



Apex Police Department General Order



Title Domestic Incidents	Order Number 905-20
Effective Date: August 21, 2020	Amends: General Order 905-15a
CALEA Standard:	Rescinds:
Reference: United States Code, Title 18, Chapter 922 and Chapters 2261, 2261A, 2262, 2265 NCGS 7B-101; 7B-301; 7B-500; 7B-501; 14-33 (a); 14-33 (c)(1); 14-33 (c)(2);14-134.3; 14-269.8; 14-277.3; 15-43; 15A-222; 15A-285; 15A-401; 15A-534.1; 50B-1 through 50B-9, G.S. 15A-831 Interact Lethality Assessment Manual	Pages: 16
Forms: F905- Law Enforcement Domestic Violence Supplemental Report F905a – Lethality Assessment	

Domestic Incidents

Purpose

It is the intent of this policy to prescribe courses of action which police officers should take in response to domestic violence; to enforce the law, while also intervening and preventing future incidents of violence. The nature and seriousness of crimes committed between family, household members, or people in domestic relationships are not mitigated because of the relationships or living arrangements of those involved.

Policy

It is the policy of the Apex Police Department to reduce the incidence and severity of domestic violence, to protect victims of domestic violence, and provide them with support through a combination of law enforcement and community services. In addition, we strive to promote officer safety and quality service delivery by ensuring that officers are fully prepared to respond to and effectively deal with domestic violence related calls for service.

Procedure

The first responsibility of law enforcement in domestic incidents is to prevent the occurrence or re-occurrence of violence. Arrest, with or without a warrant, offers the best potential for ending the cycle of violence and is the preferred response. In all domestic incidents, officers will take reasonable and prudent steps to address the needs of victims and/or other involved parties.

Definitions

Domestic Dispute – Any incident between parties related by blood or marriage, or who have a dating relationship, where police assistance has been requested, even though no crime has occurred.

Domestic Violence – Occurs when an incident involves a victim or complainant, and a perpetrator:

- Attempts to cause or does cause bodily injury
- Places another person in fear of imminent serious bodily injury by the threat of force, violence, or harassment
- Commits a sexual assault
- Commits a domestic trespass in violation of North Carolina General Statute (NCGS) 14-134.3 or other valid court order

Ex Parte Order – A temporary order of protection that is typically valid for up to 10 days, or until an established court date for a protective order hearing where both parties will be present.

Intimate Partners – A relationship in which heterosexual or homosexual partners have or have had a sexual or emotional relationship. (SOURCE: Interact Domestic Violence Lethality Assessment Protocol)

Juvenile Neglect – Based upon generally accepted values, any situation involving a child who:

- Does not receive proper care, supervision, or discipline from his/her parent, guardian, custodian, or caretaker
- Has been abandoned
- Is not provided necessary medical care
- Is not provided necessary remedial care
- Lives in an environment that is injurious to the child's welfare
- Has been placed for care or adoption in violation of law

Personal Relationship – A Personal Relationship is defined by NCGS 50B-1 as involving persons who:

- Are current or former spouses
- Are persons of opposite sex who live together or have lived together
- Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an

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aggrieved party may not obtain an order of protection against a child or grandchild under the age of 16

- Have a child in common
- Are current or former household members to include roommates or intimate partners pursuant to NCGS 15A-534.1
- Are persons of the opposite sex who are in a dating relationship or have been in a dating relationship
 - **NOTE:** For purposes of this definition, a dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship

Weapon – An instrument or device such as, but not limited to, a firearm, knife, club, sword, etc. that may be used to threaten, inflict injury, or cause death.

