



Helen Police Department

Standard Operating Policies and Procedures

Chapter P-050 Family Violence	Effective Date:	August 22, 2022	# Of Pages:	15
	Revised Date:		Distribution Authorization:	<i>Althia C. Barnett</i>
	Special Instructions:			

I. PURPOSE

Establish policies and standardized procedures that professionally address the incidents of family violence and provide guidance in the Department's response, responsibility, and the documentation of reported acts of family violence.

II. POLICY

It is the policy of this Department to fully investigate and provide accurate reporting of all family violence complaints that come to the attention of this Department. It will be the duty of the responding officers to arrest offenders where it is lawful and appropriate. To provide protection and assistance to victims of family violence, and to inform all parties involved of the various services which may be available to them within the criminal justice system, from social service agencies, and other types of community programs and/or resources.

III. FAMILY VIOLENCE DEFINED

- A. Family Violence is defined in Official Code of Georgia Annotated 19-13-1, as one or more of the following acts between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household.
- B. Any felony; or commission of the offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint or criminal trespass.

- C. The term "family violence" shall not be deemed to include reasonable discipline administered by a parent to a child in the form of corporal punishment, restraint, or detention, (Acts 1993 p. 1534, effective April 27, 1993.)
- D. Penalties are provided for violation of protective orders issued by the Court. According to Official Code of Georgia Annotated 19-13-6(b), "Any person who violated the provisions of a domestic violence order which excludes, evicts, or excludes and evicts that person from a residence or house hold shall be guilty of a misdemeanor."

IV. PROCEDURE

A. Dispatcher responsibilities

- 1. Dispatchers should dispatch domestic calls in the same manner as any other call for police assistance. However, in calls of family violence the dispatcher will, when available, dispatch two officers to the location of the call. The call will also be dispatched according to priority criteria prescribed elsewhere in this policy manual.
- 2. The dispatcher receiving a domestic call should attempt to elicit from the caller, as much of the following, in order of importance, as time and the exigencies of the reported incident allow. The dispatcher should advise the responding officer of all relevant information obtained.

B. The nature of the incident;

- 1. The address of the incident, including the room number, complex name, victim's name, and perpetrator's name;
- 2. A telephone number where the caller can be called back;
- 3. Whether weapons are involved or at the scene;
- 4. Whether an ambulance is needed;

C. How many people are present at the scene;

D. Whether the suspect is present and, if not, the suspect's description, direction of flight and mode of travel;

E. Whether there is a physical fight in progress; and

F. Whether children are at the scene.

- G. If the caller is the victim, the dispatcher should attempt to keep the caller on the telephone as long as possible and should tell the caller that help is on the way and when the caller can expect the police to arrive.
- H. If the caller is a witness to a domestic incident in progress, the dispatcher should relay ongoing information provided by the caller to the responding officer.
- I. If the dispatcher is given information by the caller/victim about the existence of a temporary protective order, it should be followed up by a telephone call to the issuing source of the protective order for verification and the information relayed to the dispatched officer(s). The duration of a valid protection order are based solely upon the time frame set by the issuing judge. If the order has been entered into GCIC/NCIC, it will list the valid date on the printout.
- J. To safeguard against callbacks made by victims under duress, all domestic complaints will require a police response to assure the caller's safety regardless of any attempts to cancel police response.

K. Officer Response

1. Whenever possible, two officers will respond to all domestic calls. Upon arrival on the scene or making contact with any involved party, the responding officer(s) will notify dispatch of their location. The responding officer should approach the scene of a domestic dispute as one of high risk. The officer should obtain all available information from the dispatcher before arriving at the scene. The officer should not park directly in front of the residence or scene of the disturbance. The officer should be alert for assailants leaving the scene and for employment of weapons from doors, windows or nearby vehicles.
2. The responding officers should identify themselves as police officers, explain why they are present and request entry into the home. The officers should ask to see the person who is the subject of the call. If the person who called the police is someone other than the subject of the call, the officers should not reveal the caller's name. Officers will not enter a private residence except on the direct invitation of the owner or resident, unless probable cause exists to make an arrest or a confrontation is in progress. In any event, the officer shall make every effort to speak to every occupant of the residence before leaving.
3. Once the officers have entered the residence, they shall attempt to do a protective sweep of the house for any other involved parties or occupants. They will then prudently attempt to separate the parties in conflict and calmly listen to each person to determine the cause of the

conflict and to gather additional information, i.e., who was the primary aggressor and what types of injuries occurred. Officers should use the following steps in controlling an incident of family violence.

