



# POLICY & PROCEDURE

## UW-GREEN BAY POLICE DEPARTMENT

<b>SUBJECT:</b>	Domestic Abuse / Violence	<b>SCOPE:</b>	All Employees
<b>CHAPTER:</b>	6 Operations	<b>NUMBER:</b>	6.3.9
<b>DISTRIBUTION:</b>	Policy Manual	<b>EFFECTIVE:</b>	06/01/2013
<b>APPROVED:</b>	Tony Decker, Chief of Police	<b>REVIEWED:</b>	
<b>REFERENCE:</b>	968.075,	<b>REVISED:</b>	03/20/2015, 05/01/2022

### I. PURPOSE

**This policy is mandated by State Statute §968.075(3).**

The purpose of this policy is to establish guidelines for the response to incidents of domestic abuse. This policy will also specifically address incidents of domestic abuse involving a police officer and the enforcement of protection orders.

### II. POLICY

It is the policy of the University of Wisconsin Green Bay Police Department to thoroughly investigate all domestic abuse incidents and arrest the predominant aggressor when a crime or ordinance violation has occurred. The primary focus of the department shall be the safety and general welfare of victims of domestic abuse.

### III. DEFINITIONS

- A. Domestic Abuse: Any of the following acts engaged in by an adult (17 years of age or older) against his or her spouse or former spouse, against an adult (18 years of age or older) with whom the person resides or formerly resided, or against an adult with whom the person has a child in common. [§968.075(1)(a), Wis. Stats.]
1. Intentional infliction of physical pain, physical injury or illness.
  2. Intentional impairment of physical condition
  3. Violations of §940.225(1), (2), or (3), Wis. Stats. (1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> degree sexual assault)
  4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under subsections 1-3.
- B. Full Faith and Credit: The requirement by U.S. Code Title 18, Section 2265 that jurisdictions honor the terms and conditions of a protection order issued by another jurisdiction.
- C. Law Enforcement Employee: Any person, sworn or civilian, employed by a law enforcement agency.

- D. Predominant Aggressor: The most significant, but not necessarily the first aggressor in a domestic abuse incident. [§968.075 (1)(c), Wis. Stats.]
- E. Protection Order: Any injunction or other order issued by a court, whether permanent, temporary or emergency, regardless of form, content, length, layout or name, issued for the purpose of preventing the following:
  - 1. Violent or threatening acts against another person;
  - 2. Stalking or harassment of another person;
  - 3. Contact or communication with another person; or
  - 4. Physical proximity to another person.

Such orders may include, but not be limited to:

- 1. Civil or criminal restraining orders;
- 2. Injunctions;
- 3. Bail or release orders;
- 4. Probation conditions;
- 5. Protections contained in support, child custody and visitation orders; and
- 6. Protections contained in other court orders.

#### IV. PROCEDURE

##### A. Proactive Measures regarding Domestic Abuse

- 1. The department shall provide training on this policy to all employees with responsibility for responding to domestic abuse incidents. Furthermore, the department shall provide instruction to all employees regarding the role of the agency in matters of domestic abuse involving a law enforcement employee. The training shall include periodic updates as circumstances dictate.

##### B. Incident Response Protocols – Officer Responsibilities

- 1. Officers responding to the scene of a domestic incident should exercise a high degree of caution during their approach.
- 2. Officers should attempt to identify themselves, explain their presence, and request entry if the incident is occurring in a private residence. If officers determine there is probable cause to believe the safety of a victim may be in jeopardy, a forcible entry may be permissible.
- 3. Upon securing the scene, officers should make contact with all involved parties, including victims, perpetrators, and witnesses, as well as any uninvolved witnesses, and should obtain a comprehensive account of the events from each individual, including children.

4. During interviews, officers should:
  - a. Protect the victim's safety and privacy by interviewing the victim away from the suspect and other witnesses.
  - b. Determine the type of threat, pain inflicted, or injuries suffered, including those that may not be apparent; e.g., strangulation causing restricted breathing or injuries concealed by clothing.
  - c. As appropriate, attempt to obtain a medical release from the victim.
  - d. Ask about prior domestic abuse incidents, including frequency and severity.
  - e. Ask the victim about the existence of a protection order and, if one exists, whether the victim has a copy. The officer should also conduct a TIME system query as outlined in Section H., below.
5. Upon conclusion of the interviews, officers shall attempt to obtain written statements from all participants and witnesses.
6. Officers shall collect, preserve and document all physical evidence to support prosecution, including evidence substantiating the victim's injuries and evidentiary items that substantiate an attack; e.g., weapons, torn clothing, etc. As appropriate, officers shall also ensure crime scene photographs are taken, to include visible injuries on the victim and suspect and, if necessary, should make arrangements to have additional photos taken 24-72 hours later in the event the injuries become more visible and pronounced over time.
7. Officers should complete a domestic violence lethality worksheet.
8. Officers will make victims aware of the services offered by the Golden House Domestic Abuse Programs and Family Services of Northeast Wisconsin (Crisis Center).