Response Procedure

Approach

1. This information has been redacted pursuant to N.C. General Statute 132 - Public Records.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Entry

1. This information has been redacted pursuant to N.C. General Statute 132 - Public Records.

[Redacted content]

Contact

1. Once inside the residence officers will:
 - Take all precautions to ensure their safety and the safety of all parties
 - Separate the parties if they are engaged in a physical dispute
 - Identify potential weapons
 - If the officers have reason to believe that any person is armed or presents a threat to officer safety, officers may conduct a pat-down for weapons
 - Even though a person may carry a concealed weapon on his/her own premises, officers may take control of the weapon to ensure the safety of those present
 - Determine if any party is in need of medical attention and, if so, request Emergency Medical Services (EMS)
 - Inquire about the location of other persons on the premises

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- If it is not readily apparent who is involved in the dispute or if there is reason to believe that one or more of the parties is in another part of the residence, officers may conduct a brief, protective sweep of the premises to locate the other parties
- Note any observed evidence of alcohol or drug use
- Observe any other evidence of violence, such as broken furniture or thrown objects

On-Scene Investigation

Interview

1. Officers will interview any victims, witnesses, and suspects separately. Officers will take steps to ensure the victim's safety and privacy by interviewing the victim in an area out of sight and hearing range of the alleged suspect and, if possible, any witnesses and bystanders.
 - In conducting interviews and calming the individuals involved, officers will be cognizant of the image a uniformed officer may present to a victim and ensure their approach is professional and compassionate.
2. During questioning, officers will:
 - Use supportive interview techniques
 - Ask the victim about previous domestic incidents, their frequency, and severity
 - Not reveal to the victim what action they intend to take until all available information is evaluated
 - Ask the victim and the suspect if he/she is injured or in pain, even if there are no visible injuries
 - If pain is reported, offer to contact EMS
 - Document the victim's and suspect's condition, demeanor, relative size, and evidence of injury
 - If the victim does not speak English, locate an interpreter as soon as possible to assist in investigating the incident and providing services to the victim and witnesses
 - Although family members may volunteer to interpret for a victim, an outside interpreter is preferred because the family member may attempt to cover up the suspect's actions to protect the family

Vital Information

1. Officers should direct interview questions to establish certain facts that are essential to determine further courses of action.
2. During the interview, officers should determine:
 - If an assault has previously occurred
 - If weapons are kept in the home, where any weapons are located
 - If weapons were used

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- If objects were thrown
 - Any other indicators or evidence of violence
 - The existence of any court orders and ensure the order is valid before taking action on any potential violation of the order
 - The legal status and living arrangements of the parties involved as defined under personal relationships
3. Evidence of having lived together may include the clothing of both parties, the sharing of living expenses, or whether both parties receive mail at the residence, as well as, the length of time the residence was shared, or whether either person maintains a separate residence.

Witnesses

1. Officers will interview any witnesses fully as soon as circumstances allow. If the witnesses provide information about prior incidents, officers will document such incidents.
2. Officers will document names, addresses, and phone numbers of witnesses for follow-up interviews or possible court testimony. If no witnesses are at the scene, officers will check with neighbors or other persons that may be able to provide pertinent information.

Children

1. Children will be interviewed in an age-appropriate manner, preferably alone.
2. If the child was present during the incident or the victim was holding the child when the suspect inflicted an injury, child abuse charges may be appropriate.
 - Officers who suspect that any child has been abused or neglected must file a police report and must report the case to the Child Protective Services Unit of Wake County Human Services.
 - Any child who lives in an environment injurious to the child's welfare is considered neglected and this must be reported. (SOURCE: NCGS Article 7B)
3. For all children present in the home, even if they did not witness the incident, officers will:
 - Document names and ages
 - Document signs of trauma and any apparent healing of abuse wounds
 - Photograph children's injuries, if possible
 - Document statements

Domestic Violence Victims Advocate Notification

1. In all cases of domestic violence officers should provide the contact information of the department's Victim Advocate.

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2. In cases where there is a serious assault and medical attention is required, officers will notify the Victim Advocate according to General Order 1109 - *Victim and Witness Assistance*.

