

WATERTOWN POLICE DEPARTMENT GENERAL ORDER



JOANNA W. VITEK
CHIEF

Effective Date: June 4, 2008	Rescinds: Amends: B-140 (September 1991)	Number: B-140
Subject: Domestic Violence		Re-evaluation Date: June 2011
Distribution: ALL PERSONNEL	Related CALEA Standards:	

This order consists of the following numbered sections:

1. Purpose
2. Procedures
3. Enforcement
4. Investigation of Family Violence Cases
5. Training

1. Purpose

It shall be the policy of the Watertown Police Department to respond to acts of domestic abuse as a crime, take appropriate enforcement action when probable cause exists that a crime has occurred, and to give assistance to victims who need medical, shelter, or other types of assistance.

To encourage the reduction of domestic/family disturbances, especially those with violence, the Watertown Police Department will fully investigate and accurately report family violence complaints. When criminal violations occur, officers will arrest offenders where lawful and appropriate, provide protection and assistance to victims of family violence, and inform involved parties of the various services that may be available to them within the criminal justice system. This information will include social service agencies and other community resources that can assist in breaking the cycle of domestic/family violence.

2. Procedures

a. Definition-SDCL 25-10-1

- 1) "Domestic abuse," physical harm, bodily injury, or attempts to cause physical harm or bodily injury, or the infliction of fear of imminent physical harm or bodily injury between family or household members;
- 2) "Family or household members," spouses, former spouses, or persons related by consanguinity, adoption, or law, persons living in the same household, persons who have lived together, or persons who have had a child together;
- 3) "Protection order," an order restraining any family or household member from committing any act of domestic abuse or an order excluding any family or household member from the dwelling or residence of another family or household member, whether or not the dwelling or residence is shared. A protection order has a duration of three years or less; and
- 4) "Temporary protection order," an order restraining any family or household member from committing any act of domestic abuse or an order excluding any family or household member from the dwelling or residence of another family or household member, whether or not the

dwelling or residence is shared. A temporary protection order has a duration of thirty days except as provided in SDCL 25-10-7.1.

b. Officer Response SDCL 25-10-36.

A law enforcement officer who is responding to a domestic abuse call has probable cause to believe that a crime has been committed, the law enforcement officer shall arrest the person who is suspected of committing the crime and make a complete report of any action taken.

1) If the officer has probable cause to believe that spouses, former spouses, or other persons who reside together or formerly resided together have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the predominant physical aggressor. In making this determination, the officer shall make every reasonable effort to consider:

- (a) The intent to protect victims of domestic abuse under this chapter;
- (b) The comparative extent of injuries inflicted or serious threats creating fear of physical injury; and
- (c) The history of domestic abuse between the persons involved, SDCL 25-10-35.

2) After an arrest is made, a records check and obtaining information from the victim, family members, etc. should occur to determine if there are prior convictions for domestic assault or stalking, to ascertain if appropriate felony charges can be filed.

3) Upon making an arrest, if, in the investigating officer's opinion the suspect is able to post bond prior to arraignment and will pose a significant hazard to the victim or any person related to the case, the officer should notify the Shift Supervisor.

- a) The Shift Supervisor can authorize the contact of the on-call magistrate to advise the magistrate of the circumstances of the case.
- b) The magistrate can then make a determination whether a modification of the bond is appropriate.

4) Officers shall take enforcement action based on probable cause and will not require the victim to sign a complaint or to place the suspect under "citizen arrest" for any domestic violence act.

5) When a domestic abuse incident has occurred, regardless of the gender of the victim, the officer will contact Women's Resource Center at their earliest convenience and brief the advocate on the details of the domestic abuse that has occurred.

6) If the suspect has left the scene prior to officer's arrival, and there is a possibility the victim may be in danger if the suspect returns, the officer if requested should follow/transport the victim to a different location.

c. Additional Officer Responsibilities

1) Officers will provide the victim with the Women's Resource Center phone number, and may additionally provide the victim with the Incident Number, Victim Advocate Information, and Investigating Officers Name.