C. Incident Response Protocols – Mandatory Arrest

1. Pursuant to §968.075(2), Wis. Stats., officers shall arrest and take a person into custody if they have probable cause to believe the person is committing, or has committed, domestic abuse, the person's actions constitute the commission of a crime.
  - i. Mandatory arrest is always custodial; and the issuance of a summons is not an acceptable enforcement action.



2. Upon making an arrest for domestic abuse, officers shall confine the offender in the Brown County Jail for all offenses supported.
3. If the probable cause to arrest is based upon a report of an alleged domestic abuse occurring in the past, officers are required to make a custodial arrest if the report is received within 28 days after the day the incident is alleged to have occurred. [§968.075(2)(b), Wis. Stats.]
4. Officers are solely responsible for determining if an arrest will be made. If the conditions are met, arrest is mandatory and may not be based upon the consent, or lack thereof, of the victim to any subsequent prosecution or on the relationship of the involved parties. [§968.075(3)(c), Wis. Stats.]
5. An officer's decision not to arrest may not be based solely upon the absence of visible indications of injury or impairment. [§968.075(3)(d), Wis. Stats.]
6. When the suspect is not at the scene and cannot be located within a reasonable amount of time, the investigating officer shall complete a referral to the District Attorney's office requesting the issuance of a criminal complaint and warrant or summons.
7. When making an arrest in a domestic abuse incident, officers shall attempt to determine whether the suspect meets the definition of "domestic abuse repeater," as defined in §939.621, Wis. Stats. The following circumstances shall classify the defendant as a "domestic abuse repeater."
  - i. Upon determining the suspect to be a "domestic abuse repeater," officers shall list §939.621, Wis. Stats., separately on the jail booking sheet, in addition to the crime that led to the arrest. The booking sheet should be marked as a felony arrest.

D. Determining the Predominant Aggressor

1. The primary purpose behind identifying and arresting the predominant aggressor is to protect victims from continuing domestic abuse.
2. In identifying the predominant aggressor, officers shall consider all of the following factors:
  - a. The history of domestic abuse between the parties, if it can be reasonably ascertained by the officer, and any information provided by witnesses regarding that history.
  - b. Statements made by witnesses.
  - c. The relative degree of injury inflicted on the parties.

- d. Whether any party is threatening or has threatened future harm against another party or another family or household member.
  - e. The extent to which each person present appears to fear any party.
  - f. Whether either party acted in self-defense or in defense of any other person.
3. Once the predominant aggressor has been identified, officers should generally not arrest anyone other than the predominant aggressor, unless another person's arrest is mandatory under law.
  4. An officer believing it is necessary to arrest someone other than the predominant aggressor, or experiencing difficulty in identifying the predominant aggressor, shall review the matter with a supervisor prior to making multiple custodial arrests. This review shall examine the extent to which any party acted in self-defense or in defense of another person.

E. Victim Safety and Support

1. The safety and general welfare of victims of domestic abuse is paramount and shall be a priority of investigating officers.
2. Throughout the entire contact with a victim of domestic abuse, officers should continuously monitor the physical and emotional condition of the victim, and arrange for medical or emotional assistance, as necessary.
3. Prior to concluding the contact with a domestic abuse victim, officers shall provide information that will enable the victim to develop a safety plan to protect against further abuse. This shall include:
  - a. Providing a copy of the University of Wisconsin Green Bay Police Department Victim Information form explaining the status of the offender and, if confined, how they can be informed of his or her release.
4. Domestic abuse involving child victims, seventeen years of age or younger, may constitute child abuse and necessitate the involvement of the Brown County Department of Human Services to protect the welfare of the child victims.

F. Contact Prohibition

1. During the 72 hours immediately following a domestic abuse arrest, the arrested person shall avoid the residence of the victim and, if applicable, any premises temporarily occupied by the victim. The arrested person shall also avoid contacting, or causing any person other than law enforcement officers and attorneys for the arrested party or victim to contact the victim. [§968.075(5), Wis. Stats.]

2. When the offender is released from jail, he or she shall be informed by jail staff orally and in writing of the 72-hour contact prohibition and the consequences of violating the prohibition.
3. The conditions associated with the 72-hour contact prohibition shall constitute conditions of bond and, should the offender violate the contact prohibition, he or she shall be arrested for bail jumping pursuant to §946.49, Wis. Stats.

G. Law Enforcement Employee Involved Domestic Abuse

1. In the event the victim of domestic abuse is an employee of the University of Wisconsin Green Bay Police Department, the department will make available, in addition to any other domestic abuse services offered, access to the University of Wisconsin Green Bay Employee Assistance Program.
2. In the event an employee of the University of Wisconsin Green Bay Police Department is arrested for a crime involving domestic abuse, that employee shall be immediately placed on administrative leave and an internal investigation shall be initiated under 1.9.1 Personnel Complaints and Internal Investigations.
  - i. Any employee who is arrested for an offense related to Domestic Violence is required to report their arrest to the Chief of Police within 72 hours.
  - ii. Any employee who is made aware of the arrest of any employee related to Domestic Violence is required to report the known information to the Chief of Police within 72 hours.