Lethality Assessment

1. Officers investigating reports of domestic violence involving intimate partners will initiate a lethality assessment when:
 - There is reason to believe that an assault or act that constitutes domestic violence has occurred, whether or not there is an arrest made
 - There is a belief or sense on the part of the first responder that once the victim is no longer in the care or presence of law enforcement the potential for assault or danger is high
 - There have been repeat calls for service involving the victim, suspect, or location
 - The investigating officer believes it is in the best interest of serving the victim
2. The investigating officer will ask all questions on form F905a - *Lethality Assessment* and will document the answers on the form. Based on the answers provided by the victim, the officer will follow the protocols established in the *Interact Lethality Assessment Manual* and will handle the information as follows:
 - “Yes” to Questions 1, 2, or 3—a referral to Interact is required
 - If a victim answers “No” to questions 1-3, but “Yes” to at least four of questions 4-11—a referral to Interact is required
 - “No” or negative responses to all questions or given “Yes” or positive responses to no more than three of questions 4-11—a referral is at the discretion of the responding officer
3. All completed forms will be forwarded to the Victim Advocate before the end of the investigating officer’s shift for review and follow up, if necessary.

Crime Scene

1. Officers will assess the scene of the incident and note the disturbance of furniture, presence of weapons, broken windows or doors, presence of blood stains, etc. to corroborate the statements of the involved parties.
2. Photos will be taken of the scene and any injuries, if possible.

Seizing Weapons

1. The Apex Police Department will not seize weapons unless there is a legal authority to do so. (**NOTE:** Weapons are not permitted to be seized for “Safe Keeping.”)

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2. If a criminal violation occurs involving a weapon, the officer should charge the appropriate violation (i.e. Assault by Pointing a Gun, Communicating a Threat Involving a Firearm, etc.) and seize the weapon as evidence of the crime.
 - Officers seizing a weapon as evidence will follow the procedures as outlined in General Order 801 - *Evidence and Property Management and Control* and any other applicable written directive.

Intervention Strategies

Through interviews, observation, and standard investigative techniques, officers will gather all available information prior to selecting a course of intervention.

No Action

1. In some instances, the presence of officers alone is sufficient to restore calm, and no further action is necessary.
2. Officers will limit the use of this option to situations where both parties agree that no action should be taken, and where no physical violence was involved.
3. In cases where no action is taken, officers will still complete an incident report to fully document the circumstances and their investigation pursuant to General Order 405 – *Field Reporting and Management* and any other applicable written directive.

Mediation or Referral

1. Mediation can be a useful alternative when the critical issues appear to be solvable in a short period of time. Referral may be appropriate when the problem appears to be long term in nature, requiring professional help, but non-violent.
2. Prior to bringing the disputants together to mediate, officers should make sure they are capable of discussing their problems without becoming violent.
3. Officers should use paraphrasing and positive reinforcement to determine the priority of the issues and elicit suggestions from both disputants.
4. Officers should summarize the agreed-upon solution and emphasize that the disputant, not the police, solved the problem and must stick to their agreement.
5. If the parties decide that long-term assistance is necessary, officers may refer them to an appropriate human service agency for assistance pursuant this General Order, General Order 204 – *Interagency Relations*, and any other applicable written directive.

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- **NOTE:** Officers should attempt to alleviate any anxiety the parties may feel about seeking outside assistance.

Arrest Decision

1. Officers should effect a custodial arrest of the suspect in a domestic incident whenever such arrest is authorized, including warrantless arrest for certain domestic misdemeanors that did not occur in the presence of officers.
2. In circumstances where the arrest and removal of one party would leave a third party, such as a minor child, in the care of someone deemed unfit, the investigating officer will notify the on-duty supervisor who will make the determination if the person should be charged on citation in lieu of physical arrest. The reason no physical arrest was made must be clearly documented in the incident report.

