

 <p>CHAMPLIN POLICE DEPARTMENT POLICY AND PROCEDURES</p>	<p>Segment: 6 – Operations and Procedures Blue Section</p>	<p>Section: 605</p>
	<p>Section Title: Domestic Violence</p>	<p>Total Pages: 14</p>
		<p>Revised Date: 12/04/2018</p>

605.01 POLICY

The Champlin Police Department strives to maintain partnerships with local advocacy programs to respond to domestic incidents in a coordinated fashion. The intention of this coordinated response is to hold offenders accountable while enhancing victim safety with the ultimate goal of disrupting the cycle of violence in our community.

This policy has been created to protect victims of domestic violence by making an arrest whenever authorized by law and ensuring that Champlin police officers have a full understanding of the law governing these crimes. The goals of this policy are to:

1. Prevent future incidents of domestic abuse by using arrest rather than mediation as the preferred law enforcement response to domestic abuse.
2. Maximize the protection and support of victims of domestic abuse by coordinating law enforcement and victim assistance programs.
3. Reaffirm police officers' authority and responsibility to make an arrest in accordance with established probable cause standards.
4. Promote police officer safety by ensuring that all officers are as fully prepared as possible to respond to domestic calls.
5. Document allegations of domestic abuse to facilitate meaningful prosecution and delivery of victim services.
6. Provide a uniform and effective response to domestic abuse calls.

605.02 DEFINITIONS

For the purpose of this policy, the words and phrases in this section are defined as follows:

A. Domestic Abuse means the following, if committed against a family or household member, under Minnesota Statute 518B.01, subd. 2(a):

- (1) Physical harm, bodily injury, or assault;
- (2) The infliction of fear of imminent physical harm, bodily injury, or assault;
- (3) Terroristic threats;
- (4) Criminal sexual conduct in the first through fifth degree; or
- (5) Interference with an emergency 911 call.

B. Domestic Abuse Intervention Program refers to local advocacy programs which provide support, shelter, and assistance to victims of domestic abuse.

C. Child means a person under the age of 18.

D. Family or Household Member has the meaning given in Minnesota Statute 518B.01, subd. 2(b)(1)-(7):

- (1) Spouses and former spouses;
- (2) Parents and children;
- (3) Persons related by blood;
- (4) Persons who are presently residing together or who have resided together in the past;
- (5) Persons who have a child in common regardless of whether they have been married or have lived together at any time;
- (6) Persons involved in a significant romantic or sexual relationship;
- (7) A man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.

605.03

PROCEDURE

A. INTERVENTION PROJECT PROCEDURES

When an officer responds to a domestic call, whether or not an arrest is made, the officer will:

1. Provide information about the availability of any partnering victim advocacy services as well as provide the victim with the Crime Victim Information Card.
2. Advise the victim that an advocate may contact them within the next several hours to offer voluntary legal and supportive services.
3. Contact a partnering victim advocacy program as soon as possible anytime a domestic incident is responded to. If no assault is alleged but the officer believes the complainant may be in fear, or could benefit from resources or support, contact the advocate. Regardless of arrest or case disposition, this must be done before the end of the officer's shift.

4. The alleged assailant will be held at the Champlin Police Department or the Hennepin County Detention Facility under the Rules of Criminal Procedure and applicable state statutes. Intervention advocates may contact the arresting officer if the victim shares information which may be pertinent to the status of the hold or release of the alleged assailant.
5. All incidents in which an arrest is not made but an assault has been alleged will be considered for referral to the City Attorney for consideration of the issuance of a formal complaint.
6. Clerical staff will ensure that the partnering advocacy program receives a copy of all domestic related police reports.

B. RESPONDING TO DOMESTIC RELATED CALL

1. **Responding to the Scene:** the response to an in-progress domestic assault will carry a number one priority. The officers should respond directly and without unreasonable delay to the scene. Two officers should respond to the call and coordinate their approach. Officers should obtain as much information about the call from dispatch before arriving to the scene.
2. **Initial Contact:** upon arriving to the scene of a domestic call, the responding officers should identify themselves as police officers; explain their presence, and request entry into the home. The officers should ask to see the person who is the alleged victim. The officers should separate parties prior to taking their statements.
 - a. **Gone on Arrival (GOA):** although the suspect(s) are not available at the scene of a domestic violence GOA case, all feasible attempts must be made to locate the suspect. The suspect(s) can be arrested up to 72 hours after the alleged incident in accordance with Minnesota Statute 629.341, subd. 1.

