

**POLICY
320**

**EFFECTIVE
DATE
01-01-14**

**Eugene
Police Department**



Domestic Violence and Restraining Orders

320.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

320.1.1 DEFINITIONS

Definitions related to this policy include:

Court order - All forms of orders related to domestic violence, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

320.2 POLICY

The Eugene Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is serious criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

320.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

320.4 INVESTIGATIONS

The following guidelines should be followed by officers when investigating domestic violence cases:

- (a) Calls of reported, threatened, imminent or ongoing domestic violence, and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls. Do not cancel a police response to an alleged domestic violence complaint solely based upon a follow-up call from the location or individual requesting a disregard. A welfare check will be conducted.
- (b) When practical, officers should obtain and document statements from the victim, the suspect and any witnesses, including children (except as described in section (l) below), in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practical and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practical, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Violent Crimes Unit in the event that the injuries later become visible. Photos should be taken of the assailant as well as the victim.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers will make reasonable efforts to locate the suspect to further the investigation. Provide the suspect with an opportunity to make a statement and make an arrest, or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. The arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers will take appropriate enforcement action when there is probable cause to believe an offense has occurred.

- (k) Complete the Uniform Domestic Violence Report forms and include them in your report packet. Do not make them the cover sheet.
- (l) If the Domestic Violence is perceived by a verbal child under 12 have the child forensically interviewed at the Kids First Center (KFC) by a trained interviewer. These occur at 1330 the next business day. However, if you need a rudimentary interview with a child who would normally be interviewed by KFC to develop probable cause, you may do so, but only to the extent to develop probable cause for the arrest. The child should still be interviewed at KFC. An example would be two parents (suspect and victim) in a DV case who refuse to answer any questions, but an 11 year-old child who witnessed the assault and can give general details about his or her observations.
- (m) If the child is 12 or older, you may conduct an interview. The packet should still be routed to KFC and DHS.

320.4.1 STANDARDS FOR ARREST

Officers who respond to an incident of domestic disturbance and have probable cause to believe an assault has occurred between family or household members as defined in *ORS 107.705*, or who believe that one such person has created in the other a fear of imminent serious physical injury, shall arrest and take into custody the alleged assailant or potential assailant (*ORS 133.055*.)

Dual arrests are not required (*ORS 133.055*.) Officers shall make reasonable efforts to identify and arrest the primary assailant in any incident. In identifying the primary assailant, an officer shall consider:

- a) The comparative extent of the injuries inflicted or the seriousness of threats creating a fear of physical injury.
- b) If reasonably ascertainable, the history of domestic violence between the persons involved.
- c) Whether any alleged crime was committed in self-defense.
- d) The potential for future assaults.

Once a suspect has been arrested under the provisions of ORS 133.055, the suspect shall be taken to jail. Officers have no authority to release the arrested person or cite in lieu of custody.

Officers shall arrest and take a suspect into custody when the officer has probable cause to believe that a restraining order has been issued, a copy of the order and proof of service on the suspect have been filed, and the suspect has violated the terms of the order (*ORS 133.310*.)

320.4.2 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail pre-trial release staff to enable notification of the victim upon the suspect's release from jail. This information (name, date of birth, and address of victim and any child victims or witnesses) will be included in the Affidavit of Probable Cause filled out by the arresting officer.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.
- (d) Provide the victim with the domestic violence information handout.

320.4.3 IF NO ARREST IS MADE

If no arrest is made, and an act is alleged to have been committed which, if the act were proven true, would constitute Domestic Violence (as defined by *ORS 133.055*) the officer should:

- (a) Advise the parties of any options, including but not limited to:
 1. The APA statute (*ORS 133.055*).
 2. Voluntary separation of the parties.
 3. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report titled ***Dispute***. The report will include details of the investigation and a statement as to why an arrest was not made. Include the (DV) modifier to the report title .

320.5 VICTIM ASSISTANCE

Victims may be traumatized or confused. Officers should:

- (a) Recognize that a victim's behavior and actions may be affected.
- (b) Provide the victim with the department's domestic violence information handout, even if the incident may not rise to the level of a crime.
- (c) Alert the victim to any available victim advocates, shelters and community resources.
- (d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.

- (e) Seek medical assistance as soon as practical for the victim if he/she has sustained injury or complains of pain.
- (f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) Seek or assist the victim in obtaining an emergency order if appropriate.

320.6 DISPATCH RESPONSIBILITIES

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practical.

Dispatchers are not required to verify the validity of a court order before dispatching officers.

320.7 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

320.8 VERIFICATION OF COURT ORDERS

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and, where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases (LEDS/NCIC) that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.

- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made.

320.8.1 SERVICE OF COURT ORDERS

Officers should, if requested, attempt to serve any un-served restraining order when called to the scene of a disturbance. Any officer serving such a restraining order shall ensure that a copy of proof of service is returned to the Sheriff for entry into the Law Enforcement Data System (LEDS) and the National Crime Information Center (NCIC) system (ORS 107.720).

320.9 VIOLATION OF RELEASE AGREEMENT

You shall arrest and take into custody a person if you have probable cause to believe the person you are to arrest:

- (a) Has been charged with an offense that also constitutes domestic violence; **and**
- (b) Is presently released from custody for that charge under a no-contact condition of release; **and**
- (c) Has not complied with the no-contact order.

320.10 REPORTS AND NOTIFICATIONS

Officers should document in their report that they provided each domestic violence victim with a copy of the department's domestic violence victim information handout (*Oregon Revised Statutes 133.055*).

Reporting officers should also provide the victim with the case number of the report. The case number may be written on the domestic violence victim information handout. If the case number is not immediately available, an explanation should be given about how the victim can obtain the information at a later time.

320.1 SUPERVISOR RESPONSIBILITIES

Supervisors will ensure the safety of any children at the location and that officers remain on scene until appropriate arrangements have been made and that there is no further threat to them or other victims. If one or both parents are arrested, it may be necessary to contact DHS to arrange for safe placement of the children. Ensure children are not handed off to non-primary custodial family members unless DHS is advised of the arrangement.

Supervisors will route all reports of Domestic Violence to the Violent Crimes Unit and Lane County Victim's Services. If a child under the age of 18 witnesses or perceives the alleged act, the report will also be routed to DHS and the Kids First Center. Supervisors will ensure that all applicable modifiers appear on the report title and that the report is routed properly.

320.12 CIVIL LIABILITY

You cannot be held liable for making an arrest in good faith and without malice in any Domestic Violence case.