

April 8, 2010

**CITY OF FERGUSON
OFFICE OF THE CHIEF OF POLICE**

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DOMESTIC VIOLENCE

420.00 PURPOSE

The purpose of this General Order is to establish guidelines for police intervention in acts of domestic violence, to provide increased understanding of attention to domestic violence problems and to improve maximum safety for domestic violence victims and members of this department.

420.01 POLICY

The primary objectives in responding to domestic violence calls are to de-escalate violent situations, to reduce officer injury, to reduce repeat calls, to enforce the law against violators and to facilitate prosecution where applicable.

420.02 DEFINITIONS.

- A. **"Domestic Violence"** The infliction of physical harm, bodily injury or assault, or the fear of imminent physical harm, bodily injury or assault, by one family or household member on another.

The term domestic violence refers to any felony, misdemeanor or ordinance crime against person or property-involving parties in a domestic relationship as previously described. Domestic violence will include but not be limited to the following offenses:

Murder, manslaughter, assault, harassment, all types of sexual offenses, robbery, arson, property damage, armed criminal action and weapons offenses, peace disturbance, offenses against the family (to include incest, abandonment of a child, endangering the welfare of a child, abuse and neglect of a child).

Note: a threat to commit bodily harm constitutes an "Assault Third Degree" under state statute and violation of Ferguson Municipal Code, 29-36.

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- B. **"Abuse"** Includes, but is not limited to, the occurrence of any of the following acts, attempts, or threats against a person as defined in RSMO. 455.010-455.085, assault, coercion, harassment, unlawful imprisonment.
- C. **"Adult"** For purposes of the Adult Abuse Law any person eighteen years of age or older, or otherwise emancipated.
- D. **"Household Member"** Adults who are either spouses, former spouses, persons related by blood or marriage, persons who are presently residing in the same dwelling, or have resided together in the past, and persons who have a child in common regardless of whether they have been married or resided together at any time.
- E. **"Petitioner"** A household member who has filed a verified petition alleging abuse.
- F. **"Respondent"** A household member against whom a verified petition has been filed.
- G. **"Ex Parte Order of Protection"** An order of protection issued by a Circuit or Associate Circuit Court before the respondent has received service/notice of the petition or has had an opportunity to be heard.
- H. **"Full Order of Protection"** An order of protection issued after a hearing on the record.
- I. **"Service of an Order"** The delivery of an Ex Parte Order of Protection or Full Order of Protection to a respondent by a court process server.
- J. **"Notice of an Order"** (Ex Parte Order only) Authority is granted to an officer whereby he can present a copy of an Ex Parte Order of Protection to the respondent. This notice will enable officers to make an arrest for any violations occurring thereafter.

420.03 PROCEDURES:

- A. Dispatcher (Communications) Responsibilities:
 - 1. Because the dispatcher is likely to be the first person to receive the call, he is a key person in determining the type of response.
 - 2. The dispatcher is responsible for obtaining necessary information to dispatch the call. The dispatcher will obtain the following information:
 - a. The complaint's name, address and phone number.
 - b. Location and time of occurrence.

- c. If any weapon or physical violence is involved.
- d. If anyone is injured, is an ambulance needed.
- e. After dispatching at least two units to the scene and an ambulance if needed, the dispatcher should obtain a direction and mode of travel, if the assailant(s) have left the area, to relay to the officers enroute.
- f. The dispatcher should also inquire as to the assailant's frame of mind, such as a known mental condition, intoxicated, etc., and relay it to the responding units.
- g. Does complainant have a current "Order of Protection."
- h. Has there been a call to the same location during the previous twelve hours? It is the dispatcher's responsibility to notify the responding officers if that is the case.

