

POCOLA POLICE DEPARTMENT

POLICIES AND PROCEDURES

SUBJECT	DOMESTIC VIOLENCE		
NUMBER:	13.000	EFFECTIVE DATE:	12/18/2015
SCHEDULED REVIEW DATE:	06/18/2016	ISSUE DATE:	12/18/2015
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APPROVED BY:	Chief Steve Howard		

I. Purpose and Scope

- a. The purpose of this policy is to establish guidelines for the Pocola Police Department in response to domestic violence calls. Officers shall be expected to do the following:
 - i. Establish arrest and prosecution as a preferred means of police response to domestic violence
 - ii. Take appropriate action for any violation of permanent, temporary, or emergency orders of protection
 - iii. Afford protection and support to adult and child victims of domestic violence
 - iv. Promote the safety of law enforcement personnel responding to incidents of domestic violence
 - v. Provide victims or witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders in order to prevent further abuse and harassment or both
 - vi. Complete thorough investigations and effect arrest of the predominant aggressor upon the establishment of probable cause

II. Policy

- a. It shall be the policy of the Pocola Police Department to. Provide a proactive, pro-arrest approach in responding to domestic violence. The primary focus shall be on victim safety followed closely by perpetrator accountability. The officer shall attempt to determine the predominant aggressor and arrest him or her. Pocola Police Department officers should not arrest a person who acted in self-defense as defined by state statute.

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III. Definitions

- a. Abuse- the intended act of causing or attempting to cause bodily injury or placing another person in reasonable apprehension of serious imminent bodily injury to self or other. Types of abuse include the following:
 - i. Physical Abuse- a wide range of behaviors that include aggressive, offensive, and threatened actions by the offender towards the victim's body.
 - ii. Sexual Abuse- aggressive, offensive sexual behavior towards the victim's body. These are behaviors that the victim does not consent to engage in and that the offender commits without regard for the victim's desires or rights.
 - iii. Psychological abuse- the employment of verbal, emotional, and psychological acts rather than, or in concert with, physical attacks, verbal threats, acts of intimidation, destruction of property, animal cruelty, economic abuse, and stalking.

- b. Community stakeholders- entities in the community that are responsible for joining together to foster effective intervention in and prevention of domestic violence. Community stakeholders include, but are not limited to, law enforcement agencies, prosecutors, parole and probation officers, advocacy organizations, social service agencies, adult and child protective services, clergy, educators, government agencies, animal welfare organizations, businesses, and employers.

- c. Domestic violence- an act or pattern of violence perpetrated by an individual not done in the defense of self or others, including but not limited to the following:
 - i. Bodily injury or threat of bodily injury
 - ii. Sexual abuse or assault
 - iii. Physical restraint
 - iv. Property crime directed against the victim
 - v. Stalking
 - vi. Strangulation
 - vii. Violation of a court order of protection or similar injunction
 - viii. Death threats or death (including third party)
 - ix. Domestic violence occurs when one family or household member causes, or attempts to cause, an abusive act against another family or household member.

- d. Family or household member-
 - i. Current or former spouse or intimate partner
 - ii. Present spouse of a former spouse
 - iii. Former spouse of a present spouse
 - iv. Person living with an intimate partner
 - v. Parents
 - vi. A foster child
 - vii. A child
 - viii. Persons related by blood or marriage
 - ix. Persons who have a child in common
 - x. Persons whose relationship resulted in a current pregnancy

