

COVINGTON POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

Subject: FAMILY VIOLENCE INCIDENTS

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I. Purpose

To establish guidelines and procedures to be followed by police officers and other personnel involved in the police response to family violence incidents.

II. Discussion

Family violence is a crime that differs from many other crimes because of the intimate relationship between the victim and the accused. Notwithstanding those differences, police should respond to family violence incidents as they would to any crime. Officers should make arrests and pursue criminal prosecution appropriate to the crime that the officers have probable cause to believe the accused has committed.

In recognition of the difference between family violence and other crimes, however, police also should provide victims with special assistance and information of specific services available to them.

III. Statement of Policy

It shall be the policy of the Covington Police Department:

- ◆ To reduce the frequency and severity of family violence incidents by establishing arrest and prosecution, rather than mediation, as the preferred means of police response.
- ◆ To afford maximum protection and support to victims of family violence through a coordinated program of law enforcement and victim assistance.
- ◆ To ensure that law enforcement services are as available in family violence cases as they are in other criminal cases.
- ◆ To reaffirm the police officer's authority and responsibility to make arrest decisions according to established probable cause standards.
- ◆ To promote officer safety by ensuring that officers are as fully prepared as possible to respond to family violence calls.

- ◆ To help reduce police resources consumed in responding to family violence by reducing the number of police interventions required at any particular household.

IV. Definition

Family Violence – (OCGA 19-13-1) [Georgia Code Chapter List](#) The occurrence of one or more of the following acts between past or present spouses, persons who are the 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:

1. Any felony; or
2. Commission of offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass.

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.

V. Procedures and Responsibilities

A. Communications Center

1. Upon receipt of a call for service involving an incident of family violence, Communications Center personnel should get as much information as possible from the complainant (e.g. injuries, weapons involved, whether minor children are present/involved, the exact location, whereabouts of the perpetrator) and any other relevant information.
2. Once information has been received, the Communications Center shall immediately designate one primary unit and at least one back-up unit. The dispatcher shall provide the responding officers with all available information.

B. Patrol Response

1. Officers should respond immediately to the location of a family violence incident. If the officer finds the disturbance to be in progress, he/she should notify the Communications Center of the situation. If the disturbance is no longer in progress, the officer should immediately attempt to contact the complainant and proceed with the investigation.
2. Officers responding to family violence complaints should attempt to coordinate their arrival at the scene without delaying the response time.
3. If the disturbance is at a private residence, the officers should attempt to contact the complainant before proceeding further. Officers should not enter a private residence without an invitation from the owner or resident, unless probable cause exists to make an arrest or a confrontation or disturbance is still in progress.

Note: Officers should make every effort to speak to every occupant of the residence before leaving.

4. Once the officers have entered the residence, they should attempt to separate the parties in conflict and calmly listen to each person to determine the cause of the conflict and to gather important information (e.g. who was the primary aggressor).
5. Officers should avoid “taking sides” with either party in the dispute. Family violence complaints should be handled as criminal incidents. Reconciliation or divorce should never be suggested or discussed with the parties involved. Officers should be prepared to offer referrals to the victim concerning the location and availability of social service agencies.

VI. Arrival at the Scene

- A. If a disturbance is found to be “in-progress,” the officer will notify the dispatcher of the location, nature of the disturbance, and the necessity of a back-up unit and/or supervisor. If the officer is dispatched, he/she shall respond immediately to the location.
- B. When two or more units are dispatched, they will coordinate their arrival at the scene to the extent possible to accomplish officer safety. If the actual location is different from the dispatched location, officers will advise the dispatcher. Officers shall park their patrol vehicle in a manner that facilitates accessibility and a safe approach.

VII. Actions at the Scene

- A. The officer shall first attempt to contact the complainant before proceeding. 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, a confrontation is in progress or it is necessary to ensure the safety and welfare of the victim or occupants. Officers shall make contact with every occupant of the residence before leaving and visually check their well being. Every effort should be made to interview and personally observe the alleged victim.
- B. Officers should not hesitate to make a forced entry if doing so is necessary to protect a victim. In making this decision, officers will take into account everything they personally observe, all physical evidence, and all things learned from witnesses or other persons supplying information. Evaluation of this information is necessary to establish the “reasonableness” for such action. A complainant not answering the door is not enough “reason” (standing alone) to make entry. Communication can provide the officer with critical information such as the urgency of the request, screaming, and how serious the request sounded.

