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			Distribution: All
Title: DOMESTIC VIOLENCE		Section: Field Situations	
Issued: 1/12/2012	Effective: 2/22/2012	Revised: 3/10/2016	
Rescinds: All Previous		Amends:	
CALEA References:			
Review: Annual	Authority: Chief Michael A. Keller 		

I. Purpose

The purpose of this General Order is to establish guidelines for members in response to domestic violence calls in compliance with KSA 22-2307, which states, "all law enforcement agencies in this state shall adopt written policies regarding domestic violence calls...These policies shall be made available to all officers of such agency."

II. Policy

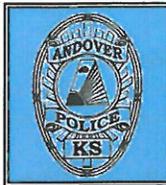
It is the policy of this department to provide a proactive, pro-arrest approach in responding to domestic violence. The primary focus shall be on safety of the victim, officers, and others in proximity of the crime, followed closely by perpetrator accountability. The officer should follow all policies and procedures of this department to complete a thorough investigation and analysis of the complaint with the goal of arresting the person(s) committing an act of domestic violence and who were not acting in defense of persons or property.

Officers are expected to do the following:

- A. Establish arrest and prosecution as a preferred means of response to domestic violence.
- B. Take appropriate action of any violation of permanent, temporary, or emergency orders of protection.
- C. Afford protection and support to adult and child victims of domestic violence.
- D. Promote the safety of law enforcement personnel responding to incidents of domestic violence.
- E. Provide victims or witnesses of domestic violence with support and assistance through cooperative efforts in order to prevent further abuse and harassment, or both.
- F. Complete thorough investigations and effect arrest of the person that the officer has probable cause to believe committed a crime or offense involving domestic violence unless the person's actions were in defense of persons or property.

III. Definitions

- A. **Domestic Violence:** An act or threatened act of violence against a person with whom the offender is involved or has been involved in a dating relationship, or an act or threatened act of violence against a family or household member by a family or household member. Domestic violence also includes any other crime committed



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against a person or against property, or any municipal ordinance violation against a person or against property, when directed against a person with whom the offender is involved or has been involved in a dating relationship or when directed against a family or household member by a family or household member.

- B. **Dating Relationship:** A social relationship of a romantic nature. In addition to any other factors the court deems relevant, the trier of fact may consider the following when making a determination of whether a relationship exists or existed: Nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and time since termination of the relationship, if applicable.
- C. **Family or Household Member:** Persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.
- D. **Domestic Violence Offense:** Any crime committed whereby the underlying factual basis includes an act of domestic violence.
- E. **Defense of Persons or Property:** An act by a person as authorized by KSA 21-5222, 21-5223, 21-5224, 21-5225, 21-5230, and 21-5231.

Rev. 03102016

IV. Regulations

- A. Officers responding to incidents of domestic violence shall not do the following:
 - 1. Make any statement that would discourage a victim from reporting an act of domestic violence [A].
 - 2. Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by officers [B].
- B. When an officer determines there is probable cause a particular person has committed a domestic violence offense, the officer shall without undue delay arrest the person unless such person's actions were in defense of persons or property [C].

V. Procedures

A. Communications Officer Procedures

- 1. The Communications Officer receiving a report of domestic violence should 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.
 - c. Attempt to elicit any and all information from the caller that may help responding and investigating law enforcement officers assess the situation, including information clarifying the identity of witnesses, victims, and