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- xi. Persons who have, or had, a dating relationship
 - xii. Persons who reside or formerly resided in the same home
- e. Full faith and credit- the requirement by the U.S. Code (U.S.C.) title 18 section 2265 that jurisdictions honor the terms and conditions of a protection order issued by another jurisdiction.
 - f. Petitioner- the person alleging abuse in a petition for an order of protection.
 - g. Predominant aggressor- the person who poses the most serious ongoing threat. Note: An injury resulting from a person acting in self-defense is neither abuse nor a crime.
 - h. Pro-arrest response- the expectation that officers shall arrest a a person for committing domestic abuse unless there is a clear and compelling reason not to arrest (such as a self-defense determination or lack or probable cause).
 - i. Protection order (as defined by 18 U.S.C. 2266)- any injunction or other court order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person. This includes any temporary or final order issued by a civil or criminal court (other than a support or child custody order issued pursuant to state divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other federal law) whether obtained but filing an independent action or as a pendente lite order in another proceeding so long as a civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.
 - j. Respondent- the person alleged in a petition for order of protection to have abused another.
 - k. Self-defense- certain legal circumstances under which persons may use a reasonable amount of force to protect themselves or another based on their actual belief that they are, or another is, in imminent danger coupled with reasonable grounds. If force has been legally used in self-defense under the law, there is an absolution of guilt or culpability.
 - l. Victim- a person who is the subject of domestic abuse and who a law enforcement officer has determined is not a predominant aggressor under the factors set out in the law.

IV. Procedure

- a. Domestic Violence Prevention
 - i. The Pocola Police Department shall adhere to a pro-arrest policy towards domestic violence perpetrators.

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1. Prevention through Collaboration- The department shall establish and maintain ongoing partnerships with local community stakeholders in general as well as victim advocacy organizations in particular to develop domestic violence curricula and train officers and call takers to enhance their abilities. The department shall provide local community stakeholders and victim advocacy organizations with copies of all domestic violence curricula, protocols, and policies for review and feedback.
2. Training- All departmental personnel, both sworn and non-sworn, shall receive comprehensive mandatory instruction upon implementation of this policy and on a continuing basis.

ii. Incident Response Protocols

1. Communications- Communication officers shall do the following:
 - a. Dispatch a minimum of two officers to a domestic violence call whenever possible.
 - b. Assign a priority response to all domestic violence calls, whether or not the assailant is known to be on the premises, including those calls that involve or appear to involve a police officer of any department.
 - c. Immediately notify and dispatch a supervisor to any domestic violence call for service that involves or appears to involve a police officer, regardless of the involved officer's jurisdiction.
 - d. Preserve documentation of the facts and circumstances of each call, including 911 tapes, for use in potential administrative and criminal investigations, as requested by the investigating officers or supervisors.
 - e. Maintain current contact information of local domestic violence victim advocacy organizations for responding officers to provide to victims.
 - f. Attempt to elicit any and all information from the caller that may help the responding and investigating officers assess the situation, including the following:
 - i. Immediate safety of the caller and others at the scene
 - ii. Nature of the incident (verbal or physical), nature of injuries, and whether violence is ongoing
 - iii. Weapons that are involved, or present, if applicable, and the type of weapon when appropriate
 - iv. Hazards to responders if any, including animals
 - v. Whether the suspect is under the influence of alcohol and drugs or both
 - vi. Suspect's description and presence or absence, and, if absent, direction of travel and mode of travel

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- vii. Other people involved or witnesses at the scene, including children
- viii. Number of times the department has been called to this scene because of this suspect
- ix. Existence of a protection order currently on file against the suspect
- x. Outstanding warrants against the suspect if any exist
- xi. Suspect's date of birth or social security number and any previous history of domestic violence
- g. Inform the caller of an approximate time of the officers' arrival.
- h. Not cancel the original call for service even if a subsequent request to cancel the original call is received. Advise the responding officers of the second call and instruct them to continue to respond, investigate and assess the situation to ensure that all parties are safe.
- i. Keep the caller on the telephone if the caller is a victim or witness to a domestic violence incident in progress in order to relay ongoing information provided by the caller to the responding officers and remain aware of the victim's safety.
- j. Have ready access to police department records that indicate whether the parties involved in the incident have been involved previously in domestic violence incidents, whether previous incidents involved a weapon, and whether there is in effect a protection order involving the parties, and relay any relevant information to the responding officers.
- k. Make the safety of domestic violence victims a primary concern. Address threats of violence, whether immediate or remote, by working with the victim to focus on ways to enhance safety, such as waiting for officers at another location or leaving the location if the suspect returns.