H. Non-criminal Domestic Disputes

1. When investigating an incident of domestic abuse, officers may consider the issuance of a municipal summons only in situations where a corresponding state statute does not exist.
2. When investigating a domestic dispute that does not involve criminal activity or a violation of a UWS Chapter 18 Code Violation, officers shall attempt to mediate the dispute and may recommend that one or more of the participants leave the premises. Officers may also consider a referral to other resources provided by the University of Wisconsin-Green Bay, if appropriate.

I. Protection Orders

1. Officers investigating domestic abuse incidents should attempt to determine whether a protection order is in effect, to include injunctions or restraining orders issued pursuant to Chapter 813, Wis. Stats., by:
  - a. Asking the victim or reporting party if an order exists; and



- b. Conducting a TIME system check of the probable respondent or petitioner.
2. Violation of a Protection Order
- a. When an officer has probable cause to believe a protection order has been violated, an arrest shall be made, regardless of whether the prohibited conduct occurred in the officer's presence. Subsequent to the arrest, the officer shall attempt to obtain a copy of the protection order from the Clerk of Courts.
  - b. An arrest for a protection order violation shall be custodial, pursuant to §813.12(7), Wis. Stats., unless the officer can determine with certainty that the respondent was unaware of the existence of the order.
  - c. If the conduct that violated a protection order also constitutes an independent offense, an arrest shall be made for the additional offense, as well as the protection order violation.
  - d. No person, including the petitioner, can authorize actions that constitute the violation of a protection order, and an order is not voided if the respondent is admitted into a dwelling that the order directs him or her to avoid.
  - e. A petitioner is not in violation of a protection order if he or she permits into his or her residence a person specified under the order to avoid the residence.
3. Extraterritorial Protection Orders
- a. Protection orders issued in another state, the District of Columbia, a U.S. territory, or by a tribal court shall be afforded full faith and credit in Wisconsin.

J. Property Exchange

- 1. Due to the volatile nature of domestic abuse situations, officers will make a reasonable effort to assist with the exchange of property when requested by participants in a domestic abuse situation. Such requests will be evaluated on a case by case basis and conducted according to guidelines established herein.
- 2. Evaluating Property Exchange Requests
  - a. The safety and general welfare of victims of domestic abuse shall be paramount when evaluating requests for property exchange.

- b. Participants in a domestic abuse situation requesting assistance in the recovery of personal property should be told to report to the University of Wisconsin Green Bay Police Department with copies of any bond conditions, protection orders, or similar judicial orders that may have been issued. They should never be directed to report to a location occupied by the other disputant.
- c. Officers should evaluate such factors including the nature of the original offense, the nature of any protection orders, prior contact history with the person making the request, wanted status of the person making the request, and the emotional state of the person making the request.
- d. Officers should evaluate the appropriateness of the request, to include the time of day, the type and quantity of property, and the need for the property. Property should be limited to personal necessities; e.g., clothing, toiletries, prescription medications, work items, etc.
- e. If the request is from a person arrested for domestic abuse, the officer must make telephone contact with the victim to discuss the request and determine if the victim is willing to permit the exchange.
- f. Officers shall not participate in the exchange of property under the following conditions:
  - i. When the victim is unwilling to permit the exchange.
  - ii. When the risk to the victim or officer is too great.
  - iii. When it would conflict to any degree, with any part of a valid protection order or as part of valid probation or parole rules.
  - iv. When officers are aware that a divorce decree has been issued prohibiting the distribution of property.

### 3. Procedures for Property Exchange in Domestic Abuse Situations

- a. A person arrested for domestic abuse must never be provided telephone or in-person access to the victim of the incident, or a location occupied by the victim.
- b. If the officer and victim approve the request for property exchange, the following guidelines should be considered:
  - i. The party possessing the items requested should assemble them to be retrieved by an officer.



- ii. The person requesting the property should remain at a safe location away from the other disputant. The police department is the recommended location.
  - iii. Property should be limited, as described in subsection 2., d., above. Officers should not stand by while significant amounts of property are removed.
  - c. Occasionally, a court will insert language into a protection order that requires law enforcement officers to assist a petitioner/victim with gaining access to a location for the purpose of taking possession of the location or retrieving property. Under such circumstances, officers should render the location safe prior to permitting the petitioner to enter the location, which may include removing the respondent from the location.
4. Each party involved in a domestic abuse situation should be told to consult legal counsel to address the final distribution of property and related assets.

K. Required Reports

- 1. An offense report and narrative shall be completed for all criminal domestic abuse incidents and those in which a Chapter 18 ordinance has been violated.
- 2. Officers shall document non-criminal disputes if it appears the situation has the potential to escalate or has been ongoing over an extended period of time.



April 11, 2022

TONY DECKER, CHIEF OF POLICE

*This policy shall become effective either immediately upon my signature or on the last date noted in the Revised Date field of page one. When a revision becomes effective, it shall be the standard and shall supersede all previous versions of the policy. Historical policies shall be maintained for no less than 7 years.*