- a. Identifying potential weapons in the surrounding area;
- b. Separating the victim and the assailant;
4. Assess injuries, administer first aid or request Fire / EMS;
5. Restrain the assailant if necessary and removing the assailant to the patrol car if immediate arrest is warranted;
6. Inquire about the nature of the dispute;
7. Identify all occupants / witnesses on the premises; and
8. Separate occupants / witnesses from the victim and accused and keeping them out of hearing range to avoid compromising the witness status.
9. Under no circumstances shall the officers "take sides" with either party in the dispute. These family violence complaints should be handled as criminal incidents; reconciliation or divorce and such alternatives should never be suggested or discussed with the parties involved. Officers should be prepared to offer referrals to the victim concerning the location of shelters, victim witness assistance programs, counseling, etc.
10. The existence of probable cause and of the elements of a crime shall be the sole factors that determine the proper method of handling the incident.

L. Preliminary Investigation

1. Officers arriving at a family violence scene should conduct a thorough investigation and submit reports of all incidents of violence and all crimes related to family violence. The Family Violence Reporting form will be completed and processed in accordance with O.C.G.A. 17-4-20.1. The following steps should be included in an officer's investigation and subsequent report:
2. The responding officer should interview all parties involved to identify the victim(s) and the assailant(s). Primary aggressor status with evidence of injury should be used in making this determination to safeguard against re victimizing the victim through arrest.

3. The officer should ensure the victim's safety and privacy by interviewing the victim in an area apart from the assailant, witnesses and bystanders. In questioning the victim, the officer should use supportive interview techniques. The officer should ask the victim about previous domestic incidents, their frequency and severity. If victim has a restraining order or temporary protective order against suspect, obtain a copy of the order and valid proof of service. If not, inform victim on the procedure of obtaining a restraining order. If victim has a restraining order or other protective order which has not yet been served on the suspect, inform the suspect of the order and note in the report this was done. Also see TPO/FVPO part V of this chapter.
4. If the accused is "in custody" before the interview, the accused must be given Miranda warnings before any questioning takes place. If the accused has fled the scene, the officer should solicit information regarding the possible whereabouts of the accused (place of employment, relatives, friends, etc.).
5. The officer should interview any witnesses as fully and as soon as circumstances allow. If witnesses provide information about prior incidents, the officer should document such incidents to establish a pattern.
6. Children should be interviewed in a manner appropriate to the child's age.
7. Signs of trauma and any apparent healing of abuse wounds on the child should be noted by the officer and immediately reported to CID for further investigation.
8. The officer should collect and preserve all physical evidence necessary to support prosecution, including evidence substantiating the victim's injuries, evidentiary articles that substantiate the attack (weapons, torn clothing, etc.), and evidence recording the crime scene. The officer should ensure that photographs are taken of visible injuries on the victim and of the crime scene.
9. The officer should encourage for the victim to seek an emergency room examination if necessary. The officer should ask about injuries of the victim that are concealed by clothing or otherwise not readily apparent. Also, because bruises may not appear for several days after an assault, the officer should advise the victim to contact the police for photographs.

10. All physical evidence should be collected, noted in reports and logged into evidence as in other criminal investigations.

