



# SPECIAL ORDER

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SUBJECT  
**DOMESTIC VIOLENCE POLICY**

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## Policy

Domestic violence will be treated with the same consideration as violence in other enforcement contexts. Members shall combine the use of appropriate community services with enforcement of the law to break the cycle of domestic violence.

## Procedure

1. Whenever a member encounters an incident involving assaultive crimes committed or probable cause exists to believe that an individual has committed an assaultive crime within the context of a domestic relationship, and the perpetrator is a spouse, a former spouse, an individual with whom *they have or have had* a dating relationship, or an individual with whom *they have had* a child in common, or an individual *dating and* residing or having resided in the same household, the member shall arrest the perpetrator.
2. Reasonable cause under Michigan law is synonymous with probable cause. Probable cause means any fact(s) that would induce a fair-minded person of average intelligence to believe that the subject has committed a crime. The probable cause standard applied to domestic violence crimes is no different than the standard applied to all other crimes.

## Misdemeanor Domestic Violence

1. An individual who assaults, or assaults and batters, *their* spouse, a former spouse, an individual with whom *they have or have had* a dating relationship, an individual with whom *they have had* a child in common, or a resident or former resident of *their* household is guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not more than \$500.00, or both. (MCLA 750.81 [2]).
2. An individual who commits an assault or assault and battery in violation of item one (1) and who has previously been convicted may be punished by imprisonment for not more than one (1) year or a fine of not more than \$1,000.00, or both. (MCLA 750.81 [3]).
3. An individual who commits an assault or an assault and battery in violation of subsection item one (1) and two (2) and who has two (2) or more previous convictions is guilty of a felony punishable by imprisonment for not more than two (2) years, or a fine of not more than \$2,500.00, or both. (MCLA 750.81 [4])

## **Aggravated Domestic Assault**

1. An individual who assaults or assaults and batters *their* spouse or former spouse, an individual with whom *they have or have* had a dating relationship, an individual with whom *they have* had a child in common, or a resident or former resident of *their* household, without a weapon and inflicts serious or aggravated injury upon that individual without intending to commit murder or to inflict great bodily harm less than murder, is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, or a fine of \$1,000.00, or both (MCLA 750.81a [2]).
2. An individual who commits aggravated domestic violence, and who has one (1) or more previous convictions, is guilty of a felony punishable by imprisonment for not more than two (2) years, or a fine of not more than \$2,500.00, or both (MCLA 750.81a[3]).

## **Concepts**

1. A dating relationship is defined as “frequent intimate associations primarily characterized by the expectations of affectional involvement.” This term does not include a casual relationship or an ordinary fraternization between two (2) individuals in a business, *familial*, or social context.
2. Members responding to domestic violence situations shall take care to detail the nature of the relationship by indicating the length, duration, frequency of contacts and other similar information in the *incident report* to establish the elements of the crime.
3. “Serious or Aggravated injury” means a physical injury that requires immediate medical treatment or that causes disfigurement, impairment of health, or impairment of a part of the body.
4. A member's decision not to arrest for domestic assault, assault and battery or aggravated domestic assault should be based solely upon the lack of probable cause. However, members shall not arrest an individual if there is probable cause to believe the individual was acting in lawful self-defense or defense of another. Dual arrests should be avoided. Where there are cross complaints by both persons, members shall attempt to ascertain whether one (1) person was acting in self-defense or lawful defense of others.
5. Where an individual within the context of domestic violence is committing or has committed a non-assaultive felony or misdemeanor crime, arrest of the violator shall be regarded as the most appropriate action. Such arrests shall be governed by the rules of warrantless arrest that apply to felony or misdemeanor offenses in general. The individual may not be released until arraignment has occurred or a judge or district court magistrate has set a bond or a warrant recommendation has been denied. *Having the victim sign off on any “complainant refused to prosecute” (CRTP) form should be avoided in practice.*

## **Other Domestic Violence Complaints**

### **Elder Abuse**

1. An assault by a relative, roommate, or a caregiver against a person sixty-five (65) years of age or older is classified as Elder Abuse.
2. Complaints of Elder Abuse shall be investigated and handled in the same

manner as any other domestic violence complaint. If the victim is a “vulnerable adult” a report to the Family Independence Agency may be required. ‘Vulnerable’ means a condition which an adult is unable to protect *themselves* from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age.” (MCL 400.11 {f})

3. Abuse perpetrated by a juvenile shall be investigated and handled in the same manner as any other domestic violence complaint. If a custodial arrest is made, the procedures for detaining a juvenile shall be followed.