B. Patrol Responsibilities:

- 1. Approaching the scene:
 - a. Avoid the use of sirens and emergency lights in the vicinity of the scene.
 - b. Officers must be concerned about their safety and the safety of the victim. All common sense and learned police techniques should be utilized to minimize the possibility of injuries.
- 2. Initial contact with complainants:
 - a. Identify self as police officer, give explanation for your presence and request to speak to complainant. If complainant is in residence and the officer is prevented from speaking to complainant, the officer should seek entry into residence.
 - b. If police officer is refused entry: When refused entry to a residence, the Police Officer must be persistent by explaining that a complaint was received and must be verified. If entry is still refused, have the dispatcher call the residence and re-contact the complainant or victim. If entry is still denied, contact your supervisor and explain the situation.
 - c. A Police Officer may force an entry when: There may be times when enough probable cause exists to indicate that a felony is occurring, has just occurred, or that a life is in danger. In these cases if entry is

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refused, or there is no reply from the premises, forced entry may be necessary to protect a life or make an arrest.

- d. Some of the circumstances that can provide probable cause for an entry would include cries for help, weapons displayed, obvious signs that a struggle occurred, eyewitness account that a crime has occurred and that the victim is still on the premises.
- C. Warrantless Entry: Officers should consider the following elements when considering a forced, warrantless entry:
- 1. The degree of urgency involved and the time required getting a warrant.
 - 2. The possibility of danger to others, including police officers left to guard the site.
 - 3. Whether officers reasonably believe that persons may be armed.
 - 4. The victim needs medical treatment.
 - 5. The risk to officers and others that may result from a forced entry.

420.04 ARREST POLICY:

- A. All calls of abuse complaints are to be viewed as incidents of alleged criminal conduct in which assistance and protection will be provided to victims in a timely manner.
- B. Calls for service involving domestic violence will require immediate response particularly if the following conditions exist:
 - 1. Previous incidents of domestic violence have occurred between the parties, or
 - 2. Violence is imminent or in progress, or
 - 3. A protection order is in effect.
- C. When an officer determines there is probable cause to believe that a violation of an Ex Parte Order of Protection or Full Order of Protection has occurred, after service or notice has been given to the respondent, the officer will affect an arrest, as these violations constitute a Class A misdemeanor.
- D. There are four violations of a protection order which qualify to make an arrest:
 - 1. An act of abuse;

2. Failure or refusal of the respondent to surrender any minor children in accordance with a protection order/custody order;
3. Entrance on the premise of the petitioner's dwelling unit;
4. Stalking.

420.05 VICTIM REFERRAL SERVICES:

The officer at the scene of an alleged incident of abuse WILL inform the victim of available judicial remedies for relief. Additional victim assistance procedures are found in GO224 *Rights of Victims and Witnesses*. Officers should advise an abuse victim of available shelter services, specifically the following information:

- A. In St. Louis County, the "Victim Service Council" (VSC), located at 7900 Carondelet, on the 4th floor of the St. Louis County Courthouse, phone number 314-615-4872 is a private, nonprofit agency serving victims of crime in St. Louis County.
- B. The VSC personnel will provide both instructions as to how to obtain an Ex Parte Order of Protection and if available, a volunteer to accompany the complainant through the judicial process to obtain the Order(s).
- C. The VSC is available to provide assistance to victims of all crimes including family violence. The following named services are available to victims of adult abuse and officers should be familiar with the services in order to acquaint the victims with this information.
 1. Victim Service Council (615-4872) Information, referral and support services. VSC is located on the 4th floor, Room 432 and is open Mon-Fri 8:30 -4:30. Messages may be left after hours, and calls will be returned the next working day.
 2. National Domestic Violence Hotline (1-800-799-SAFE)
 3. Shelters:
 - a. ALIVE - 24 hour Crisis Line (314-993-2777), provides individual counseling, support groups, nights of safety, court advocacy and community education.
 - b. St. Martha's (314-533-1313) Emergency shelter; food and clothing; support groups; individual counseling; advocacy program/legal and medical; information and referral; children's program.

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- d. Women's center (636-946-6854) Emergency shelter; support groups; chemical dependency groups; children's program; serves St. Charles and surrounding areas.
 - e. Women's Crisis Center (618-235-0892) Crisis line; emergency shelter; legal advocacy; children's program; parent support group; education, and employment services; serves Belleville, IL and surrounding areas.
 - f. Oasis (618-465-1978) Emergency shelter, counseling; supportive services; advocacy for children; referral services; serves Alton, IL and surrounding areas.
3. Other Services
- a. Legal Advocate Service for Abused Women (314-664-6699 or 1 800 527-1460)
 - b. Aid for Victims of Crime (314-652-3623) 24-hour hotline; general counseling and referrals.
 - c. Safe Connections (531-2003) 24 hour crisis line; information and referral; individual and group counseling; community education.

