

Domestic Violence

317.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through fair and impartial enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of the Kalamazoo Department of Public Safety to take enforcement action when appropriate, to provide assistance to victims and to guide public safety officers in the investigation of domestic violence (MCL 776.22).

317.1.1 DEFINITIONS

Definitions related to this policy include:

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

Domestic violence - Any state or local criminal offense, or the act of causing or attempting to cause physical or mental harm; the fear of either physical or mental harm; sexual activity by force, threat or duress; or any other activity that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested, when such criminal offense or act is committed against a family or household member (MCL 400.1501; MCL 764.15c).

Domestic violence offense - A violation of MCL 750.81 or MCL 750.81a when the suspect (MCL 764.15a):

- (a) Has had a child in common with the victim.
- (b) Resides or has resided with the victim.
- (c) Has or has had a dating relationship with the victim.
- (d) Is a spouse or former spouse of the victim.

Family or household member - Any of the following (MCL 400.1501; MCL 750.81a):

- (a) Spouses or former spouses
- (b) Individuals residing or who previously resided together
- (c) Individuals in a dating or previous dating relationship
- (d) Individuals engaged or previously engaged in a sexual relationship
- (e) Individuals who are or were formerly related by marriage
- (f) Individuals who have a child in common
- (g) A minor child of any of the above mentioned individuals

317.2 POLICY

The Kalamazoo Department of Public Safety's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy

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of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

317.3 OFFICER SAFETY

The investigation of domestic violence cases often places public safety officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all public safety officers to exercise due caution and reasonable care in providing for the safety of any public safety officers and parties involved.

317.4 INVESTIGATIONS

The following guidelines should be followed by public safety officers when investigating domestic violence cases:

- (a) Calls of reported, threatened, imminent or ongoing domestic violence 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.
- (b) When practicable, public safety 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) Public Safety 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. Whenever a child under the age of 18 is a witness to a domestic violence incident, the investigating officer shall notify the Family Independence Agency (FIA).
- (d) When practicable and legally permitted, video or audio 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 Tele-Serve Desk during normal business hours in the event that the injuries later become visible.
- (f) Public Safety 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, public safety 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, public safety officers should include specific information that establishes that the offender has been

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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 public safety officer should attach a copy of the order to the incident or arrest report.

- (j) Public Safety 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. Marital status of suspect and victim.
 2. Whether the suspect lives on the premises with the victim.
 3. Claims by the suspect that the victim provoked or perpetuated the violence.
 4. The potential financial or child custody consequences of arrest.
 5. The physical or emotional state of either party.
 6. Use of drugs or alcohol by either party.
 7. Denial that the violence occurred where evidence indicates otherwise.
 8. A request by the victim not to arrest the suspect.
 9. Location of the incident (public/private).
 10. Speculation that the complainant may not follow through with the prosecution.
 11. The racial, cultural or social identity, professional position or sexual orientation of the victim or suspect.
 12. The absence of visible indications of injury or impairment (MCL 776.22).

317.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, public safety officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Advise the victim that it is possible that a court order will be in effect when the suspect is released from jail and provide information to the victim on how to obtain their own personal protection order (PPO) if they wish to.
- (c) Advise the victim to contact the prosecutor's office the following day at 0900 hours.
- (d) Document the investigation in a criminal report and forward to Prosecutors Office for review.

317.4.2 IF NO ARREST IS MADE

If no arrest is made, the public safety officer should:

- (a) Advise the parties of any options, including but not limited to:
 1. Voluntary separation of the parties.

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2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness assistance).

- (b) Document the resolution in a report.

1. If it can be determined that a possible crime has occurred however there is not enough evidence to support a probable cause arrest or the suspect cannot be located after the incident, the investigating officer shall complete the investigation and subsequent criminal report and submit to the Prosecutor's Office for review.

2. If there is nothing to substantiate a crime has occurred, the investigating officer(s) shall document the incident in a non-criminal report entitled, "Domestic Dispute".

317.5 VICTIM ASSISTANCE

Because victims may be traumatized or confused, public safety officers should be aware that a victim's behavior and actions may be affected.

- (a) Victims shall be provided with the department domestic violence information handout, even if the incident may not rise to the level of a crime (MCL 764.15c; MCL 780.753).
- (b) Victims shall also be alerted to any available victim advocates, shelters and community resources (MCL 764.15c; MCL 776.22).
- (c) When an involved person requests law enforcement assistance while removing essential items of personal property, public safety officers should stand by for a reasonable amount of time.
- (d) If the victim has sustained injury or complains of pain, public safety officers shall seek medical assistance for the victim as soon as practicable (MCL 776.22).
- (e) Public Safety Officers should ask the victim whether he/she has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for his/her safety or if the public safety officer determines that a need exists.
- (f) Public Safety Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (g) If appropriate, public safety officers shall provide information to the victim on how to obtain an emergency order (MCL 776.22).

317.6 DISPATCH ASSISTANCE

All calls of domestic violence, including incomplete 9-1-1 calls, 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. Public Safety Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

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317.7 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by public safety officers as if it were the order of a court in this state (MCL 600.2950i). 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.

