Domestic Violence

310.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence (N.D.C.C. § 14-07.1-14).

310.1.1 DEFINITIONS

Definitions related to this policy include:

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

Domestic violence - Physical harm, bodily injury or sexual activity compelled by physical force, assault or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force or assault, not committed in self-defense, by a family or household member (N.D.C.C. § 14-07.1-01(2)).

Predominant aggressor - An individual who is the most significant, not necessarily the first, aggressor (N.D.C.C. § 14-07.1-01(6)).

310.2 POLICY

The Fargo Police Department'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 of this department to facilitate victims' and offenders' access to appropriate civil remedies, and community resources whenever feasible. In addition, officers responding to any domestic violence incident shall conduct a thorough investigation and when permitted or authorized by law, arrest any person deemed to be the predominent aggressor or who is otherwise in violation of any domestic violance law.

310.3 OFFICER SAFETY

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

310.4 INVESTIGATIONS

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

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(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, 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) 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.

(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, or whose injuries change in appearance warranting additional photographs, should be asked to contact the Criminal Investigations Division in the event that the injuries later become visible.

(f) 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, 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 firearm or other dangerous weapon in the home, if appropriate and legally permitted, for safekeeping or as evidence.

1. Any firearm or other dangerous weapon used or possessed while in the commission of a felony or a misdemeanor involving violence or intimidation shall be seized (N.D.C.C. § 62.1-01-02).

(i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been 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 it is reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.

(j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. The following factors should not be used as sole justification for declining to take enforcement action:

1. Whether the suspect lives on the premises with the victim
2. Claims by the suspect that the victim provoked or perpetuated the violence
3. The potential financial or child custody consequences of arrest
4. The physical or emotional state of either party

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5. Use of drugs or alcohol by either party
6. Denial that the domestic violence occurred where evidence indicates otherwise
7. A request by the victim not to arrest the suspect
8. Location of the incident (public/private)
9. Speculation that the complainant may not follow through with the prosecution
10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect
11. The social status, community status, or professional position of the victim or suspect.
12. A person's employment as a sworn or civilian member of the Fargo Police Department or any law enforcement agency.

310.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

(a) Advise the victim that there is no guarantee the suspect will remain in custody.

(b) Provide the victim’s contact information to the jail staff to enable notification of the victim upon the suspect’s release from jail.

(c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

310.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

(a) Advise the parties of any options, including but not limited to:

1. Voluntary separation of the parties.
2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).

(b) Document the resolution in a report.

310.5 VICTIM ASSISTANCE

Victims may be traumatized or confused. Officers should:

(a) Recognize that a victim’s behavior and actions may be affected.

(b) Provide the victim with the victim information handout developed by the department, even if the incident may not rise to the level of crime.

(c) Alert the victim to any available victim advocates, shelters and community resources.

(d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.

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(e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.

(f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.

(g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.

(h) Seek or assist the victim in obtaining an emergency order if appropriate.

An officer shall advise a person protected by a Canadian domestic violence protective order of available local victims' services (N.D.C.C. § 14-07.5-02).

310.6 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. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

310.7 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 officers as if it were the order of a court in this state. 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.

Canadian orders shall be enforced in the same manner as if issued in this state (N.D.C.C. § 14-07.5-02).

310.7.1 SERVICE OF FOREIGN COURT ORDERS

If an officer determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order and make a reasonable effort to serve the order upon the respondent. After informing the respondent and serving the order, the officer shall allow the respondent a reasonable opportunity to comply with the order before enforcing the order (N.D.C.C. § 14-07.4-03(3); N.D.C.C. § 14-07.5-02).

Officers investigating a possible violation of a Canadian order must advise the protected person that an attempt will be made to contact the person who is the subject of the order. The officer shall

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then make a reasonable effort to contact the person who is the subject of the order to inform the person of the specific terms and conditions of the order as provided in N.D.C.C. § 14-07.5-02.

310.8 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, 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, his/her 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.

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

310.9 ASSISTANCE IN SERVICE OR EXECUTION OF PROTECTION ORDERS

Upon an order of the court, and in instances where the Cass County Sheriff's Office is unable to provide this assistance, members of the Department shall assist in the execution or service of a protection order including (N.D.C.C. § 14-07.1-04):

(a) Accompanying an applicant and assisting him/her in obtaining housing.

(b) Otherwise assisting in the execution or service of the protection order including referral to a domestic violence shelter care facility.

310.10 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following (N.D.C.C. § 14-07.1-10; N.D.C.C. § 14-07.1-11):

(a) An officer who has probable cause to believe that a person has committed a crime involving domestic violence shall presume that arresting the person is the appropriate response and should make an arrest as follows:

1. An arrest may be made without a warrant within 12 hours from the time the officer determines there is probable cause for the arrest and only if the officer observes that there has been recent physical injury to, or impairment of physical condition of, the alleged victim.

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2. If more than 12 hours have elapsed, the officer must secure an arrest warrant.

(b) An officer shall not threaten, suggest or otherwise indicate that a family or household member will be arrested to discourage law enforcement intervention.

(c) Complaints received from multiple family or household members shall be evaluated separately to determine if either party acted in self-defense. Dual arrests should not be made. If self-defense is not a factor, the officer shall consider which party was the predominant aggressor by considering the following factors when determining whether to pursue further investigation or seek an arrest warrant:

1. The comparative severity of injuries involved.
2. Any history of domestic violence or any other violent acts.
3. The likelihood of future harm.

(d) An individual arrested for domestic violence shall not be released on bail or personal recognizance unless he/she has made a personal appearance before a magistrate.

(e) An officer who has probable cause to believe a person has committed the offense of violating a protection order under N.D.C.C. § 14-07.1-06, shall arrest the person whether or not the violation was committed in the presence of the officer.

(f) The arresting or booking officer should provide victim contact information to jail staff to facilitate the ability of jail staff to notify the victim before the suspect's release.

310.11 REPORTS AND RECORDS

Officers shall make a written report of any allegation of domestic violence regardless of whether an arrest was made (N.D.C.C. § 14-07.1-12). When preparing a report of domestic violence, an officer shall:

(a) Include the name of the predominant aggressor, if determined through the investigation, and a description of the evidence that supports the determination.

(b) Submit to the report to his/her supervisor.

(c) Complete and submit appropriate documentation to the agency providing child protective services, as required by the current collaborative agreement.

At the request of a domestic violence victim, one copy of each domestic violence face sheet and incident report should be provided. Absent good cause, the face sheet should be made available during business hours, within a reasonable amount of time of the request. Incident reports should be completed in an expeditious manner.

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310.12 TRAINING

Training should be provided as incorporated in the department training plan (N.D.C.C. § 14-07.1-14(2)).

310.13 REVISION DATE 06/21/2023

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