Note: All Ferguson Police Officers are required to have in their possession handout material which provides victims of abuse additional resources and information. Officers can obtain the handout material from their supervisor.

- D. Officer will assist victim in contacting referral services and will arrange for transportation to a shelter.

420.06 ARREST PROCEDURES:

- A. When an officer has probable cause to believe that someone has committed a violation of law amounting to abuse or assault (as defined earlier in this General Order) against a family or household member, the officer MAY arrest the offender:
 - 1. Even if the act alleged did not occur in the presence of the officer; and / or
 - 2. Even if the victim does not wish to sign an official complaint.
- B. Officers WILL affect an arrest, regardless of whether a victim desires prosecution, based upon probable cause and supported by statements of the victim or witnesses, of abusers in domestic situations in the following circumstances:
 - 1. Where a felony has been committed.

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2. Where the officer(s) is aware of a past history of assaults committed by the abuser and there is probable cause to believe that another assault has occurred.
 3. Where a weapon was used to inflict the injury or was used to intimidate or threaten the victim.
 4. Where a physical assault has occurred and, if the officer takes no action, there is a strong likelihood that further violence or injury might result.
 5. In cases where the conditions of a valid order of protection issued under the terms of the Missouri Adult Abuse Law have been violated.
 6. Where there are valid warrants, or computer wanted's on file for either party.
- C. If the officer does not make an arrest, the officer **WILL** make a written report describing the incident and the reason why no arrest was made.
- D. If this department is called to the same address within a twelve-hour period and the officer has probable cause to believe the same offender has committed a law violation against the same or any other family member, the officer **WILL** arrest the offender for the offense. The report of the previous incident may be considered as evidence of the offender's intent.
- E. Even if both parties claim to have been assaulted, the officer is not required to arrest both of them, but is to attempt to identify and arrest the person believed to be the primary physical aggressor. To make that determination, the officer is to consider:
1. The intent of the law is to protect victims of domestic violence from continuing abuse;
 2. The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
 3. The history of domestic violence between the parties.
- F. No officer will threaten to arrest all parties for the purpose of discouraging requests for law enforcement intervention.

420.07 WARRANT APPLICATION:

- A. Warrant applications will be made in the office of the St. Louis County Prosecutor for state statute violations. Specific attorneys are designated to review such applications.
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- B. The St. Louis County Prosecuting Attorney's office has a policy concerning the prosecution of domestic violence cases. The prosecutor's office will pursue victimless prosecution on some domestic violence cases, meaning that they will continue to prosecute some cases even without the cooperation of the victim. To prosecute domestic violence cases without victim cooperation, the prosecutors need;
1. Excited utterances - made by the victim at the scene, documented in the police report in exact quotes. Also, include a description of the victim's emotional state (crying, trembling, hysterical etc.)
 2. Physical injury - described in detail and photographed. The P.A.'s office is stressing the importance of photographing these injuries and suggest that in some cases it might be appropriate to return a couple of days later and photograph again when bruising is more evident.
- C. All domestic violence cases taken to state court, including ex parte violation cases, will have one prosecutor assigned that will handle the case from beginning to end.
- D. If the victim of Domestic Violence does go to an emergency shelter, the name of the shelter is all that is necessary. Do not put the address of the emergency shelter in your report.
- E. Another important part of this form is the request for the 911 tape. The P.A.'s office wants a CD copy of the incoming 911 call to be placed into evidence for future use in prosecution. It is not necessary to seize the original tape from communications. It will be the responsibility of the reporting officer to contact the communications supervisor and request a copy of this call. You must also identify in your police report the name and DSN of the dispatcher that received the call.
- F. For warrant application, prosecutor's request not only a full record check on the suspect, but also copies of any other domestic violence police reports previously reported to this department.
- G. Violations of City Ordinance's should be presented to the Ferguson City Attorney for prosecution.

By order of:



COLONEL THOMAS JACKSON
Chief of Police

Distribution

All Department Personnel