M. Authorized Arrest

1. The responding officer should arrest the assailant whenever an arrest is authorized. If the officer decides not to arrest, he must include in his / her report of the incident a detailed explanation of the reasons why an arrest was not made.
2. *Georgia Code Section 17-4-20 states that " an arrest for a crime may be made by a law enforcement officer either under a warrant or without a warrant if the offense is committed in his presence or within his immediate knowledge; if the offender is attempting to escape; if the officer has probable cause to believe that an act of family violence, as defined in Code Section 19-13-1, has been committed; if the officer has probable cause to believe that an offense involving physical abuse has been committed against a vulnerable adult, who shall be for the purposes of this subsection a person 18 years old or older who is unable to protect himself or herself from physical or mental abuse because of a physical or mental impairment; or for other cause if there is likely to be a failure of justice for want of a judicial officer to issue a warrant".*
3. Further procedural guidance for arrest in "family violence" situations is provided in Georgia Code Section 19-13-1.
4. Under OCGA 17-4-20.1, whenever a law enforcement officer responds to an incident in which an act of family violence (as defined in OCGA 19-13-1), has been committed, the officer shall not base the decision of whether to arrest and charge a person on the specific consent of the victim or on a request by the victim solely or on consideration of the relationship of the parties. No officer investigating an incident of family violence shall threaten, suggest, or otherwise indicate the arrest of all parties for the purpose of discouraging requests for future law enforcement intervention.
5. OCGA 17-4-20.1(b) When complaints of family violence are received from two or more opposing parties, the officer shall evaluate each complaint separately to attempt to determine who was the primary aggressor. If the officer determines that one of the parties was the primary physical aggressor, the officer shall not be required to arrest any other person believed to have committed an act of family violence during the incident. In determining whether a person is a primary physical aggressor, an officer shall consider:

- a. Prior family violence involving either party;
 - b. The relative severity of the injuries inflicted on each person;
 - c. The potential for future injury; and
 - d. Whether one of the parties acted in self-defense.
6. It is the officer's responsibility to decide whether an arrest should be made. The officer, therefore, should not consider the victim's opposition to arrest and should emphasize to the victim and to the accused as well, that the criminal action initiated, is the action of the State of Georgia, not the action of the victim. The officer should not consider the following factors in making the arrest decision:
- a. The marital status of the parties;
 - b. The ownership or tenancy rights of either party;
 - c. Verbal assurances that the violence will stop;
 - d. A claim by the accused that the victim provoked or perpetuated the violence;
 - e. Denial by either party that the abuse occurred when there is evidence of domestic violence;
 - f. Speculations that the victim will not follow through or cooperate with criminal prosecution;
 - g. The disposition of any previous police calls involving the same victim or accused;
 - h. Speculation that the arrest may not lead to prosecution;
 - i. The existence or not of a protection abuse order (except that the violation of such order might justify an arrest);
 - j. The victim's emotional state;
 - k. Concern about reprisals against the victim;
 - l. Adverse financial consequences that might result from the arrest;
 - m. That the incident occurred in a private place; and

- n. The racial, social, cultural, political, or professional position, or the sexual orientation, of either the victim or the accused.
7. If the officer arrests for the commission of a crime, the officer should confiscate all weapons used or threatened to be used in the commission of the crime, and such weapons should be held as evidence for prosecution.
8. There are going to be situations where the parties refuse to separate and refuse, or are afraid, to obtain a warrant and the likelihood of a property damage or bodily injury exists to such an extent that an officer has no recourse but to act. If such circumstances exist and if an officer has probable cause to believe that a previous domestic related crime has occurred, the officer will make an arrest and charge the individual with the specific crime.
9. An arrest shall be made in the event there is probable cause to believe that a crime has occurred. All persons arrested should be taken into custody. The City of Helen Police Department will implement a pro-arrest policy; it is the intention of this agency to engage in aggressive law enforcement with respect to crimes involving family violence. Discretion not to make an arrest should never be based solely on the incident being characterized as a "domestic " matter. If an officer has probable cause to believe a felony has occurred, an arrest shall be made irrespective of whether the officer believes the offense may ultimately be prosecuted as a misdemeanor.
10. The person should be arrested in the event a misdemeanor family violence incident occurs in the officer's presence, or if the officer has probable cause to believe an act of family violence has been committed. Such situations include, but are not limited to, an officer who witnesses an act of family violence, a violation of a restraining order, or illegal possession of a weapon.
11. If there is probable cause to believe a crime has been committed outside the officer's presence that does not meet the requirements for a felony arrest, but does meet the requirements for a misdemeanor offense of family violence, the officer shall make an arrest. In the event the officer does not make an arrest, he/she shall make a good faith effort to inform the complainant of his/her right to appear before a magistrate and seek a warrant for arrest. Whenever possible such discussion should be held out of the presence of the other person. An officer shall not dissuade complainants from attempting to obtain a warrant from a magistrate. Again, officers should provide information regarding available family violence shelters, victim witness assistance programs, counseling, etc.