When the officer can make contact with the complainant, the officer will:

1. Determine the location and condition of all victims, witnesses and suspects. Document the condition of victims and suspects. Some examples are torn clothing, disheveled appearances, odor of alcohol, disarray of the house, etc. Ask about cuts, scratches, bruises, or pain, even if there are no visible injuries. Avoid using the word “injuries” as that may mean broken bones, etc to that person.
2. Determine if any weapons were involved or are in the home. Officers shall take positions that allow them to monitor one another’s safety. Officers should avoid interviewing parties in locations that might provide access to weapons.

3. Provide the appropriate level of aid to injured parties.
 4. Separate victims, who should be out of the suspect's view, suspects, and witnesses.
 5. Photograph the victims, suspects, and scene as appropriate.
 6. Children should be interviewed in a manner appropriate for their ages and in a non-threatening environment (away from disorderly parties). Officers should be at the eye level of the child. Questions should be open-ended. (Ex. "What happened?") Avoid indicating what response you are looking for or the child may comply.
 7. Determine which of the parties involved was the primary aggressor by observation and asking questions. Questions such as "How many times has this happened before?" are better to ask than "Has this ever happened before?" Does one party appear stronger than the other does? Is one party afraid of the other? Two other factors to be considered are the severity of the injuries inflicted and the potential for future injury. Could one party have been acting in self-defense? Officers should particularly be aware of defensive injuries on the attacker and the victim. During this process, officers should not take "sides" with either party. Similarly, officers should not encourage victims to "press" or "drop" charges. The District Attorney will make that decision.
- C. Whenever possible, a supervisor will also respond to any family violence incident dispatched. When the supervisor cannot respond, he should inquire as to whether the responding officer followed policy and what action was taken. If the family violence call involves a sworn officer as a victim or suspect, a supervisor shall be called to the scene. Supervisors will ensure that any administrative reports are completed prior to the end of the tour of duty.
- D. If the victim has a restraining order or Temporary Protective Order (TPO) against the suspect, the officer should try to obtain a copy of it and note the court case number on the family violence report.
1. If the order exists, but has not been served, officers may also serve the suspect a copy of the TPO and should note in the report that the suspect was served. The Newton County Sheriff's Office (or appropriate jurisdiction) should also be notified.
 2. Out-of-state protection orders are valid in this state as if a court of this state entered them. Officers should assist in enforcement of all terms of a TPO except in matters related to child custody, visitation, and support. Reasonable steps should be taken to confirm the validity of the order.

VIII. Guidelines for Handling Family Violence Incidents

Officers who investigate reports of family violence and establish probable cause that an act of family violence has occurred, pursuant to OCGA 19-13-1, will take the following action:

- A. When a felony has been committed and the victim wants to prosecute, the officer will make an arrest.

- B. When a felony has been committed and the victim does not want to prosecute, the officer will arrest.
- C. When a misdemeanor has been committed and the victim has been injured, or the likelihood exists that more violence will occur if an arrest is not made, and the victim wants to prosecute, the officer will arrest.
- D. When a misdemeanor had been committed and the victim had been injured, or the likelihood exists that more violence will occur if an arrest is not made, and the victim does not want to prosecute, the officer will arrest.
- E. In those cases where the perpetrator has left the scene and probable cause to arrest has been established, the officer will obtain a warrant and turn the original over to the Newton County Sheriff's Office. The officer should retain a copy of the warrant and, if practical, arrest the suspect prior to the end of the officer's shift.
- F. When the accused is a juvenile (under the age of 17), the provisions of this policy will be fully applicable, except that the arrest should be made and the juvenile processed pursuant to the Juvenile Code, and established departmental juvenile procedures.
- G. Domestic disturbances involving prominent citizen, public official, or police officer may present particular difficulties for the responding officer. In such circumstances, the responding officer should request a supervisor at the scene. The responding officer should take whatever action is necessary to protect the victim and detain the assailant, while awaiting the arrival of the supervisor.