Warrantless Arrest for Domestic Violence

1. An arrest is authorized without a warrant if an officer has probable cause to believe that a person has committed any of the following:
 - A felony crime inside or outside of his/her presence
 - A misdemeanor crime committed in his/her presence
 - A domestic violence crime committed outside of his/her presence that is one of the following:
 - Simple Assault or Affray
 - Assault on a Female
 - Assault with a Deadly Weapon
 - Assault Inflicting Serious Injury
 - Assault by Pointing a Gun
 - Domestic Criminal Trespass
 - Violations of In-State or Out-of-State Protective Orders
(SOURCE: NCGS 15A-401)
2. Warrantless arrest is applicable for domestic violence cases in which there is a personal relationship, as defined in NCGS 50B.

Domestic Criminal Trespass

1. Officers may arrest an offender for trespassing or remaining on the property of a spouse, former spouse, or another person with whom he/she lived with as if married, once the couple has separated. Evidence that the couple is separated and living apart may include:
 - A court-ordered separation
 - A court order telling the trespasser to stay away
 - A separation agreement between the two parties

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- A verbal or written agreement that they should live apart and are, in fact, apart or have separate places of residence
2. An offender may be in violation of NCGS 14-134.3 "Domestic Criminal Trespass" and NCGS 50B-3 "Domestic Violence Protective Order" simultaneously.
 - In such cases, it is preferable to charge for Domestic Criminal Trespass.
 - Officers will advise the magistrate of the protective order violation at the time the defendant is presented for Domestic Criminal Trespass.

Injury to Both Parties

1. If visible bodily injury exists on both involved parties, officers will determine if one of the parties was the primary aggressor. If so, officers will arrest the primary aggressor.
2. If neither party can be determined to have acted in self-defense, officers will decide if one of the parties was the primary aggressor in a violent incident. If so, and if probable cause exists, officers will arrest only this party.
3. In all domestic situations, officers should consider the totality of the circumstances and fully document their investigation and findings.

Violation of Protective Orders

1. Warrantless physical arrest is required in cases where there is a protective order in place and there is probable cause to believe that the suspect violated any of the following provisions, which:
 - Exclude the suspect from the residence occupied by the victim
 - Direct the suspect to refrain from assaulting, threatening, abusing, or following the other party; harassing the other party by visiting the home/workplace or by other means; or otherwise interfering with the alleged victim (Source: NCGS 50B-4)
2. **Officers must physically arrest the perpetrator regardless of the present relationship or circumstances between the victim and the perpetrator.**
 - Even if the perpetrator has moved back into the residence named on the protective order or the victim has invited the perpetrator to his/her residence, officers must arrest once the active order is confirmed.
 - Only a subsequent court order dismissing the protective order can nullify the enforcement of the protective order.
3. Officers are authorized to make physical warrantless arrests for any violations of the provisions of a protective order, not just those for which arrest is mandatory. (SOURCE: NCGS 50B-4)

Arrest Pursuant to a Warrant

1. Any violation of a protective order is a class A1 misdemeanor.
 - Officers will seek a criminal warrant for any violation and will follow all appropriate procedures for entering and serving the warrant as soon as possible.

Ex Parte Orders

1. To enforce an ex parte order, officers will confirm the validity of the order by checking the date on the *Notice of Hearing*.
 - If the court date has expired, ask the victim if any further order was obtained from the court at the hearing. If so, the victim may have a full protective order.
 - If the victim did not go back to court, the ex parte order is invalid and the case must be re-filed.
2. If the order has not expired, confirm that the restrained party has been served with the ex parte order.
 - If the restrained party has been served, enforce as a domestic violence protective order.
 - If the restrained party has not been served, officers should attempt service, inform the suspect of the order, and document their actions in their incident report narrative.

Other Jurisdiction Protective Orders

1. Protective orders from another jurisdiction within North Carolina or another state will be honored as any other valid protective order, whether or not the order has been registered. (SOURCE: Federal Violence Against Women Act)
2. Officers will check DCI to verify the order, if the victim cannot produce a valid copy.
3. If the suspect crosses state lines to violate an order, a federal charge may be applicable in addition to the state offense.
 - Officers should charge for any violation of NCGS.
 - Officers should consult with the District Attorney's Office regarding federal charges.

