

EAST LANSING POLICE DEPARTMENT

POLICY AND PROCEDURE

ORDER NUMBER: 6-16
SUBJECT: DOMESTIC VIOLENCE
RESEARCHED BY: P&P COMMITTEE
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CHIEF OF POLICE: _____

REDACTIONS – Portions of this policy have been redacted. Redacted items are operational in nature. Their release would negatively impact public and/or officer safety.

6.1 **PURPOSE**

The purpose of this policy is to establish Department guidelines for the investigation of domestic violence incidents and for violations of court orders and personal protection orders.

6.2 **ARREST AUTHORITY FOR DOMESTIC VIOLENCE INCIDENTS**

- A. MCL 764.15a states that a peace officer may arrest an individual for a violation of MCL 750.81 (Assault, Assault and Battery), or MCL 750.81a (Assault that inflicts serious or aggravated injury). An arrest may be made, regardless of whether the officer has a warrant, or whether the violation was committed in his or her presence. The officer must have probable cause to believe a violation of the statute has occurred or is occurring, under one of the following conditions.
1. The individual is a spouse or former spouse of the victim.
 2. The individual is a resident or former resident of the same household as the victim.
 3. The individual has a child in common with the victim.
 4. The individual is in, or has been in, a dating relationship with the victim.
- B. A “dating relationship” is defined as, “Frequent intimate associations primarily characterized by the expectation of affectional involvement”. This term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.
- C. A case by case analysis will need to be made to determine if there is a “dating relationship”. The information should be included in the police report. Some examples of questions to ask for making a determination if a dating relationship exists would be.
1. The length of the relationship and how frequently they see each other.
 2. Do they date each other exclusively, or do they date other people.

3. The type of activities engaged in during the relationship.

- D. The language of the statute is inclusive and can apply to parents and children, other family members, or unrelated same sex members of the household. The statute does not apply to overnight guests at the same residence, or persons staying in the same hotel room, who do not fall within the arrest guidelines.

6.3 **ARREST GUIDELINES FOR DOMESTIC VIOLENCE INCIDENTS**

- A. Officers responding to the scene of a misdemeanor domestic violence incident are strongly encouraged to make a custodial arrest in the following circumstances.
 1. A misdemeanor is committed in the officer's presence.
 2. A 93 day misdemeanor not committed in the officer's presence.
 3. An officer has probable cause to believe that a misdemeanor assault, assault and battery, or aggravated assault occurred where a domestic relationship exists, as outlined in the statute.
 4. A violation of a Michigan Personal Protection Order or a Foreign Protection Order based on probable cause.
 5. A violation of a conditional release bond based on probable cause.
 6. A violation of probation or parole based on probable cause.
 7. A violation of child protective orders (issued in neglect cases).

- B. Officers responding to the scene of a domestic violence incident shall make a custodial arrest if a felony is committed in the officer's presence, or if the officer has probable cause to believe that a felony has been committed. Officers should not make a custodial arrest if they have clear probable cause to believe an individual was acting in lawful self-defense or in defense of others.

- C. When determining whether or not probable cause exists to believe a crime has been committed, the investigating officer should consider all factors, such as, but not limited to the following.
 1. Statements made by the victim, suspect, children, or other witnesses.
 2. Information relayed by Dispatch.
 3. Physical evidence at the scene that a crime occurred.
 4. Aggressive behavior by the suspect. Try to determine if any visible wounds on the victim or suspect are offensive or defensive wounds.
 5. Damaged or broken property at the residence. Are there any weapons involved.
 6. The existence of a Personal Protection Order.

- D. Dual arrests should be avoided whenever possible. However, they may be necessary under rare circumstances. Where there are allegations of mutual assault, the officers should conduct a thorough investigation to determine who the predominant aggressor was. The decision to arrest shall be made by the officer and/or the Supervisor based upon the facts of the case. The decision

should not be based upon whether or not the victim will prosecute.

- E. If the suspect has left the scene, all reasonable attempts to locate and arrest the suspect will be made. If the suspect cannot be located within a reasonable period of time, the officer shall complete a written police report and the Prosecutor Warrant Request forms. This shall be done prior to going off duty, unless permission is granted by a Supervisor to complete the report at a later time.
- F. An individual arrested for domestic violence shall be lodged until they can be arraigned before a judge. The individual shall not be released on interim bond. The arresting or investigating officer shall seek a complaint and warrant from the Ingham County Prosecutors office.

