

Domestic Violence

319.1 PURPOSE AND SCOPE

The Vancouver Police Department recognizes domestic violence as a serious crime against society, stresses enforcement of criminal laws related to domestic violence, places a priority on protection of domestic violence victims and provides victims with information on the availability of civil remedies and community resources.

Refer also to Policy 1049 for reports and incidents of Domestic Violence involving Law Enforcement employees.

319.1.1 DEFINITIONS

Definitions related to this policy include:

Bodily Injury (RCW 10.31.100): Physical pain, illness or an impairment of physical condition.

Dating Relationship (RCW 26.50.010): A social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) The nature of the relationship; and (c) The frequency of interaction between the parties.

Domestic Violence (RCW 26.50.010): (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) Sexual assault of one family member or household member by another; or (c) Stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

Domestic violence includes, but is not limited to, the following crimes when committed by one family or household member against another, RCW 10.99.020:

1. Assault in the first, second, third and fourth degree (RCW 9A.36.11 to 36.41).
2. Drive-by shooting (RCW 9A.36.045).
3. Reckless endangerment (RCW 9A.36.050).
4. Coercion (RCW 9A.36.070).
5. Burglary in the first and second degree (RCW 9A.52.020 and.030).
6. Criminal trespass in the first and second degree (RCW 9A.52.070 and.080).
7. Malicious mischief in the first, second and third degree (RCW 9A.48.070 to.090).
8. Kidnappings in the first and second degree (RCW 9A.40.020 and.030).
9. Unlawful imprisonment (RCW 9A.40.040).

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10. Violation of the provisions of a restraining order, no-contact order, or protection order (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145).
11. Rape in the first and second degree (RCW 9A.44.040 and .050).
12. Residential burglary (RCW 9A.52.025).
13. Stalking (RCW 9A.46.110).
14. Interference with the reporting of domestic violence (RCW 9A.36.150).

Essential Personal Effects (RCW 26.50.010): Items necessary for a person's immediate health, welfare, and livelihood. Essential personal effects include but are not limited to: clothing for approximately 72 hours, cribs, bedding, documents, medications, and personal hygiene items.

Family or Household Members (RCW 26.50.010): Spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

Self-Defense (RCW 9A.16.020): Force used by a party about to be injured, or by another lawfully aiding him or her, in preventing or attempting to prevent an offense against his or her person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his or her possession, in case the force is not more than is necessary.

319.2 POLICY

The Vancouver 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 criminal behavior. This policy provides law enforcement officers with guidelines for enforcement of criminal laws related to domestic violence.

Vancouver Police Officers are expected to do the following:

1. Promote the safety of law enforcement personnel responding to incidents of domestic violence.
2. Establish arrest and prosecution as a preferred means of police response to domestic violence.
3. Respond to a report of domestic violence even if the call is canceled.
4. When probable cause exists, effect an arrest of the primary physical aggressor as required by law and this policy.
5. Enforce mandatory arrest laws for any violation of permanent, temporary, or emergency orders of protection (RCW 10.31.100 and 10.99.055).

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6. Afford protection and support to adult and child victims of domestic violence.
7. Provide victims or witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders in order to prevent further incidents.

319.3 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.

319.4 ENFORCEMENT OF DOMESTIC VIOLENCE LAWS

The primary duty of police officers when responding to a domestic violence situation is to enforce the laws allegedly violated and to protect any potential victim. When responding to a domestic violence call, officers shall:

1. Take reasonable measures to assure there are two officers at the scene and will not disregard or cancel the call for an assist officer.
2. Conduct an assessment for any possible injuries sustained during any type of altercation or assault. Ensure appropriate medical attention is provided if the officer believes it is necessary or the complainant claims injury or requests medical attention, whether an injury is visible or not.
3. Ensure the crime scene is safe/secure and all evidence is collected.
4. Ensure a thorough investigation is conducted, including the use of all required forms in the Domestic Violence (DV) Packet; DV Report, DV Victim Notification Form, Medical Release Form, DV Victim Statement (Smith Affidavit)
 - (a) If necessary, due to a language barrier, provide an interpreter or form in the victim's own language.
 - (b) If the victim is unable to complete the Smith Affidavit, provide assistance.
 - (c) Review the Smith Affidavit to ensure it is complete and legible, and they are aware of all the information the victim includes in the form. If possible, the officer shall review the Smith Affidavit at the scene.
5. Seek out information on existing restraining and/or protective orders.
6. If probable cause exists that a violation of a valid protection order has occurred, make a physical arrest. Officers will not ask the victim if he/she wants the offender to be arrested.
7. If probable cause exists, enforce mandatory arrest laws consistent with (RCW 10.31.100) and (RCW 26.50.010) and the officer believes that:
 - (a) A felonious assault has occurred;
 - (b) An assault has occurred which resulted in bodily injury to the victim, whether the injury is observable by the Officer or not;