2) If requested Officers will make every effort to arrange, offer, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

d. The primary officer will complete a case report anytime the Department responds to a domestic abuse incident. All reports of domestic abuse will be forwarded to the Codrington County States Attorney's office as soon as the initial investigation is completed.

3. Enforcement

a. When there is probable cause to believe a Protection Order or Temporary Protection Order violation has occurred, enforcement action shall be taken. Enforcement action shall be an arrest. When responding to an incident of domestic violence, an arrest can be made at any time during the investigating officer's shift. If the suspect is contacted after the end of the officer's shift, an arrest or an arrest warrant can be obtained.

b. Foreign Protection Orders

SDCL 25-10-12.1 reads "Any domestic violence protection order issued by a court of competent jurisdiction of another state, Indian tribe, the District of Columbia, or a commonwealth, territory, or possession of the United States is enforceable as if the order was issued by a court in this state if all of the following requirements are satisfied:

- 1) The respondent received notice of the order in compliance with requirements of the issuing jurisdiction;
- 2) The order is in effect in the issuing jurisdiction;
- 3) The issuing court had jurisdiction over the parties and the subject matter;
- 4) The respondent was afforded reasonable notice and opportunity to be heard sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must have been provided within the time required by the law of the issuing jurisdiction; and, in any event, within a reasonable time after the order was issued, sufficient to protect the respondent's due process rights;
- 5) If the order also provides protection for the respondent, a petition, application, or other written pleading was filed with the issuing court seeking such an order and the issuing court made specific findings that the respondent was entitled to the order; and
- 6) The prohibited conduct violative of the foreign protection order could be prohibited by a protection order if issued in the state."

4. Investigation Of Family Violence Cases

a. Arrival at Scene

- 1) Determine location and condition of victim and suspect;
- 2) Determine if any weapon(s) are involved or within the home;
- 3) Provide appropriate level of aid to injured parties;
- 4) Separate suspect, victim and witness (victim should be out of suspect's view); and
- 5) Take photographs of the victim, suspect, and scene.

Note: When possible, follow-up photographs should be made for injuries that will become more noticeable over time (i.e., bruises).

b. Preliminary Investigation

- 1) Interview everyone separately: victim, suspect, children, and other witnesses;
- 2) Ask victim and suspect if they are injured even if there are no visible injuries;
- 3) Document victim's and suspect's condition. For example, torn clothing, disheveled appearance, evidence of injury, and disarray in house;
- 4) Document size relation of victim and suspect, keeping in mind that larger is not always stronger; and
- 5) Determine which of the parties involved was the predominant aggressor, by investigating the following:
 - a) Did one of the parties appear to be in actual fear of the other?

- b) Did one party escalate the level of violence (e.g., did a party react to a slap by striking the other party several times)?
- c) Was a party physically larger and/or stronger than the other? (See item 4 above.)
- d) Does relevant documented history include the following?
 - 1a) Physical violence
 - 2b) Sexual violence
 - 3c) Destruction of personal/mutual property
 - 4d) Harm to pet
 - 5e) Violence against others
- e) Did any injuries appear to be defense wounds?

c. If a suspect is taken into custody:

- 1) Advise suspect of Miranda rights if applicable;
- 2) Take statements if and when Miranda is waived; and
- 3) Document any voluntary statements made by the suspect.

d. Evidence gathering should include:

- 1) Document condition of crime scene (disarray of physical surroundings);
- 2) Photograph crime scene, if applicable;
- 3) Ensure the victim's/suspect's injuries are photographed; and
- 4) Seize and/or photograph weapons and other evidence of the crime.

e. Medical treatment investigation should include:

- 1) Obtain authorization for release of medical records from victim, if possible;
- 2) Document extent of injuries/treatment if known; and
- 3) Document names of ambulance personnel if applicable.

6. Training

Officers will be assigned POST certified training in the areas of Domestic Violence, conflict resolution, and mediation when practical. Women's Resource Center will routinely give briefing training on domestic violence issues to officers. Shift supervisors will train officers on the Department's responsibilities and response to domestic violence using available resources and existing policies.

JOANNA W. VITEK
Chief of Police