

PINEVILLE POLICE DEPARTMENT

GENERAL ORDER

SECTION: 11 INVESTIGATIONS

SUBJECT: 1101 DOMESTIC VIOLENCE

INVESTIGATION EFFECTIVE: 01/01/2015

1. **POLICY.** The primary duty of officers responding to a domestic violence/family abuse complaint is to enforce the laws allegedly violated and protect victims of family abuse. Officers will accompany a person if ordered by the court to do so, while that person removes essential personal effects or children from the home.

2. DEFINITION.

- A. "Adult" means any person eighteen years of age or older, or any person under the age of eighteen who has been emancipated by marriage or otherwise.
- B. "Court" shall mean any court of competent jurisdiction in the state of Louisiana.
- C. "Domestic abuse" includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family or household member against another. "Domestic abuse" also includes abuse of adults as defined in R.S. 14:403.2 when committed by an adult child or adult grandchild.
- D. "Family members" means spouses, former spouses, parents and children, stepparents, stepchildren, foster parents, and foster children. "Household members" means any person of the opposite sex presently or formerly living in the same residence with the defendant as a spouse, whether married or not, who is seeking protection under this Part. If a parent or grandparent is being abused by an adult child, adult foster child, or adult grandchild, the provisions of this Part shall apply to any proceeding brought in district court.

3. **RESTRAINING ORDER.** When a victim of domestic violence/family abuse alleges that further family abuse may occur, LRS provides that a court may issue a Restraining Order. During the existence of the temporary restraining order, a party shall have the right to return to the family residence once to recover his or her personal clothing and necessities, provided that the party is accompanied by a law enforcement officer to insure the protection and safety of the parties.

4. **PROTECTIVE ORDER.** Any protective order issued within this state or outside this state that is consistent with LRS 46: 2136 Subsection B shall be accorded full faith and credit by the courts of this state and enforced as if it were the order of the enforcing court

5. **VERIFICATION OF COURT ORDER.** Before taking enforcement action on any Court Order, officers will verify that the order is both valid and current, and that the violation requires law enforcement action. Officers will determine whether or not the respondent has been served. Verification of a Court Order and its service can be accomplished by:

- A. Requesting a computer check through NCIC or LLETTS System.
- B. Requesting RPSO desk supervisor

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6. UPON RECEIPT OF A FAMILY ABUSE COMPLAINT. Whenever a law enforcement officer investigates an allegation of domestic abuse, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complainant, and the disposition of the case.

The responding officer shall in addition should:

- A. Notify the victim of the victim's right to initiate criminal charges in all cases where the officer has not made an arrest.
- B. Advise the victim of all reasonable means to prevent further abuse including advising each person of the availability of a shelter and other services in the community.
- C. Offer, arrange or facilitate transportation for the victim to a hospital for treatment of injuries or a place of safety or shelter.
- D. Prepare appropriate reports which should include an incident report, and in some cases a custody report. A copy of the restraining order should be include if available.
- E. Advise any apparent victim of domestic violence that a brochure explaining their legal rights is available upon request.

7. LAW ENFORCEMENT OFFICERS DUTIES. Louisiana Revised Statutes 46:2140 delegates the law enforcement officers duties:

- A. Whenever a law enforcement officer has reason to believe that a family or household member or dating partner has been abused, the officer shall immediately use all reasonable means to prevent further abuse, including:
 1. Arresting the abusive party with a warrant or without a warrant pursuant to Code of Criminal Procedure Article 213, if probable cause exists to believe that a felony has been committed by that person, whether or not the offense occurred in the officer's presence.
 2. Arresting the abusive party in case of any misdemeanor crime which endangers the physical safety of the abused person whether or not the offense occurred in the presence of the officer. If there is no cause to believe there is impending danger, arresting the abusive party is at the officer's discretion.
 3. Assisting the abused person in obtaining medical treatment necessitated by the battery; arranging for, or providing, or assisting in the procurement of transportation for the abused person to a place of shelter or safety.
 4. Notifying the abused person of his right to initiate criminal or civil proceedings; the availability of the protective order, R.S. 46:2136; and the availability of community assistance for domestic violence victims.
- B. When a law enforcement officer receives conflicting accounts of domestic abuse or dating violence, the officer shall evaluate each account separately to determine if one party was the predominant aggressor.
 1. In determining if one party is the predominant aggressor, the law

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enforcement officer may consider any other relevant factors, but shall consider the following factors based upon his or her observation:

- (a) Evidence from complainants and other witnesses.
 - (b) The extent of personal injuries received by each person.
 - (c) Whether a person acted in self-defense.
 - (d) An imminent threat of future injury to any of the parties.
 - (e) Prior complaints of domestic abuse or dating violence, if that history can be reasonably ascertained by the officer.
 - (f) The future welfare of any minors who are present at the scene.
- 2.(a) If the officer determines that one person was the predominant aggressor in a felony offense, the officer shall arrest that person. The arrest shall be subject to the laws governing arrest, including the need for probable cause as otherwise provided by law.
- (b) If the officer determines that one person was the predominant aggressor in a misdemeanor offense, the officer shall arrest the predominant aggressor if there is reason to believe that there is impending danger. If there is no threat of impending danger, the officer may arrest the predominant aggressor at the officer's discretion, whether or not the offense occurred in the presence of the officer. An arrest pursuant to the provisions of this Subparagraph shall be subject to the laws governing arrest, including the need for probable cause as otherwise provided by law. The exceptions provided for in R.S. 46:2140 shall apply.
- (4) As used in this Subsection:
- (a) "Dating violence" has the meaning as defined in R.S. 46:2151(C).
 - (b) "Domestic abuse" has the meaning as defined in R.S. 46:2132(3).

8. REMOVAL OF PERSONAL EFFECTS: When ordered by the court, a police officer shall accompany a person removing essential personal effects under a court order. The officer may temporarily interrupt the removal of property at any time, and is required to remain for up to 20 minutes. The person removing property from the residence is entitled to be accompanied by a police officer on only one occasion.

9. DETERMINING THE PRIMARY AGGRESSOR. Officers shall make every reasonable effort to determine the primary aggressor. When investigating a domestic violence incident officers have an obligation to investigate the issue of self-defense. Officers must remember that a person does not have to wait until they are physically assaulted before using reasonable force to protect themselves. If a person threatens another, the victim of the threats may stop a perceived imminent assault by using reasonable force.

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10. REPORTS. The incident report shall include:

- A. The relationship of the parties involved;
- B. Facts known to the officer in determining whether or not probable cause exist to believe a crime has been committed. Including descriptions and photographs of any injuries;
- C. Victims written or tape recorded statement;
- D. Statements from the suspect and/or witnesses;
- E. Evidence at the scene;
- F. Primary aggressor determinations;
- G. The emotional state and demeanor of the parties involved;
- H. Whether or not an arrest was made, the officer shall document their decision in the incident report.

Additional factors of importance:

- A. Comparative physical size of the participants;
- B. The involvement of substance abuse such as drugs or alcohol;
- C. Previous history of domestic violence;
- D. The presence of children at the scene, any observations from them or injuries to them;
- E. Weapons used, reported to be used, or threatened to be used by either party;
- F. The fact that officer provided domestic violence pamphlet and steps were provided to promote the victims safety;

11. ARREST. If the officer believes mutual assaults occurred and that mutual arrest are necessary to protect both victims probable cause for each arrest must be detailed in the incident report.

- A. Investigations will be conducted with the understanding that the victim may be unavailable or unwilling to testify in the case.

By order of

Darrell Basco
Chief of Police