In cases where there is a violation of the "Family Violence Act", the officer is the preferred prosecutor.

IX. Establishing Probable Cause

- A. In acts of family violence, willingness to prosecute is not necessary criteria for probable cause. Officers will not consider the following in establishing probable cause:
 - 1. Whether the victim has called for police protection previously and has withdrawn the complaint or has not pursued prosecution.
 - 2. The officer prefers to reconcile the parties despite the victim's desire to prosecute.
- B. In acts of family violence, the officer should consider the following among other things in establishing probable cause:
 - 1. Previous calls to the location.
 - 2. Indication of drug or alcohol abuse.
 - 3. Damage or disarray of home furnishings.
 - 4. Obvious signs of injury or abuse.
 - 5. Emotional state of victim.

C. On - scene investigation

When an incident of family violence is reported, it will be treated as any other criminal offense. In conducting an on-scene investigation, the officer will take the following steps:

1. Summon medical assistance for victims of family violence when there is reason to believe the person has been battered or injured in some way.
2. Interview the victim and any witnesses separately.
3. Complete an incident report and obtain a brief written statement from the victim. This should include what acts occurred that led to the arrest and previous incidents of violence.
4. Collection (tape-recorded conversations, torn clothing, etc.) and documentation of evidence (including appearance of victim, suspect, and any children present as well as the crime scene) which supports probable cause if any.
5. Photographs of the victim and suspect if there are signs of injury and/or photographs of the residence if there are signs of damage or disarray. The officer will take any photographs needed. If the officer is not equipped with a camera, then he/she should notify the shift supervisor or the Criminal Investigation Division. Should this be after hours of the Criminal Investigation Division, the on-call investigator should be notified.
6. Gathering of evidence should be completed with the mindset of how the case can be prosecuted without the victim's cooperation. When there is a great deal of evidence or several persons to be interviewed, the Criminal Investigation Division Investigators may be called for assistance. Request for assistance should be limited to the following criteria.
 - a. Law enforcement or criminal justice personnel (sworn or civilian) involved in a domestic incident.
 - b. The victim and or suspect require treatment at a hospital for a serious injury.
 - c. Domestic related aggravated assault where a weapon was used and the suspect is not in custody.
 - d. Domestic related kidnapping or hostage situations.
 - e. Domestic related stalking cases where the victim is in imminent danger.
 - f. Seizure of weapons

If a law enforcement officer has probable cause to believe that a criminal offense involving abuse against a family or household member has occurred, the officer shall seize all weapons that are evidence of the crime. Incident to an arrest for a crime involving abuse, the officer may seize weapons that are in plain view or discovered pursuant to a consensual search, if

necessary for the protection of the officer or other persons. The officer is not required to remove a weapon the officer believes is needed by the victim for self-defense. Applicable provisions of the written directive concerning property and evidence shall apply.

g. Removal of persons from premises

When the complainant can show (through rental agreement, canceled checks, deed, etc.) that they are in lawful possession of the residence and that the person that they desire to leave the premises has not established residency, the responding officer shall request the person to leave the premises and shall stand by (a reasonable amount of time) until the person removes their belongings. Should the person refuse to leave, the officer should arrest the suspect for criminal trespass or any other applicable section of the code. Officers should also stand by if one or more of the parties request police assistance in removing personal property (those items to which both parties can agree to or those items, which can be identified as belonging to the party requesting removal). Any disputed items must remain within the household until a court determines ownership.

h. Shelters and options

Officers shall assist in making arrangements to transport the victim to an alternate shelter or meeting place designated by shelter personnel if the victim expresses concern for safety or if the officer determines a need exists. (Distance of transport will be at the discretion of the supervisor). Confidentiality of the shelters is essential to their operation. Officers should only note that the victim was taken to a "safe location" on their incident report. Officers shall provide the victim with written information detailing the availability of community resources and the State Victim Assistance Program. Officers will verify and enforce orders of protection and familiarize themselves with the type of court-ordered protective orders and enforcement procedures available locally.