At minimum, officers should patrol the vicinity within which the assault took place. This will reduce the risk of the suspect returning to the scene and re-assaulting the victim(s).

Officers should obtain information from the victim as to possible destinations that the suspect(s) may have fled to. Other officers around those destinations should then be notified of the domestic violence GOA. This will increase the chances of locating and apprehending the suspect.

Other police departments in the surrounding area or related to any other destinations given by the victim should also be notified of the GOA incident. At this point “stop & hold” requests should be

issued to aid in the lookout and apprehension of the suspect in the following 72 hours (exclusive of the day probable cause was established) of the incident. Minnesota Statute 629.341, subd. 1.

3. Entry

- a. Consent Search** – Officers may enter and conduct a search of the premises if consent has been given to do so. Although a consent search eliminates the need for a warrant and for probable cause, this consent must be given freely and voluntarily. If two persons have joint ownership of a residence either party can give consent. In the event that, on a later date, the consent given for a search becomes questioned, (i.e. it is claimed the consent for the search was not given “freely and voluntarily”) it will become the authorizing officer’s burden of proof that the consent was given freely and voluntarily by a person of standing in the property. Because of this it is imperative that the permission to search is covered in the taped or written statements or captured on the officer’s body-worn camera.
- b. Refused Entry** – If entry is refused, the officers should be persistent about seeing and speaking alone with the subject(s) of the call. Explain that a complaint was received and must be verified. If entry is still refused the officers should request the dispatcher to contact the complainant in order to re-contact the victim. If entry is still refused contact your supervisor – he/she will decide whether officers should remain at the scene or leave. If officers remain at the scene they should move to public property (the street) and observe the premises.
- c. Search Warrant Entry** – If the officers are refused entry and have no legal grounds for forced entry but have reasonable grounds to believe a crime has been committed, the officers should contact the appropriate authority to obtain a search warrant.
- d. Forced Entry** – If entry is still refused or there is no reply from the premises and the officers have reason to believe that someone is in imminent danger, the officers are permitted to force entry. There are circumstances that can provide probable cause to force entry such as: cries for help, weapons displayed, obvious signs of a struggle, and/or an eyewitness account that an assault has occurred and the victim is still on the premises. Officers will evaluate the following elements when considering a forced, warrantless entry:
 - The degree of urgency involved and the time required to obtain a warrant.
 - The possibility of danger to others including police

- officers that remain at the scene.
- Whether the suspected offense involved violence.
- Whether officers reasonably believe that persons may be armed.

4. Check the Welfare of all Occupants and Assess the Scene for Safety: Officers should ask if there is anyone else in the residence and make contact with all occupants/account for all persons, including children. The officers should ensure all occupants are safe and have not been injured, as well as determine if there are weapons on the premises.

5. Protect the Victim: Officers must protect the victim(s) from further abuse whenever possible. Steps that can be taken to ensure victim safety include but are not limited to:

- Separate the victim from the alleged perpetrator.
- If the victim appears injured administer first aid and/or arrange for medical attention. If the victim refuses medical attention, thoroughly document any observed injuries as well as refusal of medical treatment.
- Do not speak with the alleged perpetrator about what the victim has said to officers.
- Do not ask the victim if they want the suspect to be arrested or if they will be willing to testify in court.
- Aid in the transportation of the victim to emergency housing as permitted by the shift supervisor.

6. Perform Lethality Assessments: Anytime an officer has probable cause to believe that a domestic related offense has occurred, they will conduct a lethality assessment with the alleged victim using the six questions provided on the Lethality Assessment Pocket Card. All responses to the Lethality Assessment questions must be documented within the written report, including any questions the victim refused or was unable to answer. The Lethality Assessment questions are:

- (1) Do you think they will seriously injure or kill you or your children? What makes you think so?
- (2) How frequently and seriously do they intimidate, threaten, or assault you? Is this changing? If yes, is it getting worse or getting better?
- (3) Describe the time you were most frightened or injured by them.
- (4) Do they have a weapon? Have they ever threatened you with it? Do you know where any weapons are kept?
- (5) Where have they lived over the past 10 years?

(6) If we cannot contact you, who can we call that will know where you are or how to reach you?

7. Gather Evidence: Officers should photograph and collect any physical evidence deemed appropriate (ex. ripped clothing, broken cell phones, any items used as weapons, etc.). There are three forms of physical evidence in domestic violence cases:

- The injuries to the victim.
- Evidentiary articles that substantiate the attack.
- The crime scene itself.

A victim's account of any sustained injuries can be corroborated by a medical examination. All officers will make a medical release form available to the victim for voluntary signature. This will enable the gathering of medical records for any physical examination pursuant to injuries sustained from the reported assault.