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- (c) Any physical action has occurred which was intended to cause another person to reasonably fear imminent serious bodily injury or death (RCW 10.31.100(2)c).

Officers are strongly encouraged to effect an arrest when probable cause exists in these circumstances even if it is outside of the four hour mandatory arrest period.

1. If probable cause exists and the alleged offender has left the scene, search the area and attempt obtain information as to the location of the suspect. Make every reasonable attempt to locate and arrest the suspect.
2. If the suspect is not located, issue a crime broadcast via MDC and complete a BOLO to other law enforcement that may later contact the suspect that there is probable cause to arrest.
 - (a) Shift Supervisor will take the completed BOLO and e-mail it to dispatch and confirm it was received.
 - (b) The investigating officer must submit the Probable Cause Statement and Booking Form to records.

319.5 SAFETY OF THE VICTIM

Officers shall ensure that procedures are followed relating to victim safety and protection in accordance with RCW 10.99.030. Officers will ensure that the victim receives a DV Victim Notification Form containing the language specified in RCW10.99.030(7) and providing information regarding the following:

1. All reasonable means to prevent further abuse.
2. The availability of contacting the 24 hour DV hotline advocate.
3. The availability of confidential transportation to a safe house, shelter or any other location that may provide greater victim safety and confidential victim advocacy.
4. Procedures for obtaining restraining and/or protection orders and victim's rights.
5. Judicial process and victims' rights following arrest.
6. Community resources and local domestic violence victim advocacy organizations.
7. Victim Information Network Everyday (VINE).

319.6 DISPATCH RESPONSIBILITIES

CRESA policy provides that Dispatchers shall handle domestic violence calls as they would any other crime. However, the relationship between the victim and accused creates additional responsibilities.

1. Dispatchers shall not cancel a law enforcement response at the request of the victim, as reporting is mandatory, regardless of victim's changing feelings.

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2. When speaking to the victim of domestic violence, no dispatcher will discuss the victim's desire to "press charges/drop charges" or "prosecute." Any comment or statement which seeks to place the responsibility for enforcement actions with the victim is inappropriate.

319.7 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 (18USC§ 2265). An otherwise valid out-of-state court order shall be enforced regardless of whether the order has been properly registered with this state.

319.8 ENFORCEMENT OF RESTRAINING ORDERS

Officers shall enforce an order issued by any court restricting a defendant's ability to have contact with a victim by arresting and taking the defendant into custody when the officer has probable cause to believe the defendant has violated the terms of that order (RCW 10.99.055). Officers must verify the existence of a protection or restraining order and its service prior to arrest. A detention may occur based on reasonable suspicion.

Orders can be verified by:

1. A proof of service attached to the victim's copy of the order showing service on the defendant.
2. Washington Crime Information Center (WACIC) check.
3. Contacting the law enforcement agency in the jurisdiction where the order was issued.
4. Contacting the Court Clerk's office.
5. Determining the defendant has knowledge of the order (RCW 10.31.100(2)(a)):

(a) No proof of service is required for No Contact Orders as the defendant's presence is required at the time of issue.

(b) If the order has been served, but neither the victim nor the defendant has a copy reflecting the terms of the order, request that dispatch check the terms.

If the order is not verifiable:

1. The order shall not be enforced and the victim should be advised to contact the court that issued the order, or the attorney who drafted the order.
2. Arrest the suspect if probable cause exists that a separate crime has been committed.
3. A report should be made including the disposition.

Officers should contact a supervisor for clarification when needed.

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319.9 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following:

(a) The primary duty of officers when responding to a domestic violence situation is to enforce the laws allegedly violated and to protect the complaining party (RCW 10.99.030(5)).

(b) When an officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, he/she shall make an arrest pursuant to the criteria in RCW 10.31.100 and RCW 10.99.030(6)(a).