In all family violence incidents, an officer shall explain the options available to the victim, including the prosecution process. In the case of arrest, officers will explain the follow-up procedures and criminal proceedings that may ensue. Officers will inform the victim of the steps in processing the complaint. Victims of a crime have rights during the criminal justice process. All parts of the Victims Bill of Rights (O.C.G.A. 17-17-6) that are applicable to law enforcement shall be enforced. Officers will exercise reasonable care for the safety of the officers and the other parties involved. No provision of this policy shall supersede that responsibility.

i. Follow-up Information for Victims

Officers may provide the following information to victims of family violence:

1. Victims who are in fear of retaliation should be advised that it is a felony in this state to attempt to influence a witness not to testify truthfully or to deter their testimony, pursuant to the provisions of Georgia Code Section 16-10-93, by making threats either directly or indirectly relating to injury of such persons, their property, or any relative.
2. Victims can obtain "Victim Impact" forms through the DA's Office. This form allows for an immediate prosecution by the DA's Office in misdemeanor cases.
3. Victims may file for a "Family Violence Protective Order" also known as a TPO in the Superior Court in the county where the accused resides. The victim should be advised to contact an attorney to file such an action. Indigent victims may be referred to The Public Defenders Office telephone number 770-784-2061, The Battered Women Support Group, 770-922-1110 or The Domestic Violence Support Group for help with all legal and court related matters, including divorce.

A "Family Violence Protective Order" is valid for only six (6) months and may do any or all of the following:

- Direct a party to refrain from future acts of family violence.
- Grant a spouse possession of the residence or household of the parties and exclude other spouse from the residence or household.
- Require a party to provide suitable alternative housing for a spouse and children.
- Award temporary custody of minor children and establish temporary visitation rights.
- Order the eviction of a party from their residence or household and order assistance to the victim in returning to it.
- Order assistance in retrieving personal property of the victim if the respondent's eviction has not been ordered.
- Order either party to make payments for the support of minor children.
- Order either party to make payments for the support of a spouse on a temporary basis.
- Provide for the possession of personal property of the parties.
- Order party to refrain from harassing or interfering with the other.
- Award court costs and attorney fees to either party.

- Order either or all parties to receive appropriate psychological services, as a further measure to prevent the reoccurrence of family violence, and further protection as the court may deem just and proper or necessary. (O.C.G.A. 19-13-4)

A record of the individuals who have been served with a "Family Violence Petition" and against whom a "TPO" has been issued is available from the Sheriff's Department upon request.

A person violating the provisions of the "TPO" which excludes or evicts that person from a residence or household such person shall be guilty of a misdemeanor. This person will be arrested for "Violation of TPO, under O.C.G.A. section 19-13-6B." In the comments section of the citation, the officer shall write "Entering Residence in Violation of Domestic Violence Order." (O.C.G.A. 19-13-6(b)). All other violations of the "TPO" are punishable only by civil contempt in the Superior Court. That would include such aspects as failing to pay child support, not attending psychiatric counseling, etc. When these violations occur, refer the victim back to their attorney, or agency that helped files the petition. Those violations are not criminal nature and must be sent back to the Superior Court for adjudication

Victims will be provided a brochure with service providers and telephone numbers for assistance.

X. Child Custody Issues

- A common issue in domestic situations is disagreements over custody of the children.
- Georgia does not recognize common law marriages. For a "marriage" to be recognized, there must have been an official ceremonial marriage.
- Only the mother of a child born out of wedlock is entitled to his custody, unless the father legitimates him. Otherwise, the mother may exercise all parental power and rights over the child.
- A biological father can go through the legal process of legitimation and obtain documents from Superior Court or Juvenile Court naming him as the legal father of the child.
- If a man has not done either "B" or "D" above, he is known as the putative father and **has no rights to the child.**
- When a child does not have a legal father, the mother is the **only** person entitled to custody of the child. The putative father may see the child and have visitation **only** if the mother agrees.

- G. A man who has never married his child's mother who wishes to assert rights to his child must do so by legitimating his child in court.

This SOP supersedes any SOP previously issued.

BY ORDER OF THE CHIEF OF POLICE:

Stacey L. Cotton

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Chief of Police