317.7.1 VERIFICATION

If a person seeking enforcement of a foreign court order does not possess a copy of the order, public safety officers shall attempt to verify the existence of a foreign protection order. This may include, but is not limited to, checking the Law Enforcement Information Network (LEIN) or the National Crime Information Center (NCIC) system, contacting the court that issued the order or the law enforcement agency of the issuing jurisdiction (MCL 600.2950i).

317.8 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, public safety 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, 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.

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

317.9 STANDARDS FOR ARRESTS

Public Safety Officers investigating a domestic violence report should consider the following:

- (a) Public Safety Officers having probable cause to believe that a person has committed a domestic violence offense should make an arrest (MCL 764.15a).
- (b) Public Safety Officers having probable cause to believe that a person has violated a personal protective order, including a foreign protection order, should arrest the person (MCL 764.15b).

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1. If the person had not received prior notice of the order, he/she shall be given an opportunity to comply with the order before an arrest is made (MCL 600.2950; MCL 600.2950a).
- (c) A public safety officer who has probable cause to believe that a person has violated a condition of release (conditional bond) imposed under MCL 780.582a should arrest the person (MCL 764.15e).
 1. The arresting public safety officer shall prepare a complaint of violation in the format prescribed in MCL 764.15e and provide a copy to the arrestee.
- (d) Any decision not to arrest when there is probable cause to do so should be made by a supervisor based on a clear and compelling reason not to arrest.
- (e) An appearance ticket shall not be issued to a person arrested (MCL 764.9c):
 1. For a violation of a personal protective order.
 2. When the person is the subject to a mandatory period of confinement.
 3. When the person has not met a condition of bond or release.
 4. For assault and battery or domestic assault with a prior conviction (MCL 750.81).
 5. For assault with serious or aggravated injury or aggravated domestic assault with a prior conviction (MCL 750.81a).
- (f) Public Safety Officers should not arrest an individual if the public safety officer has probable cause to believe the individual was acting in lawful self-defense or in lawful defense of another (MCL 776.22).
- (g) It is KDPS policy to avoid dual arrests whenever possible. When circumstances could result in a dual arrest because a public safety officer has probable cause to believe that a family or household member has committed crimes against each other, the public safety officer should consider the following when making a decision whether to arrest one or both of the individuals:
 1. The intent of state law to protect victims of domestic violence.
 2. The degree of injury inflicted on the individuals involved.
 3. The extent to which the individuals have been put in fear of physical injury to themselves or other members of the household.
 4. Any history of domestic violence between the individuals.

317.9.1 RELEASE

Public Safety Officers making an arrest for a domestic violence incident should notify the proper custodial officer that the individual may not be eligible for release until he/she can be arraigned or have an interim bond set by a judge or district court magistrate (MCL 780.582a; MCL 764.15b; MCL 764.15e).

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317.10 REPORTS AND RECORDS

- (a) Reports of domestic violence shall be on the standard domestic violence incident report form created by the Michigan State Police (MSP) or on a substantially similar form (MCL 764.15c).
- (b) The Operations Division Administrative Assistant should ensure:
 - 1. That a copy of the report is filed with the prosecuting attorney within 48 hours of the initial incident (MCL 764.15c).
 - 2. In cases of conditional bond violations, that a copy of the complaint is retained with the case file and that the original is forwarded as required (MCL 764.15e).
 - 3. For arrests involving the violation of a protection order, the biometric data of the arrestee, as defined by MCL 28.241a, that is collected during the booking process shall be forwarded to the MSP within 72 hours (MCL 28.243).
 - 4. That domestic violence incidents are reported to the MSP as required (MCL 28.257).

317.11 SERVICE OF COURT ORDERS

Public Safety Officers responding to a domestic violence incident and having knowledge that an un-served court order exists shall serve the person restrained or enjoined with a copy of the order, or advise the person of the existence of the order, the specific conduct enjoined, the penalties for violating the order and where the person may obtain a copy of the order. Proof of service shall be filed with the clerk of the issuing court (MCL 600.2950; MCL 600.2950a; MCL 600.2950i).)

In addition, officers shall complete a non-criminal report entitled, "PPO/Conditional Bond Proof of Service" and completing the back of the served order.

317.12 ENTRY OF COURT ORDERS INTO THE LAW ENFORCEMENT INFORMATION NETWORK

The Dispatch Center is responsible for the entry, modification and removal of personal protection orders and protective or parole conditions, as directed by the court, in LEIN (MCL 780.582a; MCL 600.2950; MCL 600.2950a; MCL 765.6b).

317.12.1 FIREARMS

If a public safety officer encounters an individual carrying a weapon in violation of a suspension or revocation order, the public safety officer should attempt to determine if the individual had received previous notice of the order. If the individual had not received notice, the public safety officer shall inform the individual of the order and allow the individual the opportunity to comply with the order before making an arrest. The public safety officer notifying an individual of the existence of a suspension or revocation order shall enter such information in LEIN (MCL 28.428).

317.13 PUBLIC ACCESS TO POLICY

The Chief of Public Safety or the authorized designee shall ensure that this policy is made available to the public upon request (MCL 776.22).

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317.14 ANNUAL REVIEW

This policy shall be reviewed annually by the Chief of Public Safety or the authorized designee (MCL 776.22).

317.15 DISCIPLINE

Members who violate this policy may be subject to discipline up to and including termination (MCL 776.22).

317.16 TRAINING

Subject to available resources, members should receive appropriate training on this policy (MCL 776.22).