V. VICTIM ASSISTANCE/ COURT PROTECTION

A. Victims Rights Assistance

1. Officers should take reasonable precautions to assist in the continued safety of the victim and the children.
 - a. O.C.G.A. 16-10-93 provides that it is a felony to attempt to influence a witness not to testify truthfully, or to deter their testimony by making threats either directly or indirectly relating to injury of such person, their property, or any relative.
 - b. Notice of this statute should be given to all parties in a family violence situation.
2. Victim Impact Forms
 - a. Victims can obtain "Victim Impact Forms" through the Solicitor's Office when a misdemeanor arrest has taken place. This form allows the victim to state for the Court the impact that family violence has had on them.
 - b. Victim's Rights Notification/Referral Numbers
 - c. Code Section 17-17-3 defines certain crimes for which the victims must be given certain victims' rights notifications. This list includes crimes against persons found in O.C.G.A. Title 16, Chapter 5, as well as others. These crimes against persons are frequently the basis for arrest in family violence incidents.
 - d. In order to meet departmental statutory obligations, a Victims' Rights Notification form will be given to all victims in family violence incidents by the investigating officer. This form has several referral numbers for various social service and criminal justice agencies.

B. Victim/Party Leaving the Scene

1. When a victim or party to the incident wishes to leave the scene, Officers may stand by for a reasonable period while victim/party makes a call and gathers personal items for self and minor children.
2. It would be prudent for Officers to advise the victim/party to keep handy important phone numbers, documents, clothing and funds if there is an emergency in the future.

C. Temporary Protective Orders

- a. A victim of family violence may petition the Superior Court, alleging with specific facts that probable cause exists to establish that family violence has occurred in the past and may occur in the future.
- b. A person asking about how to prepare such a petition should be referred to the Superior Court, an attorney, or the Battered Women Council (Atlanta, 404-873-1766) for specific instructions on format and procedures.
- c. This petition and hearing are conducted in the county where the respondent (perpetrator) resides.
- d. The judge hears the victim's information, and may order appropriate temporary relief to protect the victim or a minor of the household from violence. This temporary relief is known as a "Temporary Protective Order" or "TPO".
- e. This hearing is done without notice to the accused, and is referred to as an "ex parte" hearing, meaning only one party is present.
- f. Family violence shelters or social service agency staff members designed by the Court may help victims who are not represented by an attorney fill out the forms necessary to get the Court's protection and Order.
- g. The procedure for these petitions, hearings, and orders are described in Code Section 19-13-3 and 19-13-4.
- h. The Superior Court will then schedule a full hearing where both parties are to be present, along with their attorney. The victim of the violence must then prove the allegations of the petition by a preponderance of the evidence. This hearing is generally scheduled within 10 days, but must be held within 30 days. The Sheriff's Department serves notice of this hearing upon the defendant.
- i. After this second hearing in Superior Court, an order may be issued, which is called a "Family Violence Protective Order".

D. Family Violence Protection Order

1. This Family Violence Protective Order is described in Code Section 19-13-4, and can do any or all of the following so as to bring about an end to the acts of family violence:
2. Direct a party to refrain from such acts [of family violence];
3. Grant to a spouse possession of the residence or household of the parties and exclude the other spouse from the residence or household;
4. Require a party to provide suitable alternate housing for a spouse, former spouse, or parent and his/her children;
5. Award temporary custody of minor children and establish temporary visitation rights;
6. Order the eviction of a party from the residence or household and order assistance to the victim in returning to it, or order assistance in retrieving personal property of the victim if the respondent's eviction has not been ordered;
7. Order either party to make payments for the support of a minor child as required by law;
8. Order either party to make payments for the support of a spouse as required by law;
9. Provide for possession of personal property of the parties;
10. Order a party to refrain from harassing or interfering with the other;
11. Award costs and attorney's fees to either party; and
12. Order either or all parties to receive appropriate psychiatric or psychological services as a further measure to prevent the recurrence of family violence.
13. These Family Violence Protective Orders are valid for up to 6 months, but following another court hearing, the Superior Court can make it a permanent Order.
14. A copy of the order is issued by the Clerk of the Superior Court to the Sheriff of the county where the order was issued, and the

Sheriff must retain the order as long as the order remains in effect.

