) The officer believes a LAS should be administered based on their experience and training.

#### 310.4.5 ASSESSING RESPONSES TO THE LETHALITY ASSESSMENT SCREEN (LAS)

- (a) If the victim is assessed as "Non-High Danger," the officer shall:
  1. Advise the victim that domestic violence is dangerous and sometimes fatal.
  2. Inform the victim to watch for signs listed in the assessment as they may convey an increased level of danger
  3. Refer to victim to the Beloit Domestic Violence Survivor Center (BDVSC) and volunteer to call the hotline if the victim agrees to speak with them.
  4. Provide the victim with the case number and the officer's contact information.
- (b) If the victim is assessed as "High Danger," the officer shall:
  1. Advise the victim their situation indicates an increased level of danger and that other persons in similar situations have been killed or seriously injured.
  2. Advise the victim you would like to call the BDVSC and encourage the victim to speak with the hotline advocate.
  3. If the victim agrees to speak with the advocate, the officer shall:
    - (a) Call the hotline, introduce themselves, advise they have made a "High Danger" assessment, and answer the advocates questions.

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- (b) Stay on the scene, but allow the victim reasonable privacy for the hotline call
  - (c) Speak with the advocate upon completion of the conversation with the victim and be guided by the advocate for any reasonable assistance required by the victim, such as transporting to a safe location.
4. If the victim declines to speak with the advocate, the officer shall:
- (a) Contact the hotline to receive guidance as to how to proceed with the situation and inform the victim.
  - (b) Acknowledge the victims right to decline, but encourage the victim to reconsider speaking to the hotline advocate.
  - (c) While on the phone with the advocate, ask the victim if they have reconsidered speaking with them.
  - (d) If the victim continues to decline, follow the criteria for a "non-high danger" victim and provide the victim with any safety planning information suggested by the advocate, as well as request a safe phone number for the advocate to follow up with the victim.

### **310.5 VICTIM ASSISTANCE**

Victims may be traumatized or confused. Officers should:

- (a) Recognize that a victim's behavior and actions may be affected.
- (b) Provide the victim with the department's domestic abuse information handout, even if the incident may not rise to the level of crime.
  - 1. Providing information regarding the availability of shelters and services and notice of legal rights is mandatory when there is reasonable grounds to believe that a person is a domestic abuse victim (Wis. Stat. § 968.075).
- (c) Alert the victim to any available victim advocates, shelters and community resources.
- (d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
- (e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.
- (f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) Seek or assist the victim in obtaining an emergency order if appropriate.

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### **310.6 DISPATCH ASSISTANCE**

All calls of domestic abuse, including incomplete 9-1-1 calls in which it appears someone may be in danger or in need of assistance, should be dispatched as soon as practicable.

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should verify court orders through the Records Bureau or other official means as appropriate.

### **310.7 FOREIGN COURT ORDERS**

Various types of orders may be issued in domestic abuse cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

Pursuant to Wis. Stats. 813.1283, if an officer determines there is probable cause to believe a valid Canadian Domestic Violence Protection Order exists and the order has been violated, the officer shall enforce the terms of the order.

Officers should consult a supervisor for guidance when assessing foreign court orders.

### **310.8 VERIFICATION OF COURT ORDERS**

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and, where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

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### **310.9 LEGAL MANDATES AND RELEVANT LAWS**

Wisconsin law provides for the following:

#### **310.9.1 STANDARDS FOR ARRESTS**

Officers investigating a domestic abuse report should consider the following:

- (a) Officers with reasonable grounds to believe a person is committing or has committed within the last 28 days, an act of domestic abuse, and the actions constitute a crime, shall arrest the person unless a supervisor grants an exception because any of the following apply (Wis. Stat. § 968.075(2)):
  - 1. There is no reasonable basis for believing that continued domestic abuse against the alleged victim is likely.
  - 2. There is no evidence of physical injury to the alleged victim.
  - 3. No involved person subject to arrest was a predominant aggressor.
- (b) In the event two adults may be arrested for an act of domestic abuse against each other, the investigating officer should only arrest the predominant aggressor. The officer shall consider all of the following in identifying the predominant aggressor (Wis. Stat. § 968.075):
  - 1. The history of domestic abuse between the parties, if it can be reasonably ascertained by the officer, and any information provided by witnesses regarding that history.
  - 2. Statements made by witnesses.
  - 3. The relative degree of injury inflicted on the parties.
  - 4. The extent to which each person present appears to fear any party.
  - 5. Whether any party is threatening or has threatened future harm against another party or another family or household member.
  - 6. Whether either party acted in self-defense or in defense of any other person under the circumstances described in Wis. Stat. § 939.48.
- (c) An officer shall not issue a citation to a person arrested for domestic abuse under Wis. Stat. § 968.075 (Wis. Stat. § 968.085). Nor may an officer release a person who was legally arrested for domestic abuse until the person posts bail under Wis. Stat. § 969.07 or appears before a judge (Wis. Stat. § 968.075).
- (d) An officer with probable cause to believe that a person has violated a court order in violation of Wis. Stat. § 813.12 or a foreign court order as provided in Wis. Stat. § 813.128 shall arrest and take the person into custody (Wis. Stat. § 813.12(7); Wis. Stat. § 813.128).
  - 1. If an officer reasonably determines that a valid foreign protection order exists but cannot be enforced because the person has not been notified or served with

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the order, the officer should make reasonable efforts to inform the person of the order, serve the order upon the person and allow the respondent a reasonable opportunity to comply before arresting the person (Wis. Stat. § 813.128).

- (e) An officer shall arrest and take a person into custody if the officer has reasonable grounds to believe that the person has been advised of the 72-hour contact prohibition under Wis. Stat. § 968.075(5) and the person violated the contact prohibition.

#### 310.9.2 REPORTS AND RECORDS

An officer who does not make an arrest when the has reasonable grounds to believe a person has committed an act of domestic abuse shall include a statement in the written report indicating why the person was not arrested. The officer will ensure the report is sent to the appropriate prosecutor immediately after the investigation has been completed (Wis. Stat. § 968.075 (4)).

Completed Lethality Assessment Screens shall be submitted to the Records Division who shall be responsible to scan the report into Spillman RMS, fax a copy to the Beloit Domestic Violence Survivor Center, and forward a copy to the Lethality Assessment Program Coordinator.

#### 310.9.3 DOMESTIC ABUSE CONTACT PROHIBITIONS NOTICE

Unless there is a signed waiver by an alleged victim, any employee of the Beloit Police Department releasing a person arrested for domestic abuse shall inform the arrested person orally and in writing of the contact prohibition requirements of Wis. Stat. § 968.075, the consequences of violating the requirements and the provisions of Wis. Stat. § 939.621 (increased penalty for violating the contact prohibition). The arrested person shall sign an acknowledgment on the written notice that he/she has received notice of, and understands the requirements, the consequences of violating the requirements and the provisions of Wis. Stat. § 939.621. If the arrested person refuses to sign the notice, the person shall not be released from custody.