### **Assaults between Children and Parent or Guardian**

Members encountering incidents of assault, assault and battery, or aggravated assault by a parent, guardian, or person who cares for or has custody or authority over a child *ages seventeen (17) and under*, shall take enforcement action under the child abuse statute.

### **Authority of Domestic Violence**

Members shall notify Domestic Violence if the domestic relationship is comprised of the following:

1. Spouse;
2. Ex-spouse;
3. Couple residing together;
4. A couple that formerly resided together;
5. A couple with a child in common;
6. Elder Abuse;
7. Stalking Personal Protection Orders; or
8. Personal Protection Order violations *where the violations involve those listed in the above relationships.*

All other domestic violence complaints will be handled by the precinct of occurrence.

### **Notice of Victim Rights**

1. Michigan law requires a *police* officer, after investigating or intervening in an incident involving domestic assault or aggravated domestic assault, to provide the victim with written notice of available emergency shelters, counseling services and the legal rights of victims of domestic violence. The law further requires that the victim be provided with the name and badge number of the responding peace officer and location at which a copy of the domestic violence report may be obtained.
2. Responding members are to provide victims of domestic violence with a copy of a Notice of Rights – Victims of Domestic Violence (DPD113). The form shall be completed to include the reporting officer’s name, badge number, precinct or command address and the Domestic Violence Unit’s telephone number.
3. At the request of a victim of domestic violence, Domestic Violence or other specialized command responsible for the investigation shall provide the victim with a copy of the *incident report* prepared on the incident. There shall be no fee collected when providing the victim with a copy of the report.
4. Members shall assist the victim by providing or arranging for transportation to

a shelter or other safe haven. If conveyance from the scene to the shelter is not feasible, the victim shall be transported to the precinct station for later conveyance. If the victim is injured, members shall follow department procedures regarding sick or injured persons.

### **Domestic Violence Report and Supplement**

1. Members shall prepare *an incident report* whether an arrest is made or not, after investigating or intervening in an incident involving domestic violence or violation of Personal Protection Orders.
2. Members shall also prepare a Domestic Violence Supplement, *which is a form that can be found on the Detroit Police Department (DPD) Intranet "Forms" page*. This form shall be submitted with the *incident report* as an attachment or sent via email to the Domestic Violence Unit, *placing the incident report number in the subject line of the email*.
3. Completion of the form is mostly self-explanatory. However, the following information is offered for clarification and standardization:
  - a. Excited Utterance is the first statement made by the complainant in regards to the assault. Example: "We had an argument and he hit me in my face."  
Excited Utterance - "he hit me in my face"; and
  - b. Emotional State is how the complainant was acting and responding to officers while at the location (i.e., crying, screaming, angry, fearful, calm, quiet, etc.).
4. The Domestic Violence Supplement will be utilized for one (1) complainant only. If there are multiple complainants for one (1) incident, each complainant shall be recorded on a separate Domestic Violence Supplement and identified as "victim #1", "victim #2", etc. in the "injuries" section. The supplements shall be coordinated by indicating 1 of 2, 2 of 2, etc., on the upper right corner of the supplement.
5. Michigan law requires that *police officers prepare an incident report* after investigating or intervening in an incident involving a domestic assault. The law also requires that certain information be included in the report such as:
  - a. Date;
  - b. Time;
  - c. Location of incident;
  - d. Relationship between the victim(s) and defendant;
  - e. Medical attention;
  - f. Weapons;
  - g. Witnesses,
  - h. Excited utterance;
  - i. Contact number(s);
  - j. Complainant information (race, sex, age, and date of birth); and
  - k. Defendant information (race, sex, age, and date of birth).
6. The *incident Report* and Domestic Violence Supplement may be used in conjunction with the Investigator's Report (DPD467) when requesting a felony warrant.