15. These Orders are valid throughout the State of Georgia.

E. Police Action for TPO/ FVPO

1. Code Section 19-13-4(d) states that “It shall be the duty of every superior court and of every sheriff, every deputy sheriff, and every state, county, or municipal law enforcement officer within this state to enforce and carry out the terms of any valid protective order issued by any court under the provisions of this code section.”
2. Whenever a police officer encounters a situation where a Temporary Protective Order (TPO) or Family Violence Protective Order (FVPO) is reported to be in existence, the officer will take the following action:
3. Determine if there is a valid order in effect.
 - a. A record of orders issued is available in the White County Sheriff’s Office during business hours, and in the GCIC Section 24-hours a day.
 - b. If the order was issued in another county, contact the Sheriff’s Department in the county where the order was issued.
 - c. Victims usually have a certified copy of the Order with them. The officer can use this copy for informational purposes, but the officer must always contact the Sheriff or Police Department for official verification.
 - d. If the Sheriff and Police Departments report there is no order on file, it may be that a petition has been filed by the victim; but that no TPO was issued by the judge, only a hearing scheduled.
4. Determine the terms of that Petition or Order.

When verifying the existence of an order, the officer must also verify the terms of that order.

5. Determine if the defendant has been served.
 - a. When verifying the existence of an order, the officer must also verify that the defendant has been served.
 - b. In the event there has been no service of an order, the officer should attempt to make arrangements with the Sheriff's Department to have the order served upon the defendant.
 - c. No arrest can be made for violation of an order until the Defendant has been served.
 - d. Once the officer determines that the order has been served, the officer can take all steps that are reasonable and proper to implement the terms of the order.
 - e. Determine if probable cause exists to believe that a criminally enforceable violation of the order relating to exclusion and/or eviction from a residence or household has been committed.

OCGA 16-5-91(a) States: *A person commits the offence of aggravated stalking when such person, in violation of a bond to keep the peace posted pursuant to Code Section 17-6-110, temporary restraining order, temporary protective order, permanent restraining order, permanent protective order, preliminary injunction, good behavior bond, permanent injunction or condition of pretrial release, condition of probation, or condition of parole in effect prohibiting the behavior described in this subsection, follows, places under surveillance, or contacts another person at or about a place or places without consent of the other person for the purpose of harassing and intimidating the other person.*

- f. Criminal: Code Section 19-13-6 (b) provides that "Any person who violates the provisions of a domestic violence order which excludes, evicts, or excludes and evicts that person from a residence or household, shall be guilty of a misdemeanor."
- g. Civil: All other violations of the order are punishable only by civil contempt in the Superior Court. That would include such aspects as failure to pay child support, not attending psychiatric counseling, etc. In that instance the victim should be referred back to their attorney or whatever agency helped to file the petition. Those violations are not

criminal in nature and must be sent back to the Superior Court for adjudication.

- b. Arrest Based on Criminally Enforceable Violation of an Order
- c. An officer may arrest a defendant on the charge of "Entering Residence in Violation a Domestic Violence Order" under Code Section 19-13-6(b) only if all of the following conditions are met:
 - 1. The investigating officer has verified that a valid order exists; and
 - 2. The investigating officer has verified that the defendant has been served with the order; and
 - 3. The investigating officer has determined that the defendant is violating a criminally enforceable provision of the order relating to exclusion and/or eviction from a residence or household.
 - 4. The officer will make arrangements to bring a copy of the "Family Violence Order" to the Magistrate Court.
- d. The magistrate on duty will not issue a warrant unless a copy of the court order is submitted to the magistrate. The hearsay testimony of the terms and conditions of the order will not be accepted by the magistrate.
- e. A copy of the order can sometimes be obtained from a victim, or the officer can obtain one from the Sheriff's or Police Department.
- f. If the copy of the order is furnished by a victim, arrangements will be made for the return of the order to the victim by the officer.
- g. The officer will include a copy of the order as part of the case reports.
- h. Restraining Orders
 - 1. A restraining order is commonly issued against both parties at the onset of a divorce. In such circumstances the parties are restrained from removing the minor children from the jurisdiction of the court, from harassing one another and from concealing, conveying or encumbering property or assets of the parties. It is very rare for a restraining order in the filing of a divorce to grant exclusive use of a marital residence to one party or another without a hearing.

2. The remedy for breach of a restraining order is contempt of court in the Superior Court. Generally there are no criminal violations for a restraining order, however, there are quasi-criminal sanctions for some violations dependant on the restrictions set forth in the order. Refer to OCGA 16-5-91