6.4 NON-ARREST GUIDELINES FOR DOMESTIC VIOLENCE INCIDENTS

- A. Officers shall not arrest a person if the officer has clear probable cause to believe the person was acting in lawful defense, or in the defense of another. If the officer at the scene of a domestic violence incident has no basis for an arrest, and neither individual will leave, they cannot be forced to leave their home. However, it is recommended that officers try to encourage one of the individuals to leave the area to avoid further problems.
- B. The officers should remain at the scene and provide protection while essential personal property is collected in preparation to leave. The officers should provide transportation to a reasonable destination, if needed and it is possible to do so.
- C. Officers should remain at the scene of a domestic violence incident for a reasonable amount of time and until in the judgment of the officer there is no longer a likelihood of further violence.
- D. Officers should assess the potential lethality of the situation by considering the indicators of a life threatening or a serious injury attack. Examples of the indicators of a life threatening attack or a serious injury attack would be factors such as, but not limited to.
 - 1. Has the individual threatened to kill or injure the victim or their children.
 - 2. Is the individual intoxicated or is there drug abuse. Do they have access to weapons.
 - 3. Is there a history of assaultive or suicidal behavior. Is there knowledge that the victim is leaving or filing for divorce.
 - 4. Has the suspect hurt, tortured, or killed any animals, especially in front of the victim or children.
- E. Officers shall arrange for any medical treatment that is needed or requested by the victim or suspect. Officers shall also provide transportation to a Crisis Center/Shelter if needed or requested by the victim. The officer should call the Crisis Center/Shelter prior to the transport, to notify them of the situation.
- F. Though it may not be required in all situations, it is strongly recommended that

the officer seizes and holds all firearms or other dangerous weapons present and/or available to the suspect. This can be done under Department evidence collection procedures.

6.5 **GUIDELINES FOR A VIOLATION OF A MICHIGAN PERSONAL PROTECTION ORDER**

- A. Officers are strongly encouraged to arrest an individual who violates a Michigan Personal Protection Order. A Michigan PPO is enforceable anywhere in Michigan by any law enforcement agency. The order is enforceable even if it has not been entered into LEIN.
- B. An officer shall complete a written police report in all cases where there is probable cause to believe an individual violated a PPO. If no arrest is made, the written report shall document the reasons why an arrest was not made. The report shall also document the fact that the individual named in the order was served notice and advised of the PPO.
- C. When an arrest is made, the individual shall not be released on interim bond. The individual shall be lodged until they can be arraigned. A violation of the PPO will subject the person to a contempt of court charge. The officer does not seek a warrant from the Prosecutor's Office.
- D. An individual arrested under section MCL 764.15b shall be brought before the family division of the circuit court having jurisdiction in the case within 24 hours after arrest to answer to a charge of contempt for violating the Personal Protection Order.
- E. The court shall set a time for a hearing on the alleged violation of the PPO. The hearing shall be held within 72 hours after the arrest unless extended by the court. The court shall set a reasonable bond pending a hearing of the alleged violation of the Personal Protection Order.
- F. In cases in which the circuit court judge may not be present or available within 24 hours after arrest, an individual arrested under this section shall be taken before the district court within 24 hours after arrest, at which time the district court shall set bond and order the defendant to appear before the family division of circuit court in the county for a hearing on the charge.
- G. If the district court will not be open within 24 hours of arrest, a judge or a district court magistrate shall set bond and order the defendant to appear before the circuit court in the county for a hearing on the charge.
- H. An individual is in violation of a PPO if they commit one or more of the following acts, which the PPO specifically restrains or enjoins the individual from committing:
 - 1. Assaulting, attacking, beating, molesting, or wounding a named individual.
 - 2. Removing minor children from the individual having legal custody of the children,

except as otherwise authorized by a custody order or a parenting time order issued by a court of competent jurisdiction.

3. Entering onto the premises.
 4. Threatening to kill or physically injure a named individual.
 5. Engaging in stalking conduct as prohibited by statute.
 6. Purchasing or possessing a firearm.
 7. Interfering with the petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.
 8. Interfering with petitioner at petitioner's place of employment or education engaging in conduct that impairs petitioner's employment or educational relationship or environment.
 9. Any other act or conduct specified by the court in the PPO.
- I. An individual may petition the circuit court to enter a domestic PPO to restrain the following Individual.
1. A spouse or former spouse.
 2. A resident or former resident of the same household as the victim.
 3. The individual has a child in common with the victim.
 4. The individual is in, or has been in, a dating relationship. The term "dating relationship" does not include a casual relationship. It is the responsibility of the court to judge the eligibility of any petitioner before issuance of an order.