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- suspect; the nature and extent of any injuries; the nature and extent of any threat or actual physical violence; the use or availability of weapons; relationship between the persons involved; prior problems between the parties; information that will assist officers in locating the suspect; and the existence of any protection from abuse or other relative court orders.
- d. If contact is lost with the complainant, the Communications Officer shall attempt to reestablish contact. The Communications Officer should not reveal information about the call to a third party contacted during this process unless necessary to establish additional information useful to the responding officers.
 - e. Immediately notify and dispatch a supervisor to any domestic violence call for service that involves or appears to involve a law enforcement officer or any police department staff member, regardless of the involved law enforcement officer's jurisdiction.
 - f. 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.
2. During the initial call for assistance, the Communications Officer should ask the following questions:
- a. Where is the location of the emergency?
 - b. What is happening/what has happened?
 - c. Who am I speaking to?
 - d. Are you the victim? If not, are you a witness?
 - e. What is the nature of the incident (verbal or physical)?
 - f. Are there any injuries and/or needs for medical attention? If yes, is an ambulance needed?
 - g. Is the suspect present? If not, can you physically describe the suspect and the expected whereabouts of the suspect? How did the suspect leave the scene?
 - h. Were there weapons involved and/or present at the scene? If yes, what kind?
 - i. Is the suspect under the influence of drugs and/or alcohol? If yes, what substance?
 - j. Are there children present?
 - k. Has law enforcement responded to this address before?
 - l. Are there any protection orders currently in place?
3. If possible, keep the caller on the line until the responding officers arrive.
4. Cancellation of a Call: Under no circumstances shall the Communications Officer cancel the dispatch of officers to the scene of a domestic violence call, even if requested by the caller.
- a. If a hang-up occurs, attempt to reconnect the call, but do not state who the original call came from.



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- b. Always inform the responding officers of any call activity including, but not limited to, any hang-up calls and/or any requests to cancel the original call.

B. Initial Officer Response Procedures

1. When dispatched to a domestic violence call, responding officers should do the following:
 - a. Obtain all available information from the Communications Officer and notify the Communications Officer upon arrival at the scene.
 - b. Approach the scene with a high degree of caution.
 - c. While adhering to departmental policy regarding emergency responses, avoid the use of emergency lights and sirens when it is not essential so as not to alert the suspect to the officer's approach.
 - d. Be alert for persons leaving the scene and for the deployment of weapons from doors, windows or nearby vehicles.
 - e. Use recording devices to capture statements made by suspects, victims and witnesses, if possible or available.
2. Upon arrival at the scene, responding officers should do the following:
 - a. Avoid parking their vehicle in front of the residence or in sight of the incident whenever possible.
 - b. Identify yourself as a police officer and explain your presence. Request entry in the event the incident is at a private residence, as necessary, and when exigent circumstances do not exist. A forced entry is permissible if there is a reasonable, good-faith belief that there is someone in need of immediate aid or assistance. 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. Officers should take into account the credibility of the person supplying the information and whether there is a reasonable basis for believing the information.
 - c. Make contact with all residents of the house, all potential witnesses, victims and suspects.
3. Upon gaining entry, responding officers should do the following:
 - a. Secure the scene. Identify and secure potential weapons in the surroundings.
 - b. Separate the parties, if possible and as safety permits.
 - c. Restrain or remove parties who pose a safety risk, if necessary.
 - d. Assess for any and all injuries (visible and non-visible), make an inquiry about strangulation or internal injuries, administer first aid and request medical services as necessary.
 - e. Identify all people or witnesses on the premises.
 - f. Separate occupants and witnesses from the victim and the suspect, keeping them out of sight and hearing range from one another, as safety permits.

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- g. Obtain a comprehensive account of the events from all parties.
- 4. During the on-scene investigation, responding officers should do the following:
 - a. Ask the parties about injuries, including those that may be concealed by clothing or otherwise not readily apparent, and strangulation.
 - b. After speaking with the victim and making a proactive assessment of the victim's physical condition, determine whether emergency medical services should be summoned to the scene. Officers should always summon EMS if the victim requests medical attention, regardless of whether or not the officer believes EMS should be summoned.
 - c. With regard to searches, inform the victim in advance of actions to be taken and obtain consent to search the scene or obtain a search warrant as necessary.
 - d. 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/her possible whereabouts.
 - e. 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 of domestic violence or abuse.
 - f. Ask the victim about the existence of a protection order and, if one exists, ask whether the victim possesses a copy. Check for the existence of a protection order through dispatch or by other means available.
 - g. While adhering to department policy on evidence collection, collect, photograph, 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, etc.) and evidence recording the crime scene, such as destroyed or damaged property. 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.
 - h. Interview all witnesses fully and as soon as circumstances allow. If witnesses provide information about prior incidents, document the information to establish a pattern. Elicit information and document all actual and suspected incidents of abuse including physical and sexual abuse, elder or child abuse, cruelty to animals, etc.
 - i. Interview children at the scene in a manner appropriate for their age. Document any signs of trauma and any apparent wounds or healing of wounds on the children and take appropriate action to prevent imminent harm to the children.