## **Department Members Arrested**

When a sworn member is arrested for a domestic violence related incident, responding members shall notify *the* Domestic Violence *Unit* immediately from the scene of the incident. The responding member shall maintain the crime scene until Internal Affairs arrives and releases the scene.

## **Disposition of Arrested Person**

Under Michigan law, an individual, once arrested for *any* misdemeanor or *felony* offense of domestic assault or aggravated domestic assault, cannot be released on any type of bond, release slip, or personal recognizance; the arrested individual shall be held, even if the victim expresses a desire not to *cooperate with a criminal investigation*, until arraignment has occurred, the warrant was denied, or a judge or district court magistrate has set a bond. Other than release pursuant to a lawful writ of habeas corpus, the person should not be released absent the above-mentioned circumstances.

## **Persons Arrested Pursuant to Not-In-Custody Warrants**

Persons arrested on a domestic assault warrant, or other misdemeanor, or felony crimes committed within the context of a domestic dispute including domestic assault or aggravated domestic assault, shall also be held until arraignment has occurred or a judge or district court magistrate has set bond.

## **Personal Protection Order (PPO)**

An individual may petition the Family Division of Circuit Court for a Personal Protection Order to restrain or enjoin a spouse, a former spouse, an individual with whom *they have* had a child in common, an individual with whom *they have or have* had a dating relationship, an individual residing or having resided in the same household, a person involved in elder abuse or a stalker.

Further, actions by one (1) party may violate an existing Personal Protection Order or condition of release on bond imposed by a court. Conditions imposed by either court order may include prohibitions against assaultive behavior or other non-assaultive conduct, entering onto the premises, removing minor children. Therefore, members shall also arrest for violations of the following court ordered prohibitions:

1. Entering onto premises;
2. Assaulting, attacking, beating, molesting, or wounding a named individual;
3. Threatening to kill or physically injure a named individual;
4. Removing minor children from the individual having legal custody of the children, except as otherwise authorized by a custody or visitation order issued by a court of competent jurisdiction;
5. Interfering with the protected person's efforts to remove children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined;
6. Interfering with the protected person at the person's place of employment or engaging in conduct that impairs the protected person's employment relationship or environment;
7. Having access to information in records concerning a minor child or both

petitioner and respondent that will inform the respondent about the address or telephone number of petitioner and petitioner's minor child or about petitioner's employment address;

8. Any other specific act or conduct that imposes upon or interferes with personal liberty that causes a reasonable apprehension of violence; or
9. Purchasing or possessing a firearm.

A Personal Protection Order is issued by a circuit court and must contain on its face the following:

1. A statement that the Personal Protection Order will subject the individual restrained or enjoined to immediate arrest and the civil and criminal contempt powers of the court. If the restrained or enjoined individual is found guilty of criminal contempt, he/she may be imprisoned for not more than ninety-three (93) days and may be fined not more than \$500.00;
2. A statement that the Personal Protection Order is effective when signed by a judge;
3. A statement listing the type or types of conduct enjoined;
4. An expiration date stated clearly on the face of the order;
5. A statement that the Personal Protection Order is enforceable anywhere in Michigan by any law enforcement agency; and
6. A seal should be affixed to the order by the court.

### **Notice to the Individual Restrained or Enjoined**

The individual named in the Personal Protection Order must receive personal notice of the order prior to arrest for its violation. The fact that the individual has been personally served should be indicated in the Michigan Law Enforcement Information Network (LEIN) response and confirmed by contacting the Message Center at (313) 596.2173. If the entering law enforcement agency is the Detroit Police Department, the member must confirm service with the Message Center.