(c) When an officer has confirmed a valid court order exists and has probable cause to believe the defendant has violated that order, the officer shall make a physical arrest (RCW 10.99.055; RCW 10.31.100(a)(b)). Whenever a member of this department serves or assists in serving a court order and that service is completed, a return of service form shall be completed and submitted to the Washington Crime Information Center (WACIC).

319.9.1 MANDATORY ARRESTS

Once a suspect has been arrested, he/she shall be taken to jail. If the suspect cannot be taken to jail due to a medical condition, the officer shall take the suspect to the hospital and request notification of the suspect's discharge from the hospital.

When an arrest cannot be made due to lack of probable cause that a crime has been committed, the officer shall do the following (RCW 10.99.030):

1. Provide a Vancouver Police Department DV Victim Notification Form.
2. Explain to the complainant why an arrest is not being made.
3. Advise the complainant of his/her rights and explain the procedures for filing a criminal complaint and advise the complaining party of the importance of preserving evidence.
4. Encourage the complainant to contact the local domestic violence service provider for information regarding counseling and other services.
5. Stand-by, upon request, while the complainant gathers their essential personal effects for a short term absence from the home.
6. Offer, facilitate, or arrange transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

To ensure the proper charge is being filed on a No-Contact Order violation, officers will be required to conduct a criminal history of the arrestee. A review of the arrestee's criminal history is necessary to determine whether a felony referral is appropriate.

1. The arresting officer will contact the Records Division and request a criminal history of the arrestee as part of their criminal investigation.

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2. The officer will be advised if the arrestee has two or more Domestic Violence court order convictions and will book for the appropriate charge.

See attachment: [319 Vancouver Police Training Bulletin 15-004.pdf](#)

319.9.2 DUAL ARRESTS

Dual arrests in domestic violence cases should only be made in cases where there is probable cause to arrest both parties, the investigation reveals both parties used violence, neither party was found to be acting in self-defense, and neither party was found to be the primary physical aggressor.

When determining who the primary aggressor is, officers should take the following into consideration:

The primary aggressor is the person who poses the most serious ongoing threat considering:

1. The intent of the law to protect victims of domestic violence from continuing abuse.
2. The comparative extent of injuries inflicted or serious threats creating fear of physical injury.
3. The history of domestic violence between the persons involved.

Dual arrests in domestic violence cases are strongly discouraged unless absolutely necessary.

319.9.3 REMOVAL OF A SUSPECT

If there is no court order in effect, and an arrest is not made, officers may request a person who is not in lawful possession of the premises to leave when:

1. The complainant is in lawful possession of the premise (as exhibited by rent receipts, lease, deed, verification by apartment manager, etc.); and
2. The complainant has requested the person leave the premises and the person has not established residency.

If one party leaves, the officer should stand by until the involved party removes essential personal effects. Officers will not assist or participate in the division of property. Such civil standbys should be limited to a reasonable amount of time.

If a suspect who has not established residency does not leave upon request, an arrest may be made for criminal trespass.

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If the complainant requesting removal of the suspect cannot show proof of lawful possession, the officer should refer the complainant for a Protection Order or other appropriate civil remedy.

319.10 REPORTS AND RECORDS

Officers responding to a domestic violence call shall take a complete offense report, including the disposition of the case (RCW 10.99.030(b)).

- (a) All such reports should be documented under the appropriate crime classification and should use the distinction "Domestic Violence" in the Type of Crime box of the crime report form (RCW 10.99.030(11)).
- (b) Whenever there is probable cause to believe a crime has been committed and unless the case is under active investigation, the Domestic Violence Prosecution Center Supervisor shall ensure all domestic violence crime reports are forwarded to the Clark County Prosecutor's Office within 10 days of the date the incident was reported (RCW 10.99.030(9)).
- (c) The Vancouver Police Department shall ensure accurate records of domestic violence incidents are maintained and submitted to the Washington Association of Sheriffs and Police Chiefs (WASPC) in accordance with state law (RCW 10.99.030(12)).