The primary responding officer will ensure that photographs are taken of visible injuries to the victim and any damage/disarray to the property at the scene. The officer may defer the duty of documenting victim injuries to attending medical personnel if the nature of the injury is more severe. Victims should also be encouraged to make arrangements to have subsequent photographs taken of any injuries that may become more visible over time.

All statements provided by suspects, victims, and any witnesses should be recorded. If recording equipment is not available, a written statement should be obtained.

8. Impoundment of Weapons: When a weapon has been involved in a domestic dispute it must be seized as evidence. In cases where no crime has been committed by the use of the weapon(s), but there is mention of fear that the weapon(s) present a danger to the occupants of the residence, the occupant(s) are responsible for taking measures to secure the weapon(s) to eliminate the threat. If there is no method or option for the occupant(s) to secure the weapon(s), the officers may impound them for safe keeping as a last resort.

C. AUTHORITY AND TYPES OF ARREST

1. Predominant Aggressor, Self-Defense, and Dual Arrests: according to Minnesota Statute 629.342 subd. 2, dual arrests should not be made unless the officer believes that neither person(s) to be arrested acted in self-defense.

Self-defense is applicable when a person feels that they are in imminent danger and must use only the level of force reasonably necessary to prevent harm or fear of harm. There is no duty to retreat from one's own home when acting in self-defense, but this does not cancel the obligation to act reasonably while using self-defense. If an officer determines that a party was acting in self-defense, the opposing party not using self-defense is to be arrested.

When there are allegations that each party assaulted the other, the officer(s) shall determine whether there is sufficient evidence to conclude that one of the parties is the predominant aggressor. **Predominant aggressor** is defined as the party involved in the incident who, by his/her own actions, has caused the most physical harm, fear, or intimidation against the other. This can be determined based on the use of an officer's training and good judgment as well as the following criteria:

- Comparative extent of any injuries inflicted,
- Fear of physical injury because of past or present threats,
- Actions taken in self-defense or to protect oneself,
- The history of domestic abuse perpetrated by one party against the other, or
- The existence or previous existence of an OFP, HRO, or DANCO.

When both parties have used illegal violence, the officer should arrest the predominant aggressor and refer to the appropriate prosecutor to determine whether the second party will be charged.

If officers fail to make an assessment of who is the primary aggressor and arrest both parties, the chances of a successful prosecution of either party are significantly reduced. If one of the arrested parties is a victim of ongoing domestic abuse, the arrest may impact their safety and willingness to seek law enforcement intervention in the future.

When an officer believes there are compelling public safety issues that require the arrest of both parties and that both parties pose a significant threat of danger to each other, or other family members, the officer should arrest both parties.

2. **Warrantless Probable Cause Arrest for Domestic Assault:** An officer may arrest a person anywhere without a warrant, including at the person's residence, if the police officer has probable cause to believe that the person has, within the preceding 72 hours, assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm any

person covered by the “family or household member” definition, even if the assault did not take place in the presence of the officer. Minnesota Statute 629.341 subd. 1.

Probable cause is defined as: based on the officer’s observations and statements made by the parties involved and any witnesses, the officer using reasonable judgement believes that an assault did occur and the person to be arrested committed the assault.

Probable Cause Felony Arrest for Other Crimes: At a domestic call, officers shall consider whether other felonies have been committed including but not limited to: burglary, felony level assault, strangulation, stalking, terroristic threats, kidnapping, false imprisonment, and witness tampering.

3. Violation of an Order for Protection (OFP): Minnesota Statute 518B.01 subd. 14(b) mandates that an officer shall arrest and take into custody a person whom the officer has probable cause to believe has violated an Order for Protection. Violations of a protective order include the respondent having any means of contact with the protected person(s) or any residence where the protected person(s) are present. If the existence of the order can be verified, the officer shall arrest and take into custody the offending person even if the violation of the order did not take place in the presence of the police officer.

State Statute requires an arrest be made regardless of whether the excluded party was invited back to the residence or to have contact with the protected person(s). Family court judges and referees inform all respondents of this law and of any procedures necessary to modify the order.

- There is no hour limitation for a warrantless arrest for a violation.
- The Champlin Police Department will remove firearms pursuant to a court order specifically directing them to do so.
- If the respondent refuses admittance into their residence, officers may obtain a search warrant granting entry to collect the firearms.