Verification of Protective Orders

1. Before placing the subject in custody, officers should check the order to confirm the date of issue, expiration date, terms, and any exceptions that might make an arrest improper.

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- If the existence and status of the order cannot be verified, the victim should be informed how to file a warrant for this type of violation and be reminded to keep a copy of any protective order with him/her at all times.

Enforcement When Suspect is Not at the Scene

1. If probable cause exists that a violation has occurred and the suspect is not at the scene, officers will attempt to locate the suspect.
 - If located at any time, the suspect can be arrested immediately without a warrant.
 - If the suspect is not located within a reasonable amount of time, officers will obtain a warrant for the violation of the protective order and for any other underlying crime.
2. Forced entry without a warrant is not appropriate unless other urgent circumstances exist.

Disposition of Personal Property

1. Officers should not become involved in the disposition of personal property.
 - Employees will not take possession, purchase, or otherwise acquire any personal property for their own use.
 - Any property taken or surrendered as part of a call for service must be processed in accordance with applicable written directives.
2. Violation of a protective order regarding the allocation of personal property such as furniture, cars, or other items may be enforced through a civil order to show cause or through the criminal warrant process.
 - In the absence of a warrant or probable cause, officers should remain neutral and concern themselves primarily with the peace and safety of the individuals present.

Federal Crimes Involving Domestic Violence

Federal Violence Against Women Act

1. The FBI and/or the United States Attorney's Office will be contacted when one of the following federal crimes related to domestic violence has been committed against a victim:
 - *Crossing State Lines to Injure an Intimate Partner*—The suspect crosses state lines with the intent to injure, harass, or intimidate an intimate partner and such action involves a crime of violence that results in bodily injury
 - *Forcing an Intimate Partner to Cross State Lines*—The suspect causes a spouse or intimate partner to cross state lines by force, coercion, duress, or fraud where such action also results in bodily injury to the victim

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- *Interstate Protection Order Violation*—The suspect crosses state lines with the intent to violate a protection order; and thereafter, acts to violate the order either in the issuing or another state
 - *Interstate Stalking*—The suspect crosses state lines with the intent to injure or harass another person and, as a result, places that person in reasonable fear of death or serious bodily injury
2. If one of the above crimes is committed the Criminal Investigations Division will ensure contact is made with the FBI and/or United States Attorney's Office.

Interstate Shipping of Firearms

1. It is unlawful for any person who is the subject of an order for protection to possess, ship, or transport in interstate commerce any firearm or ammunition, or to receive any firearm which has been shipped or transported interstate.
 - Investigations that determine a potential violation of this statute will be referred to the United States Attorney's Office.

Call Completion Procedure

Evidence Collection

1. Whenever a crime is alleged to have been committed, officers will collect relevant evidence and document the incident, regardless of whether an arrest is made at the scene. General Order 802 – *Collection and Preservation of Evidence* and other applicable written directives will be used as a guide.
2. Officers will document any and all excited utterances made by the victim and the suspect; take any relevant pictures of injuries, etc.; and seize any conventional or non-conventional weapons used in the assault.

Incident Reporting

1. Officers will complete an incident report pursuant to General Order 405 – *Field Reporting and Management* and comply with General Order 1109 -*Victim and Witness Assistance* for Victims' Rights Notification procedures.
2. In the incident report officers will document:
 - The demonstrated emotions and behaviors of the victim, suspect, and children
 - Any history of violence
 - Relationship of the parties involved
 - A description of any injuries
 - The condition of the scene