2. Initial Law Enforcement Officer Response

- a. When dispatched to a domestic violence call, responding officers should do the following:
 - i. Approach the scene of a domestic dispute with a high degree of caution
 - ii. Obtain all available information from the dispatcher and notify the dispatcher upon arrival
 - iii. Avoid the use of emergency lights and sirens when it is not essential so as not to alert the perpetrator to the officer's approach
 - iv. Be alert for persons leaving the scene and for the deployment of weapons from doors, windows, or nearby vehicles

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- v. Use recording devices to capture statements made by combatants and witnesses, when state law permits
- b. Upon arrival at the scene, responding officers shall do the following:
 - i. Avoid parking the police vehicle in front of the residence or other site of the disturbance when possible.
 - ii. Identify themselves as law enforcement officers, explain their presence, and request entry in the event the incident is at a private residence, as necessary, and when exigency circumstances do not exist.
 - iii. Make contact with all residents of the house, all potential witnesses, victims, and perpetrators. A forced entry is permissible if there is probable cause to believe that the safety of a victim may be in jeopardy. In making this decision, officers may take into account everything they personally observe, all physical evidence, and all things learned from witnesses or other persons supplying information. In evaluating the information, officers should take into account the credibility of the persons supplying the information and whether there is a reasonable basis for believing the information.
- c. Upon gaining entry, responding officers should do the following:
 - i. Identify and secure potential weapons in the surroundings
 - ii. Separate the parties
 - iii. Restrain or remove the suspect, if necessary
 - iv. Assess for injuries, make an inquiry about strangulation or internal injuries, administer first aid, and request medical services as necessary
 - v. Identify all people or witnesses on the premises
 - vi. Separate occupants and witnesses from the victim and the accused, keeping them out of sight and hearing range of one another (as safety permits)
 - vii. Obtain a comprehensive account of the events from all parties
- d. During the on-scene investigation, using a coordinated approach, responding officers should do the following:
 - i. Ask the parties about injuries, including those that may be concealed by clothing or otherwise not readily apparent including strangulation. An officer of the same sex as the victim may be needed as further visual investigation continues and color photographs of these areas are taken.

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- ii. After speaking with the victim and making a proactive assessment of the victim's physical condition, determine whether emergency medical services (EMS) should be summoned to the scene. Officers should always summon EMS if:
 - 1. The victim requests medical attention (whether the officer believes EMS should be summoned or not) or;
 - 2. If it appears that strangulation has occurred.
- iii. Inform the victim in advance of actions to be taken and obtain consent to search the scene or obtain a search warrant as necessary.
- iv. If the suspect has been arrested prior to the interview, give Miranda warnings before questioning the suspect. If the suspect has fled the scene, solicit information about his or her possible whereabouts.
- v. Address the victim's safety and privacy by interviewing the victim in an area apart from the suspect and witnesses. Obtain information about previous incidents, including frequency and severity.
- vi. Ask the victim about the existence of a protection order and, if one is said to exist, ask whether the victim possesses a copy. Check for the existence of a protection order through dispatch or by whatever means available.
- vii. Collect, preserve, and document all physical evidence to support prosecution, including evidence substantiating the victim's injuries, evidentiary articles that substantiate the attack (weapons, torn clothing, phone cords, and so on) and evidence recording the crime scene, in accordance with departmental policy on evidence collection. Ensure that color photographs are taken of visible injuries on the victim as well as visible injuries on the suspect. Make arrangements to take follow-up photographs of the victim's injuries 24, 48, and 72 hours later in the event the injuries become more visible and pronounced.
- viii. Obtain contact information for the victim if he/she will be staying at a different location than his/her normal residence.
- ix. Interview all witnesses fully and as soon as circumstances allow. If witnesses provide information about prior incidents, document the information to establish a pattern.
- x. Interview children at the scene in a manner appropriate to their age. Document any signs of trauma and any