4. Violation of a No Contact Order (NCO/DANCO): State Statute 629.34 subd. 1 (6) allows an officer to arrest and take into custody a person whom the officer has probable cause to believe has violated a No Contact Order or a Domestic Abuse No Contact Order issued by a court. The court may rescind a no contact order at any time. However, if the victim produces a copy of an apparently valid court order (absent of contrary evidence), this provides a *prima facie* basis for arrest if there is probable

cause to believe a violation of the order has occurred.

- 5. Violation of a Harassment Restraining Order (HRO):** State Statute 609.748 subd. 4 and 5 mandates that an officer shall arrest and take into custody a person whom the officer has probable cause to believe has violated a harassment restraining order.
- 6. Stalking Behaviors:** Officers will remain alert to the possibility that any single report of domestic abuse could be part of a pattern on stalking behavior. Officers will pay particular attention to repeated violations of Orders for Protection, Harassment Restraining Orders, and Domestic Abuse No Contact Orders. All cases where stalking behaviors are suspected will be referenced to an investigator.

Stalking is defined by MN Statute 609.749 as:

- a. A Gross Misdemeanor punishable by up to one year in jail to harass another by committing any of the following acts directly or indirectly intending to injure the person, property, or rights of another;
 - i. following, monitoring, or pursuing another through any available technological or other means;
 - ii. returning to the property of another without authority;
 - iii. making repeated telephone calls or sending repeated text messages to the victim;
 - iv. sending letters, messages, telegrams, packages, or other objects, including electronically, to the victim's home or work.
- b. A Felony punishable by up to five years in prison if, in the course of committing any of the acts described in the previous section:
 - i. the perpetrator possesses a dangerous weapon at the time of the offense;
 - ii. commits a harassment offense within ten years of discharge from a domestic violence related offense, including harassment;
 - iii. targets a victim because of the victim's or another's race, color, religion, sex, sexual orientation, disability, age, or national origin;
 - iv. falsely impersonates another while committing the offense;
 - v. targets a victim under the age of 18 and the perpetrator is more than 36 months older than the victim
- c. A Felony punishable by up to ten years in prison if a person engages in a pattern of stalking against one victim or household. A pattern of stalking includes, but is not limited to, committing

two or more of the following acts within a five-year period:

- i. any stalking offense
- ii. making terroristic threats
- iii. committing domestic assault
- iv. violating a harassment restraining order or order for protection

7. **Strangulation:** Officers recognize that strangulation is a lethality risk factor and must be taken seriously, and carefully investigated.

MN Statute 609.2247 defines **strangulation** as “intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person” which is a Felony punishable by three years in prison.

- a. Be alert to the signs and symptoms of strangulation, and dispatch emergency medical services when present.
 - i. Bruising or swelling around the neck, nose and mouth
 - ii. Scratches on the victim’s neck (could be from either the suspect or the victim)
 - iii. Scratches on the suspect from the victim fighting back in self-defense, especially on the hands, arms, neck, and face.
 - iv. Petechial hemorrhaging-small black or red spots in the whites of the eyes, inside lips or at any point above the injury line
- b. Ask the follow-up questions for strangulation:
 - i. What were you strangled with? Hands (one or both) or another object?
 - ii. What was the suspect saying to you while you were being strangled?
 - iii. What happened to you while you were being strangled?
 1. Were you lightheaded or “seeing stars?”
 2. Were you able to breathe?
 3. Were you able to speak or scream?
 4. Did you lose consciousness or pass out? If so, do you know for how long?
 - iv. Is your voice hoarse or raspy? Is your throat sore?
 - v. Are you having trouble eating, drinking, or swallowing?
 - vi. Did you lose bowel or bladder control?
 - vii. What did you think was going to happen to you?
- c. Take baseline photos, regardless if injuries are visible. Document all evidence of strangulation in the written report using the term “strangulation” rather than “choking” unless

quoting the party interviewed.

8. **Second Offenses and Charging Gross Misdemeanors:** Minnesota Statute 609.224 subd. 2(a) states that Assault in the Fifth Degree provides for an enhancement to a gross misdemeanor violation when the offense is against the same victim within 10 years of a previous qualified domestic violence-related conviction or adjudication of delinquency in Minnesota, or any similar law of another state.

If the charge is Domestic Assault (Minnesota Statute 609.2242) and the current victim is a family or household member and the crime occurs within 10 years of a previous qualified domestic violence-related conviction or adjudication of delinquency of any of the above offenses against any family or household member, the same gross misdemeanor enhancement applies. The prior conviction need not be against a member of the same family or household.

