

	Marquette University Police Department	
	Policy and Procedure Manual Domestic Abuse	
Policy: 5.1	Issued: May 1, 2015	Date Revised: N/A
WILEAG Standards: 6.3.9		IACLEA Standards: None

5.1.00 **Purpose**

The purpose of this Policy is to provide Marquette University Police Department (MUPD) officers direction on the investigation of domestic abuse. The official response of this Department is to recognize that domestic abuse involves serious criminal offenses. The intent of this policy is two-fold:

- A. To maximize protection for persons who have been abused.
- B. To hold the Predominant Aggressor accountable for his/her abusive behavior.

5.1.10 **Policy**

It is the policy of the Marquette University Police Department that violent behavior will neither be excused nor tolerated regardless of the relationship of the persons involved. Domestic abuse is not a private matter, but a crime against the State of Wisconsin whose prosecution does not depend upon the willingness of a victim to prosecute. Therefore, an officer shall make arrests supported by probable cause and take all persons into custody according to the procedures of this policy.

5.1.15 **Scope**

This policy applies to all sworn agency employees.

5.1.20 **Definitions**

- A. DOMESTIC ABUSE

Domestic abuse means any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. Sexual assault (1st, 2nd and 3rd degree).
4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under 1, 2, or 3 above.

B. BATTERY

Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is guilty of battery.

C. DISORDERLY CONDUCT

Whoever, in a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct leads to cause or provoke a disturbance is guilty of disorderly conduct.

D. ADVOCATE

Somebody who gives support or who acts or intercedes on behalf of another is an advocate.

E. PRODOMINATE AGGRESSOR

The “predominant aggressor” is the most significant aggressor and not necessarily the first aggressor in a domestic abuse incident.

5.1.25

Procedure

A. Probable Cause to Arrest

An officer shall attempt to determine if probable cause exists that a crime is being or has been committed. See Policy 4.2 (Arrest Authority) for the definition of Probable Cause.

Note: The probable cause standard applied in a domestic abuse incident is no different from the standard applied in other offenses.

B. Investigative Strategies

Investigative strategies to be used in determining the Predominant Aggressor are, but not limited to, the following:

1. Bodily harm or pain inflicted on the victim(s).

Note: A decision not to arrest may not be based solely upon the absence of visible indications of injury or impairment.

2. Statements of the complainant, including whether there was consent to the activity involved. Each such interview is to be conducted outside the presence of other persons involved in the incident. Written or taped statements are to be obtained whenever possible.
3. Statements of family members, friends, neighbors, or other witnesses. These interviews are to be conducted outside the presence of others involved in the incident. Written or taped statements are to be obtained whenever possible.
4. Observations of the scene and the complainant.
5. Previous calls at the same location or with the same parties.
6. Previous threats or offenses. Officers should check for the existence of a restraining order against those involved, via the Command Information Center.
7. There is no legal requirement that an officer witness the crime. Probable cause can be established by reliable hearsay information.
8. Marriage is not a bar to prosecution for sexual assault.

9. An officer should consider whether the party acted in self-defense, or in defense of any other person.

C. Circumstances Requiring an Arrest (S.S. 968.075 (2))

If probable cause exists to believe that a crime is being or has been committed, an officer SHALL ARREST and take a person into custody if any of the following circumstances are present:

1. The officer has reasonable basis for believing that continued domestic abuse against an alleged victim or victims is likely.
2. There is intentional infliction of physical pain, physical injury, or illness and if the complaint is received 28 days or less after the day the incident is alleged to have occurred.
3. The person to be arrested has violated one of the following:
 - a. A domestic abuse restraining order or injunction;
 - b. A child abuse restraining order or injunction;
 - c. A harassment restraining order or injunction;
 - d. A foreign protection order.

D. PREDOMINANT AGGRESSOR

An officer who has reasonable grounds to believe that two parties involved in an incident committed domestic abuse against each other should arrest the person whom the officer believes to be the Predominant Aggressor. In determining who is the Predominant Aggressor, an officer should consider the intent of this policy to protect victims of domestic violence, the relative degree of injury inflicted on the persons involved experienced by each party, the relative degree of fear and any history of domestic abuse between these persons.