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- apparent wounds or healing of wounds on the children and take appropriate action, in accordance with state law, to prevent imminent harm to the children.
 - xi. Elicit information and document all actual and suspect incidents of abuse including physical and sexual abuse, elder or child abuse, animal cruelty, and so on.
 - xii. In cases of intimate partner violence, the officer shall complete and submit a lethality assessment form; (Pocola PD Form: PPD/LA)
 - xiii. Based on the results of the lethality assessment, referrals to shelters, domestic violence intervention programs, and other social services shall be provided to the victim.
 - xiv. The officer shall provide the victim with a Domestic Violence Rights & Information Packet.
 - e. The responding or investigating officers shall **NOT** do the following:
 - i. Make any statement that would discourage a victim from reporting an act of domestic violence
 - ii. Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel.
 - f. Supervisor Involvement
 - i. Field supervisors shall be responsible for monitoring any domestic violence calls dispatched to the officers under their direct supervision or within their area of responsibility.
 - ii. Whenever possible, the supervisor should respond to the scene for the purpose of providing additional safety, monitoring the situation, and being available to offer advice.
 - iii. In situations where the supervisor is not able to respond, he or she should perform follow-up to ensure departmental policy has been followed.
3. Incident Documentation- Officers shall complete a domestic violence report following response to or investigation of an allegation of domestic violence, whether or not an arrest is made.
4. The Arrest Decision-
 - a. Officers shall make a warrant less arrest (as permitted by state law), as part of the pro-arrest response, if an officer has probable cause to believe that a person has committed a crime involving domestic violence.
 - b. Officers shall arrest for violation of protection orders, when applicable.

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- c. Officers shall provide a detailed explanation, if an arrest is not made, in their report as to why an arrest was not made.
- d. When an arrest cannot be made due to lack of probable cause that a crime has been committed, or if an arrest is authorized but not made (explanation to be found in the incident report), then the officer shall do the following:
 - i. Explain to the victim why an arrest is not being made
 - ii. Advise the victim of his or her rights and explain the procedures for filing a criminal complaint
 - iii. Encourage the victim to contact the local domestic violence service provider for information regarding counseling and other services
- e. If an officer has probable cause to believe that two or more persons committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall attempt to determine whether one party acted in self-defense and whether one party was the predominant aggressor.
- f. An arrest should be made once the predominant aggressor has been determined.
- g. Dual arrests apply only where officers find that there is no predominant aggressor and self-defense has not been used under law.
- h. If the officer determines that probable cause exists to arrest both parties, the arresting officer shall write and file a separate report for each arrest and include a detailed explanation of the probable cash for each arrest.

5. Arrest Procedures

- a. The arresting officers should take the accused into custody as soon as it is determined that a warrant less arrest is appropriate. If the suspect has fled the scene, the officers should attempt to locate and apprehend the suspect as well as consider advising dispatch of the suspect’s description so a lookout can be placed for the suspect. Should the suspect not be located, the officers should initiate procedures to obtain a warrant for the suspect as soon as practical.
- b. Domestic disturbances involving prominent citizens, public officials, or police officers may present particular difficulties for the responding officers. In such circumstances, the responding officers should request that a supervisor respond to the scene and shall ensure that this incident be handled the same as any other domestic violence incident.

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- c. The officer should not put a victim in the position of stating whether or not he or she wants the suspect to be arrested.
- 6. Victim Safety and Protection- Police officers shall make victim safety and protection a priority, recognizing the important role they play in supporting the safety of victims and enabling them to make informed decisions.
- 7. Post-Incident Follow-Up
 - a. The investigating officer shall make follow-up contact with victims of domestic violence to take follow-up photographs of the victim’s injuries.
 - b. The investigating officer shall make follow-up contact with victims of domestic violence and inquire whether subsequent violence or intimidation has occurred. Subsequent incidents shall be treated in accordance with this policy and assigned a new call for service number.
 - c. Notify victims, following an arrest, to contact the District Attorney’s Office Victim Witness Coordinator to seek assistance, learn conditions of bail, and exercise their right to request revocation of bail from the District Attorney’s Office if the conditions are violated.

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