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- j. Offer to contact the local domestic violence agency to provide support to the victim and provide current contact information for local domestic violence resources.
- 5. Incidents involving law enforcement officers and/or department staff members as the suspect:
 - a. Upon arrival at the scene of a domestic violence call of an incident involving a law enforcement officer or department member, the primary patrol unit should immediately notify dispatch and request that a supervisor or higher ranking officer than the involved suspect officer/member report to the scene, regardless of the involved officer's jurisdiction.
 - b. Responding officers should be aware of the heightened risk that a suspect who is a law enforcement officer will likely possess firearms, other weapons, physical combat training or all three.
 - c. Officers should be aware that the suspect may attempt to make emotional appeals to fellow law enforcement officers.
 - d. Where the suspected offender is a member of this department, outside agency assistance and investigation should be requested immediately.

C. Protection from Abuse (PFA) and Protection from Stalking (PFS) Orders

While the named defendant on a PFA and/or PFS order usually cannot be arrested or charged with violation of a protective order under KSA 21-5924 if the defendant has not been personally served with the order, officers should still offer assistance to the victim/plaintiff if a complaint is made and should work to have the defendant personally served with the PFA/PFS order. Officers should arrest on other charges whenever legally possible.

- 1. Officers who determine that the defendant named in a PFA and/or PFS order is in violation of a protective order under KSA 21-5924 shall arrest the defendant and proceed with the booking process. The officer should turn the information over to the prosecuting attorney. Violation of a protection order is a class A misdemeanor.
- 2. Officers who are presented with a situation in which the victim/plaintiff claims a PFA and/or PFS is in existence, but does not possess and/or present a copy to the officers, should take steps to verify the existence of a protection order, in good faith including, but not limited to:
 - a. Utilize NCIC to verify the existence of a protection order.
 - b. Utilize sheriff/law enforcement records to verify that an order is on file.
 - c. Contact the Clerk of the District Court in which the protection order was issued.
 - d. Consider other information in determining whether there is reason to believe a valid foreign (issued by a court in another state) protection order exists.

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3. Officers who make an arrest for violation of a protective order under KSA 21-5924 should complete an independent standard offense report for the arrest. Any additional charges, such as criminal trespass, should also be made.

D. Full Faith and Credit

Any protection order issued by the court of any state or Indian tribe shall be accorded full faith and credit and enforced as if it was issued by a Kansas court.

1. A foreign order of protection is considered valid if the order:
 - a. Identifies the protected individual and the respondent;
 - b. Is currently in effect;
 - c. Was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and
 - d. Was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issuing the order or, in the case of an ex parte order, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued in a manner consistent with the rights of the respondent to due process.
 - e. If an officer determines that an otherwise valid foreign protection order cannot be enforced because the respondent of the order has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent and allow the respondent a reasonable opportunity to comply with the order before enforcing the order.
2. Law enforcement officers shall, upon a probable cause determination that a foreign order of protection exists, treat the violation of the order as if it were issued by a Kansas court.

E. The Arrest Decision

1. Officers shall make a warrantless arrest if they have probable cause to believe that a person has committed or is committing a domestic violence related crime or offense and the person's actions were not an act of defense of self, others or property.
 An officer should not arrest either party involved in an alleged act of domestic violence if the officer determines there is not probable cause to believe that a crime or offense has been committed.
 An officer should not automatically arrest both parties involved in an alleged act of domestic violence. If a law enforcement officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine if there is probable cause that each

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accused person committed a crime or offense and their actions were not an act of defense of self, others or property.

