

# 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 1031 for reports and incidents of Domestic Violence involving Law Enforcement employees.

### 319.1.1 DEFINITIONS

Definitions related to this policy include:

**Domestic Violence** (RCW 10.99.020: (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(4):

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).
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).

**Family or Household Members** (RCW 10.99.020 (7): (a) Adult persons related by blood or marriage; (b) adult persons who are presently residing together or who have resided together in the past; and (c) persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

## *Domestic Violence*

---

**Intimate Partners** (RCW 10.99.020 (8)): (a) Spouses or domestic partners; (b) former spouses or former domestic partners; (c) persons who have a child in common regardless of whether they have been married or have lived together at any time; (d) adult persons presently or previously residing together who have or have had a dating relationship; (e) persons 16 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; or (f) persons 16 years of age or older with whom a person 16 years of age or older has or has had a dating relationship.

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

**Essential Personal Effects** (RCW 7.105.010 (11)): items necessary for a person's immediate health, welfare, and livelihood. "Essential personal effects" includes, but is not limited to, clothing, cribs, bedding, medications, personal hygiene items, cellular phones and other electronic devices, and documents, including immigration, health care, financial, travel, and identity documents.

### **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 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).
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 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. Respond to the scene of domestic violence calls. Officers will not take reports over the phone unless it's the last option to obtain information from the reporting party or others involved.
2. Take reasonable measures to assure there are two officers at the scene and will not disregard or cancel the call for an assist officer.

# Vancouver Police Department

## Vancouver PD Policy Manual

### *Domestic Violence*

---

3. 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. Officers should offer a Sexual Assault Forensic Exam (SAFE) and/or Strangulation KIT (SKIT)
4. Ensure the crime scene is safe/secure and all evidence is collected.
5. Ensure a thorough investigation is conducted, including the use of all required forms in the Domestic Violence (DV) Packet;
  - (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.
6. Seek out information on existing restraining and/or protective orders.
7. If probable cause exists, enforce mandatory arrest laws consistent with (RCW 10.31.100) and (10.99.055) 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;
  - (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).
  - (d) 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.

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 BOLO..
  - (a) Shift Supervisor will take the completed BOLO and e-mail it to dispatch and confirm it was received.
  - (b) The investigating officer must include the Probable Cause Statement as an attachment in M43 ..

### FIREARMS SEIZURE

## *Domestic Violence*

---

Firearms seizures under 10.99.030 (3)(a) A peace officer who responds to a domestic violence call and has probable cause to believe that a crime has been committed shall:

- (i) Seize all firearms and ammunition the peace officer has reasonable grounds to believe were used or threatened to be used in the commission of the offense;
- (ii) Seize all firearms in plain sight or discovered pursuant to a lawful search; and
- (iii) Request consent to take temporary custody of any other firearms and ammunition to which the alleged abuser has access until a judicial officer has heard the matter.

(b) The peace officer shall separate the parties and then inquire of the victim: (i) If there are any firearms or ammunition in the home that are owned or possessed by either party; (ii) if the alleged abuser has access to any other firearms located off-site; and (iii) whether the alleged abuser has an active concealed pistol license, so that there is a complete record for future court proceedings. The inquiry should make clear to the victim that the peace officer is not asking only about whether a firearm was used at the time of the incident but also under other circumstances, such as whether the alleged abuser has kept a firearm in plain sight in a manner that is coercive, has threatened use of firearms in the past, or has additional firearms in a vehicle or other location. Law enforcement personnel may use a pictorial display of common firearms to assist the victim in identifying firearms.

(c) The peace officer shall document all information about firearms and concealed pistol licenses in the incident report. The incident report must be coded to indicate the presence of or access to firearms so that personal recognizance screeners, prosecutors, and judicial officers address the heightened risk to victim, family, and peace officer safety due to the alleged abuser's access to firearms.

(d) A law enforcement agency shall comply with the provisions of RCW 9.41.340 and 9.41.345 before the return of any firearm or ammunition seized under this subsection to the owner or individual from who the firearm or ammunition was obtained.

### **319.4 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 and a Safety Plan is offered. Officers shall note in their report(s) if the victim refuses to accept the notification form or the safety plan.

### **319.5 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§

## *Domestic Violence*

---

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

### **319.6 ENFORCEMENT OF PROTECTION 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) and RCW 10.31.100. 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

Officers should contact a supervisor for clarification when needed.

### **319.7 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).

#### **319.7.1 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.

## *Domestic Violence*

---

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 Protection Order violation for Assault IV-DV, and Harassment offenses., officers will be required to conduct a criminal history of the arrestee for Assault IV-DV and Harassment convictions (RCW. 46.060) and RCW 9A.36.041.3(b). A review of the arrestee's criminal history is necessary to determine whether a felony charge 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.
2. The officer will be advised if the arrestee has two or more Domestic Violence court order convictions or crimes of Harassment as defined by RCW 9A.46.060 and will book for the appropriate felony charge.

### **319.7.2 DUAL ARRESTS**

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

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.

### **319.8 INVESTIGATIONS, REPORTS AND FOLLOW UP**

In general, the responsibility to complete misdemeanor DV investigations lies with the Patrol Division.

- a. An exception to this is when a suspect is wanted on a misdemeanor domestic violence charge and has been identified as having a Danger Assessment Extreme Risk score of 18+ points. This case can be referred to DVU.

The Domestic Violence Unit will be responsible for conducting follow-up investigations on felony domestic violence investigations.

## *Domestic Violence*

---

### 319.8.1 REPORTING OF DOMESTIC VIOLENCE

A thorough police report must be completed for all calls where a crime of domestic violence has been alleged. 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 and all evidence related to the crime(s) being investigated.
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.
13. The name of a contact person to locate the victim.
14. Required forms including the "Domestic Violence packet.

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.

### 319.8.2 REPORTING OF DOMESTIC VERBAL INCIDENTS

Verbal Domestic incidents (no crime alleged) will be documented by the investigating officer(s) in CAD. The investigating officer(s) will:

1. Run a check of the parties involved through Dispatch.
2. Verify no crime is alleged and no served protection orders are in place between the involved parties.
3. Will offer Verbal Domestic card to the parties involved.
4. Clear the CAD call under the clearance code "DV" (Domestic Verbal) and add notes within the CAD call. The CAD notes will indicate the following:
  - a. No Crime alleged
  - b. No Served Protection Orders

## *Domestic Violence*

---

### **319.9 EVIDENCE**

The following guidelines represent best practices and should be followed by officers investigating all crime reports, including those involving domestic violence::

1. All visible injuries should be photographed regardless of severity, and all victims shall receive proper medical care if needed or desired.
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.
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.