319.10.1 REPORTING OF DOMESTIC VIOLENCE

A thorough report must be completed for all calls involving domestic violence. The report and (DV Packet when appropriate) shall include as much of the following information as possible:

1. A description of how the incident was reported or came to the attention of law enforcement, including the name of the individual who reported the incident, if applicable, and how they were involved.
2. Identify witnesses and document statements.
3. Identification of the relationship between the domestic violence suspect and victim.
4. A description of the nature of the argument and the emotional states of both the victim and the suspect.
5. Whether alcohol or drugs appear to have been involved.
6. Documentation of any domestic violence history reported by the parties, including the severity and frequency.
7. A description of the officer's observation of injuries on both the victim and the suspect as well as the location of those injuries and documentation of whether medical treatment was offered and/or received. If medical treatment was received, a description of the type of treatment.
8. A description of the action taken by the officer, including law enforcement action taken and victim assistance provided.
9. Documentation of any evidence that would tend to establish a crime has been committed, including a description of any weapons.
10. Whether either party acted in self-defense.
11. Whether there was an existing protection or restraining order.
12. An explanation as to why an arrest was not made if applicable.

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13. The name of a contact person to locate the victim.
14. Required forms including the "Domestic Violence Report," "Domestic Violence Victim Notification," "Medical Release Forms," and the "Domestic Violence Victim Statement" (Smith Affidavit).
15. All such reports shall be documented under the appropriate crime classification and, in the Type of Crime box of the crime report form, the distinction "Domestic Violence" shall be made and Domestic Disturbance Reports should be sent to the DVPC.

Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence pamphlet provided to the victim.

319.10.2 REPORTING OF DOMESTIC DISTURBANCES (VERBAL INCIDENTS)

Verbal domestic disturbances will be documented in the appropriate police report. In cases in which there is an allegation of a crime by either party or the investigating officer determines that a crime has occurred, a GO must be completed. The report shall include as much of the following information as possible:

- a. Establish if a DV relationship exists and if so, what is the relationship.
- b. Confirm that no crime(s) have been reported and no orders are in place.
- c. Identify any witnesses and document their statements.
- d. Describe the nature of the argument, the emotional state of both parties and whether any party is in fear.
- e. State whether alcohol or drugs appear to have been involved.
- f. Provide a description of the action taken by the officer and victim assistance provided.
- g. Document that a DV pamphlet was given, or at least offered and refused.
- h. Include other factors that appear important and would be good to know later: belligerent towards police, weapons in house, etc.
- i. Document history of verbal DV, if a history exists.

319.11 EVIDENCE

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

1. All visible injuries should be photographed regardless of severity, and all victims shall receive proper medical care if needed or desired. Victims whose injuries are not visible at the time of the incident shall be advised to contact a Domestic Violence Prosecution Center (DVPC) investigator or an on duty officer in the event they become visible. An investigator may be assigned to ensure the injuries are photographed during the course of preparing the case for court.
2. All injuries, whether observable or not, should be documented in the incident report. The emotional demeanor of the victim and suspect shall also be included.

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3. Officers should ensure the crime scene is photographed.

4. Officers shall collect and submit all physical evidence that substantiates the victim's injuries and/or the crime charged (e.g., weapons, torn clothing, broken items). If officers are unable to collect the evidence, they shall take photographs.

Attachments

319 Vancouver Police Training Bulletin 15-004.pdf



TRAINING BULLETIN

BULLETIN #15-004

January 27th, 2015

Vancouver Police Department

James P. McElvain, Ph.D.
Chief of Police

Approved by:  #1160

SUBJECT: Mandatory Review of Suspects Arrested for No Contact Order Violations

The following information is provided to ensure that all officers are taking appropriate action in response to alleged No-Contact Order Violations. This information is not intended to be a change in existing practice or policy, but merely a reminder for consistency and to ensure the proper charge is being filed. On a No-Contact Order Violation, officers will be required to run a criminal history on the subject. This process is not completed by the Domestic Violence Prosecution Center; it is to be completed by the arresting officer.

Review of a DV arrestee's criminal history is necessary to determine whether a felony referral is appropriate:

After the arrest of a subject for a Domestic Violence court order violation, the arresting officer will determine if the offender has been convicted of previous court order violations issued under RCW chapters 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020. The officer will contact the Clark County Sheriff's Office Records Division and request a criminal history on the arrested subject as part of their criminal investigation. The officer will then be advised by the records division if the subject has two or more domestic violence court order convictions. The arrested subject will then be booked at the Clark County jail for the appropriate charge.

RCW 26.50.110 provides in pertinent part:

(1)(a) Whenever an order is granted under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

4... Section (4) is omitted; it is not relevant to this Training Bulletin.

(5) A violation of a court order issued under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