If the Message Center or the LEIN System has no record that the individual has been personally served with the order, the law requires a law enforcement officer responding to a domestic violence call alleging a violation of a Personal Protection Order, to serve the individual restrained or enjoined with a true copy of the order which may be obtained from the person protected by the order. If a true copy of the order is not available at the scene, then the member must advise the individual restrained or enjoined of the existence of the Personal Protection Order, the specific conduct enjoined, the penalties for violating the order, and where the individual restrained or enjoined may obtain a copy of the order. A member can learn the specific conduct enjoined by contacting the Message Center or the law enforcement agency that entered the Personal Protection Order into the LEIN System.

### **Arrest for Violation of a Personal Protection Order**

Whether presented with a true copy of the order at the scene, or learning of its existence through a LEIN inquiry, members must contact the Message Center or the law enforcement agency that entered the information prior to making a

custodial arrest for a violation of a Personal Protection Order. The Message Center or any other law enforcement agency will advise the member of the specific prohibited activity and, if applicable, verify that notice has been served.

### **Prior Notice to Individual Restrained or Enjoined**

A member, without a warrant, shall arrest and take into custody, an individual when **all** of the following conditions exist:

1. The Message Center or any other law enforcement agency has confirmed the validity and content of the order, or the person protected presents the member with a copy of a valid order;
2. Notice to the enjoined person is confirmed, either through the Message Center or any other law enforcement agency that entered the order into the LEIN System; and
3. The member has probable cause to believe the individual is violating or has violated a condition of the order.

### **No Prior Notice to Individual Restrained or Enjoined**

If the Message Center or any other law enforcement agency has no record that the individual restrained or enjoined has received personal notice of the order, the responding member shall either:

1. Serve the individual restrained or enjoined with a copy of the order as provided by the person protected; or
2. If a copy of the order is not available at the scene, advise the individual of the existence of the Personal Protection Order and the specific conduct restrained or enjoined as instructed by the Message Center or any other law enforcement agency.

If the individual is given personal notice of the order at the scene, *they* shall be given an opportunity to comply with the Personal Protection Order before a custodial arrest is made. Failure to immediately comply with the Personal Protection Order shall be grounds for an immediate custodial arrest.

The responding member, who verbally advises the individual restrained or enjoined of the content of the Personal Protection Order, shall complete a Personal Protection Order Notification Form (DPD113A). The DPD113A shall be signed by the individual restrained or enjoined and the member serving the notification. Service shall also be documented in the *incident* Report prepared regarding the incident. The Message Center shall be advised of the service and shall update the LEIN System to indicate that the individual restrained or enjoined has been served. The serving member shall *email or fax* the DPD113A, which shall serve as the official true copy, to the Message Center. *If the DPD113A is not available, the member can also contact the Message Center and request a Proof of Service Form be sent to them. The member shall complete the form and return it back to the Message Center via email or fax.*

**Disposition of Individual Arrested for Personal Protection Order** Person arrested for violation of Personal Protection Orders issued by 3<sup>rd</sup> Circuit Court must be brought before Circuit Court having jurisdiction. A copy of the arrest

report and court order must *accompany (whether in person or virtual)* the prisoner. If the 3<sup>rd</sup> Circuit Court is not in session during the twenty-four (24) hour period, the person shall be arraigned before 36<sup>th</sup> District Court during this time period.

### **Foreign Personal Protection Order**

Members shall enforce a PPO from other states the same as a PPO issued by a Michigan court. A member encountering a person in violation of a PPO issued outside the jurisdiction of Michigan shall arrest the person and convey *them* to the *Detroit Detention Center*. The Message Center shall be notified to confirm the validity of the PPO. Members shall abide by the advice received from the Message Center.