6.6 **VIOLATION OF A FOREIGN PROTECTION ORDER**

- A. An FPO is an injunction or other court order issued by a court of another State, Indian tribe or a United States Territory; it does not include foreign countries. A violation of a valid FPO is criminal contempt of court and the other enforcement procedures related to arrest, bond, court appearance, domestic violence reports, and fingerprinting are the same as for a Michigan PPO.

6.7 **VERBAL SERVICE OF A PERSONAL PROTECTION ORDER BY A LAW ENFORCEMENT OFFICER**

- A. If the officer is responding to a call alleging a violation of a PPO and the restrained or enjoined individual has not been served notice of the PPO, the officer shall serve the individual with either a true copy of the order or advise the individual through verbal notice about the existence of the PPO. Per MCL 600.2950 (22).
- B. If the officer is not responding to a PPO call but the officer knows that a PPO exists the officer may, at any time, serve the restrained or enjoined individual with either a true copy of the order or advise the individual through verbal notice about the existence of the PPO. Per MCL 600.2950 (18).
- C. Under both circumstances listed above, the officer shall advise the individual restrained or enjoined of the following.

1. That a Personal Protection Order exists and the specific conduct that is enjoined.
 2. The penalties for violating the order. (Up to 93 days in jail and/or up to a \$500.00 fine).
 3. Where the individual restrained or enjoined may obtain a copy of the order.
- D. If the individual restrained or enjoined has not received prior notice of the PPO, the individual shall be given an opportunity to comply with the PPO before the officer makes a custodial arrest for a violation of the PPO. The failure to immediately comply with the PPO shall be grounds for an immediate custodial arrest.
- E. When an officer has served the restrained or enjoined individual with either a true copy of the PPO or has advised the individual through oral notice about the existence of the PPO the officer shall advise the dispatcher to contact the original agency that entered the PPO into LEIN so that the original agency can update the LEIN entry to reflect the proof of service.
- F. The officer shall attach all the LEIN paperwork of the notification to the original agency to the written police report. The LEIN paperwork will document that our Department notified the original agency that we served notice on the individual named in the PPO.
- G. When an officer has served the restrained or enjoined individual with either a true copy of the PPO or has advised the individual through verbal notice about the existence of the PPO the officer shall also complete the "Proof of Service / Oral Notice Regarding Personal Protection Order" Form. The forms will be kept in the Report Writing Room. Please follow these guidelines when completing the Form.
1. The officer shall complete the Form by the end of their duty day and place the Form in the Records Bureau daily activity container near the master schedule.
 2. The Form does not have to be attached to the written police report.
 3. The Records Bureau will fax or mail the Form to the circuit court that issued the PPO.
 4. The Records Bureau will retain a copy of the Form for their records.

6.8 LEIN OPERATORS RESPONSIBILITIES / PERSONAL PROTECTION ORDERS

- A. When the LEIN Operator is notified by an officer that the officer has served notice of a PPO on an individual for the first time, the LEIN Operator shall notify the originating agency that the named individual in the PPO has been served notice. The notification shall be made through LEIN.
- B. When our Department is the originating agency of the PPO, and the LEIN Operator receives notification from another police agency that notice has been served on the individual for the first time, the East Lansing LEIN Operator shall update and modify the PPO through LEIN to document that the individual has

6.9 VICTIM'S RIGHTS INFORMATION FOR DOMESTIC VIOLENCE

- A. After investigating or intervening in a domestic violence incident, the officer shall provide the victim with a copy of the "Crime Victim and Domestic Violence Victims' Rights Information" pamphlet. The officer shall also provide their name, badge number, and the report incident number by writing it in the "Crime Victim and Domestic Violence Victims" Rights Information pamphlet.

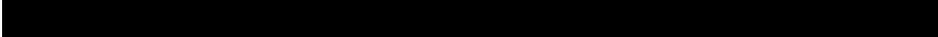
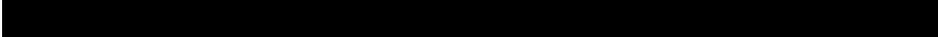
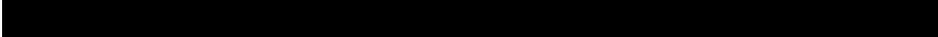
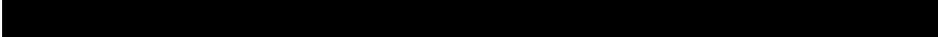
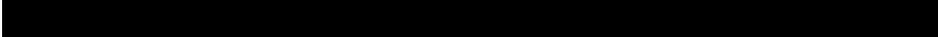
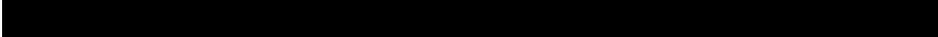
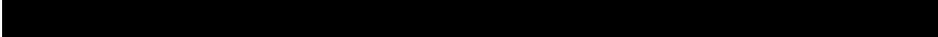
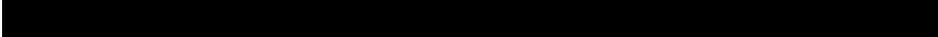
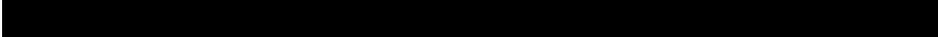
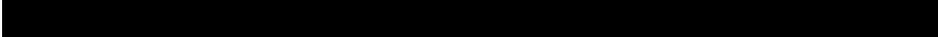
6.10 DOMESTIC VIOLENCE TRAINING