2. Officers shall arrest for violation of a protection order when applicable. If the violation is determined to be a domestic violence crime, officers shall arrest for violation of the protective order. A person shall not be arrested for violating a protection order under which that person is the protected party.
3. If an arrest is not made, officers should provide a detailed explanation in the standard offense report as to why an arrest was not made and the report shall be sent to the Kansas Bureau of Investigation (KBI).
4. If an arrest is not made due to the suspect(s) leaving the scene prior to the officer's arrival, the investigating officer should make every effort to locate the suspect prior to going off-duty by notifying other officers and agencies, as appropriate, of the suspect's descriptors. If the officer is unable to locate the suspect prior to going off-duty, the officer should notify the victim that an arrest has not been made, ask for assistance in locating the suspect from the oncoming crew, prepare an affidavit or NTA for suspect in the event the suspect is located while the officer is off, and have all reports completed before going off-duty.
5. 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 standard offense report), then the officer should do the following:
 - a. Explain to the victim why an arrest is not being made.
 - b. Advise the victim of his or her rights and explain the procedures for filing a criminal complaint.
 - c. Encourage the victim to contact the local domestic violence agency for information regarding available services.
6. If an officer has probable cause to believe that two or more persons committed a crime involving domestic violence, or if two or more persons make complaints to the officer, the officer should attempt to determine whether one party acted in defense of self, others or property by conducting a thorough investigation and analysis.
7. Subsequent to an investigation, an arrest should be made only if the officer has probable cause to believe that a crime involving domestic violence is being or has been committed and the alleged perpetrator was not acting in defense of self, others or property.
8. **Dual arrests apply only** where officers determine that there is probable cause that both persons committed a crime involving domestic violence, and neither person acted in defense of self, others or property. Officers should, in this instance, notify a supervisor to review the circumstances leading to the dual arrest.
9. Factors that will not be considered in making an arrest include, but are not limited to:

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- a. Sexual orientation, race, and cultural, social, political or professional positions.
 - b. Ownership, tenancy rights of either party, or whether the incident occurred on private property.
 - c. Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to conviction.
 - d. Verbal assurances that the domestic violence will stop.
 - e. Denial by either party that domestic violence occurred when there is probable cause to make an arrest.
 - f. Lack of a court order.
 - g. Chemical dependency or intoxication of the parties.
10. Domestic violence involving prominent citizens, public officials, or law enforcement personnel may present particular difficulties for the responding officers. In such circumstances, officers should request that a supervisor respond to the scene and should ensure that this incident be handled the same as any other domestic violence incident.

F. Incident Documentation Procedures

1. Officers will complete the Standard Offense Report and all supplements as required by the Kansas Standard Offense Report Manual, regardless of whether an arrest is made.
2. All reports or allegation of domestic violence shall be documented even it is determined there is not probable cause a crime was committed and even if no arrest is made.
3. If no arrest is made due to the lack of probable cause, the report shall include all information supporting the lack of probable cause a crime was committed, the lack of probable cause a particular person committed the crime, or supporting a legal use of force in defense of persons and property.
4. Officers will complete the Standard Offense Report and all supplements as required by the Kansas Standard Offense Report Manual when an arrest is made for violation of a protective order.

G. Victim Safety and Protection

Officers should make victim safety and protection a priority, recognizing the important role officers play in supporting the safety of victims and enabling them to make informed decisions.

1. Officers responding to cases involving domestic violence shall comply with General Order M1108 Victim/Witness Assistance.
2. In the event the victim wants to leave the premises, to ensure safety officers should:



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- a. Remain at the scene while the victim packs essentials.
- b. If requested, transport the victim to the police department to wait for someone to pick up the victim.
- c. If requested, transport the victim to a safe place within reasonable distance. A shelter for domestic abuse victims should be deemed an appropriate transport.