### **Stalking**

1. The misdemeanor crime “stalking” (MCL 750.411h) (one [1] year misdemeanor) consists of two (2) or more separate acts of unconsented contact between the stalker and the victim. The act must cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and must actually cause the victim to feel so.
2. The term “unconsented contact” is defined under the law as contact that is either initiated or continued without the victim’s consent or in disregard of the victim’s request to refrain from any further unconsented contact. If there is evidence that the stalker continued to engage in a course of conduct involving repeated unconsented conduct, it is presumed under the law that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.
3. According to the law, unconsented contact includes, but is not limited to, any of the following:
  - a. Following or appearing within the sight of the victim;
  - b. Approaching or confronting the victim in a public place or on private property;
  - c. Appearing at the workplace or residence of the victim;
  - d. Entering onto or remaining on property owned, leased, or occupied by the victim;
  - e. Contacting the victim by telephone;
  - f. Sending mail or electronic communications to the victim; and
  - g. Placing an object on, or delivering an object to property owned, leased, or occupied by the victim.
4. The felony crime “Aggravated Stalking” (MCL 750.411i) is stalking which occurs under any of the following circumstances:
  - a. The stalking is done in violation of a restraining order, injunction, or preliminary injunction;
  - b. The stalking is done in violation of a condition of probation, parole, pretrial release, or release on bond pending appeal;
  - c. The stalking includes the making of one (1) or more credible threats of violence against the victim, a member of the victim’s family, or another individual living in the victim’s household that caused the individual hearing or receiving the threat to fear for *their* safety or the safety of another individual; or



- d. The stalker has been previously convicted of the crime of stalking or aggravated stalking.

Members confronted with incidents involving stalking or aggravated stalking shall take appropriate enforcement action consistent with the laws of arrest and department policy.

### **Stalking Personal Protection Orders**

Michigan law also allows an individual who is a victim of stalking to obtain from a circuit court an injunctive order specifically enjoining a person from engaging in conduct which is considered stalking under the law.

A member, without a warrant, shall arrest and take into custody an individual when the member has reasonable cause to believe all of the following exist:

1. The enjoined person named in the injunctive order has received notice of the order;
2. A true copy of the order and proof of service to the enjoined person named in the order has been filed with the law enforcement agency having jurisdiction over the area in which the person requesting the injunction resides;
3. The injunctive order contains a statement listing the type or types of conduct enjoined;
4. The injunctive order contains a statement of the period of time for which the order is valid; and

The injunctive order states on its face that a violation of its terms subjects the enjoined person to immediate arrest and to criminal contempt of court and, if found guilty of criminal contempt, the person will be imprisoned for not more than ninety-three (93) days and fined not more than \$500.00.

Stalking injunctions must be filed with the law enforcement agency in the jurisdiction where the person requesting the injunction resides. Upon receipt of a true copy and proof of service of the injunctive order by the law enforcement agency, information pertaining to the injunction will be entered into the LEIN System.

Members encountering a violation of such an injunctive order shall contact the Message Center to confirm the validity of the order and that a true copy and proof of service is on file with the department.

### **Violation of Stalking Injunctions from Other Jurisdictions**

Members may also arrest for violations of stalking injunctive orders not filed with the Detroit Police Department but which have been properly filed with another Michigan law enforcement agency. In those instances, members shall query the LEIN System

to identify the entering law enforcement agency and contact the Message Center to confirm the validity of the injunction.

### **Stalking Incident Report**

Members affecting an arrest for violation of an injunctive order shall prepare an

*incident* Report. Members must include the specific action(s) of the arrested person that caused *the person* to be in violation of the injunction. An *incident* Report shall also be prepared if the perpetrator has left the scene prior to the members arrival.

**Disposition of an Individual Arrested for Violation of Stalking Injunction**

Persons arrested for violation of stalking injunctive orders, regardless of whether the injunction was filed with the Detroit Police Department or another law enforcement agency must be brought before the 3<sup>rd</sup> Circuit Court within twenty-four (24) hours of arrest. A copy of the arrest report and court order must *accompany (in person or virtual)* the prisoner. If the 3<sup>rd</sup> Circuit Court is not in session during the twenty-four (24) hour period, the person shall be arraigned before the 36<sup>th</sup> District Court.

Under Michigan law, an individual can be charged with the crime of stalking or aggravated stalking in addition to contempt of court for violation of an injunction order. If the arraignment on the violation of the injunction will take place in 36<sup>th</sup> District Court, arraignment on any additional criminal charges should also be taken before the same court.

Updates to the Department Manual are forthcoming.

**JAMES E. WHITE**  
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