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3. All incident reports and documentation related to a domestic violence case will be reviewed by the immediate supervisor and returned to the reporting officer for follow-up, as needed.
 - Follow-up may include, but is not limited to, taking pictures of the victim, interviewing witnesses, and gathering information on the suspect.
4. Form F905 - *Law Enforcement Domestic Violence Supplemental Report* will be completed in all domestic violence incidences where an assault has been alleged.
5. Prior to leaving the scene, officers will:
 - Provide the victim/witness with the agency case number and phone number for use in the event that further information is needed
 - Advise the victim/witness as to the appropriate action to take should the suspect further threaten or intimidate him/her
 - Advise the victim/witness of available services including victim advocacy through the department's Victims Advocate, compensation programs, and counseling
6. At the completion of the preliminary investigation, all cases involving domestic violence will be referred to the Criminal Investigations Division for review and further follow up, if needed.

Domestic Violence Involving Town, Department, Law Enforcement and Government Employees

1. The Apex Police Department has a zero-tolerance policy towards domestic violence involving anyone, including Town or department employees, as well as, other law enforcement or government employees.
 - Allegations of criminal conduct involving these persons will be handled in the same manner as any other similar incident.
2. Employees who disclose to any other employee of the department that they have personally engaged in domestic violence are not entitled to confidentiality.
 - The report of such criminal conduct must be treated as the admission of a crime and will be investigated both criminally and administratively in accordance with this and other applicable written directives.
 - All allegations, reports, or information regarding potential domestic violence where a department employee is a victim or suspect will be reported directly to the Chief of Police. The chain of command will not be used to report such allegations in order to protect the victim's privacy.
3. Persons who have been convicted of a misdemeanor domestic violence offense in violation of either federal or state law may be prohibited from possessing or carrying a firearm or ammunition, whether department-issued or privately owned.

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- Police Officers who are not permitted to possess or carry a weapon are not able to carry out the duties of their job and may be subject to disciplinary action up to and including termination.
4. An employee who is the subject of any criminal investigation, protective order, or restraining order related to domestic violence, or other protective order proceeding, whether or not the order is issued and regardless of jurisdiction, will notify his/her supervisor within 24-hours of being notified of same and provide a copy of the order to his/her supervisor.

Complaints Involving Apex Police Department Employees

1. When a department employee is involved in a domestic violence situation and Apex Police Department officers are dispatched to the scene, the following procedures will be followed:
 - The first responding officer will immediately notify the on-duty supervisor to respond to the scene
 - The on-duty supervisor will assume command and ensure that the crime scene is secure, that all evidence is collected, and the investigation is conducted appropriately
 - If the employee involved is a sworn officer, the preliminary investigation will be conducted by the on-duty supervisor
 - As soon as possible, the on-duty supervisor will notify the Patrol Division Commander, who will notify the Deputy Chief of Police and Chief of Police
2. If there is probable cause to believe that the involved employee committed a criminal act, he/she will be charged and General Order 302 – *Personnel Complaint Investigation* will be followed.

Complaints Involving Town Employees, Police Officers from Other Jurisdictions, or Other Government Employees

1. When responding to a domestic violence complaint involving a Town employee, law enforcement officer from another jurisdiction, or another government employee, the same procedures will be followed as for investigating any domestic violence incident.
2. The on-duty supervisor will notify the Patrol Division Commander who will notify the Deputy Chief of Police and Chief of Police. If appropriate, a command-level officer, or other appropriate supervisor from the other agency, will also be notified.

Employee Assistance Program

1. The department will, either in response to observed warning signs or at the request of an employee, provide non-punitive avenues of assistance to the employee, his/her partner, and other family members before an act of domestic violence occurs as outlined in General Order 307 – *Compensation, Benefits, and Conditions of Work*.

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2. The department will use confidential counseling services when making confidential referrals for employees in need of assistance.
3. Employees are encouraged and entitled to seek assistance to prevent a problem from escalating to the level of criminal conduct against an intimate partner.

Text in "Green" denotes a significant change to policy

BY ORDER OF:



John W. Letteney
Chief of Police