- A. Personnel will be given domestic violence training as needed when changes occur in the statutes or in other areas. Training issues may be covered in the annual Department training, legal update sessions, firearms and defensive tactics training, etc. Training will focus on the following areas.
 - 1. Current statutes and case law.
 - 2. The investigation and prosecution of domestic violence crimes.
 - 3. The dynamics of domestic family violence.
 - 4. A review of PPO's and other miscellaneous court orders.
 - 5. The available community resources for domestic violence victims.
 - 6. Officer safety issues involving firearms, use of force, and chemical repellents.

6.11 POLICY REVISIONS

- A. This policy will be updated and revised as needed, when changes occur in the statutes or in other areas. Revisions will be made to ensure the policy meets current legal standards and is in compliance with the Capitol Area Family Violence Coordinating Council Guidelines.

6.12 REPORT WRITING

- A. 
- 1. 
- 2. 
- 3. 
- 4. 
- 5. 
- 6. 
- 7. 
- 8. 
- 9. 
- 10. 
- 11. 

- 12.
- 13.
- 14.



- B. The Department shall retain the original completed domestic violence report. The Department shall file a copy of the completed domestic violence report with the Prosecutor's Office within 48 hours.
- C. The Ingham County Prosecutor's Office has requested the investigating officer obtain and document the following information, if applicable:
 - 1. Photograph all visible injuries.
 - 2. Attempt to obtain the name, and home and work telephone numbers of one or two close relatives, in case the victim moves and has to be re-contacted. A victim's new location is to remain confidential.
 - 3. If the suspect attempted to prevent the victim from calling for help by damaging the Telephone, ripping out telephone wires, pulling out the phone cord, etc. document the actions in the written report. List the name of the telephone company. The Prosecutor's Office will charge the suspect with additional crimes.
- D. If a domestic violence incident is alleged and probable cause exists to make an arrest but an arrest is not made the written report shall document the reasons why an arrest was not made. When an arrest is made the documentation contained in the police report can provide critical information when a bond is set by the Judge. The information can be used as a basis for holding the suspect longer, based on a determination it would be unsafe to release the suspect.

6.13 **CAPITAL AREA RESPONSE EFFORT (CARE) / PROTOCOL:**

CARE is the post-arrest response team for victims / survivors of intimate partner domestic violence crimes in East Lansing. Immediately after a domestic violence arrest, a staff member or a team of two volunteers should be dispatched to respond to victims at their homes or places of employment, the hospital, or local police department to provide crisis intervention, safety planning, and information about area resources. CARE has been in existence since 1996.

East Lansing Police should notify 











6.14 **DOMESTIC VIOLENCE UNIT (INGHAM COUNTY PROSECUTOR'S OFFICE)**

As of October 2012, the Ingham County Prosecutor's Office has instituted a Domestic Violence Unit. The program / unit supports victims of domestic-related crimes. The mission of the Domestic Violence Unit of the Ingham County Prosecutor's Office is to reduce family violence in the Ingham County area by providing direct services to victims of domestic-related crimes and enhancing victim's awareness of their rights. The Domestic Violence Unit offers court support to domestic assault victims, information on case status and encourages victims to participate in the prosecution of the case. They assist victims in participating in the process through filing victim impact statements, providing information to the courts for consideration in sentencing, and assisting victims in requesting assistance from the Crime Victim's Compensation Program. In addition to legal advocacy and court support, they also provide safety planning and referrals for needs not addressed through their program.

The Domestic Violence Unit can be reached at (517) 483-6259 or (517) 483-6215. Victims can call either of these numbers to access the Unit's advocates. They are open Monday through Friday between 8am to 12pm and 1pm to 5pm.