- Using information obtained from the victim, witnesses, and any other sources, an officer must determine if there has been any previous arrests or convictions for assault, criminal sexual conduct, terroristic threats, or interference with an emergency 911 phone call.
- Officers must also make an attempt (as soon as possible) to question the alleged offender to determine previous arrests or convictions.
- If information on a previous conviction or arrest is obtained, the arresting officer will make all possible attempts to verify any previous convictions and will note in their report that a prior conviction is indicated or possible.

9. **Subsequent Offenses and Charging Felonies:** Whoever violates the provisions of domestic assault in the fifth degree within 10 years of the first of any combination of two or more previous qualified domestic violence-related convictions (Minnesota Statute 609.02 subd. 16) or adjudication of delinquency is guilty of a felony.

D. VICTIM ENGAGEMENT AND MANDATORY REPORTING

1. **Victim Engagement:** Due to the nature of domestic abuse, this department recognizes that the need for assistance from the police may continue beyond the current incident and that the officer's response will influence whether the victim will view and utilize police as a resource for ending violence in the future.

2. **Individuals with Limited English Proficiency:** If in the course of an investigation, an officer determines that any alleged victim, witness, or perpetrator's English proficiency is limiting that person's understanding, the officer should make every reasonable attempt to secure the assistance of a qualified interpreter prior to the taking of a statement.
3. **Children Exposed to Domestic Abuse:** Officers will assess the welfare of all minors at the scene and document their names, ages, presence and location during the incident and any physical or emotional involvement in the incident.

If the children were involved, reassure children that officers are there to make sure everyone is safe. Officers will remain aware of and document any anxiety or fear.

When deciding whether to take a statement from a child, consider:

- Their physical, emotional and psychological ability
- Their age and ability to understand questions
- The preference of the non-offending caregiver as to whether and how to talk to the child.
- The use of Cornerhouse for child interviews

Whenever practicable, officers will avoid subduing or arresting a party in front of a child.

4. **Mandatory Reporting When Children Are Involved:** Officers are to notify Child Protective Services in accordance with the requirements of Minnesota Statute 626.556 when any of the following occur:
 - a. A child has been injured as a result of the assault.
 - b. A child has been sexually abused.
 - c. A child has been neglected.
 - d. Actions taken by the officer will result in a situation where no responsible adult can be located to care for the child or children.

E. REPORTS: MN Statute 629.341(4) requires that a written report must be made in all alleged domestic abuse calls.

F. REVISIT: All victims will have the opportunity to have a revisit from a Champlin Police Officer to:

1. Re-photograph injuries that may have become more visible.
2. Ensure the suspect has not returned to the premises.
3. Provide additional assistance to the victim, if needed.

G. CONCLUSION: The adoption of this policy is one piece of the Champlin Police Department's commitment to responding to domestic abuse through an interagency approach that builds the context and severity of abuse into each intervention. We recognize that domestic abuse is a patterned crime that requires continuing engagement with victims, and sure and swift consequences for offenders. By adopting this policy and adhering to the model set forth by the Blueprint for Safety, we are using the power of the criminal justice system to send messages of help and accountability and act in ways that reduce domestic violence within our community.

All domestics are monitored for compliance within the Champlin Police Department and with the Blueprint Team, which includes our partners in advocacy and prosecution, to ensure a coordinated community approach that remains in compliance with best practices.

**Champlin Police Department
Domestic Violence Advocacy Service Information**

24-Hour Crisis Line for notification of advocates: **(763) 559-4945**

Advocacy Service Provider:

Home Free Community Programs
3409 Kilmer Lane N
Plymouth, MN 55441
(P) (763) 545-7080
(F) (763) 545-7071

Home Free Shelter:

NOTE: This address is confidential, do NOT release to the public

3405 East Medicine Lake Blvd
Plymouth, MN 55441
Crisis and TDD: (763) 559-4945

Information to be provided by phone:

- Arrest status and charges;
- Date, time, and location of incident;
- Case number, officer name and badge number;
- Victim information: full name, DOB, address, phone number, gender, ethnicity, relationship to suspect, if children are in common or involved, and if CPD will be notified;
- Suspect information: full name, DOB, address, gender, ethnicity, prior contacts or convictions; and
- A description of the incident including if medical treatment was received.

Clerical Staff: As soon as possible, and within 24 hours (as permitted by business hours), email police report(s) of domestic incidents to hfcp@missionsinc.org – If email fails to go through please fax the report(s) to (763) 545-7071 and notify program staff by calling (763) 545-7080.

Any questions or concerns can be addressed by contacting the Program Coordinator, Elsa Swenson, by phone at (763) 545-7080 or by email at eswenson@missionsinc.org