1. This does not prevent an officer from arresting both parties when the officer has reasonable grounds to believe both have committed domestic abuse.
2. An officer's decision as to whether or not to arrest may not be based on the consent of any party to be charged to any subsequent prosecution or on the relationship of the persons involved in the incident.

3. It is not required that any party to the incident sign a complaint or request that the case proceed towards prosecution.
4. If the person to be charged is not at the scene, the officer shall attempt to locate him/her. If the defendant cannot be located, the officer shall request an ATL (attempt to locate) immediately via the Command Information Center. After all investigative efforts to locate the person to be charged are exhausted; the officer shall forward the case file to the District Attorney's office requesting charges.
5. If an arrest is demanded by one or both parties and insufficient grounds for arrest exist, the officer should explain the limits of his/her authority. The demand(s) for arrest must be noted in the officer's reports along with the officer's reason(s) for non-arrest.
6. An officer shall arrest and take a person into custody if the officer has probable cause to believe that the person violated the 72-hour no-contact prohibition (see section on Notice of Rights).

E. Officer Involved Domestic Abuse

This agency will not tolerate domestic violence by its employees. Understanding that enforcing any actions against fellow officers can be complex and uncomfortable; this section lays out procedures to help reduce the intimidation felt by responding officers. Responding officers are expected to handle these incidents in accordance with the training guide accompanying this policy and could face disciplinary actions if they do not report, investigate, or follow procedures correctly. Retaliation against responding officers or anyone who reports an incident of officer-involved domestic violence is prohibited by University policy.

1. If an officer responds to a report of alleged Domestic Violence involving one of MUPD's officers or other staff, the responding officer shall secure the scene, separate the parties, and request the Milwaukee Police Department to investigate the incident.
2. The responding officer(s) shall call a supervisor to the scene.
3. The responding supervisor shall prepare a written report for the Chief of Police prior to ending his/her shift.

F. Domestic Violence Hotline

1. While at the scene, the investigating officer(s) shall call the 24-hour Domestic Violence Hotline [REDACTED] and provide the worker with the names of the investigating officer, the charges, all requested information, and whether an arrest has been made. This is done to provide the complainant with immediate support and services, emergency shelter, transportation, childcare, assistance with prosecution, etc. If the complainant has no phone, officers shall request a supervisor with a telephone.
2. Officers must also obtain the phone number(s) where the complainant may be reached so he/she can also be notified if the suspect is released on bail. After providing all the requested information, officers shall hand the phone to the complainant to talk directly to the worker.
3. Felony sexual assault cases will be called in to the hotline by Milwaukee Police Department Sensitive Crimes Division personnel.
4. Pursuant to Wis. State Statute 895.67, employees and agents of a domestic abuse service provider (safehouses, advocates, counselors, and hotlines) are prohibited from intentionally disclosing the location of any services recipient* to anyone, unless the recipient has given informed, written consent to do so.

*Service Recipient—Any person who receives or has received domestic abuse services from a domestic abuse services organization.

G. Documentation

1. Incident Report
2. Clearance Report
3. Arrest Report (PA-45)
4. Domestic Violence Referral Notice
5. Crime Victim Referral Notice

6. A complete statement from the complainant.
7. A medical release from the complainant.
8. Photographs of the complainant's injuries.
9. Copies of all evidence inventories.
10. Information from witnesses such as neighbors, children or other citizen witnesses who can provide evidence at trial.
11. Excited utterances, admissions against interest, and other informal statements of the person being charged, as well as formal statements.
12. Because of the high correlation between domestic violence and child abuse, the officer should always be alert to evidence of child abuse. Note names and ages of children, whether they were present when the incident occurred and the time of contact. Also note whether the children were placed in protective custody and to whom a referral was made.
13. History of abuse as obtained from a criminal history check, victim, witness, and other sources.
14. The decision not to arrest will be reviewed by a supervisor prior to the final report being forwarded to the District Attorney.

H. Notification to the Complainant

The arresting officer shall inform both parties of the following:

1. During the 72 hours immediately following the arrest for a domestic violence offense, the person arrested shall avoid the residence of the complainant and any premises temporarily occupied by the complainant and avoid contacting or causing any person, other than attorneys for the arrested person and complainant, to contact the complainant. Law enforcement officers may contact the complainant during this time period if the need arises.
2. If the person arrested violates this 72-hour No-Contact provision, he/she is subject to an immediate, mandatory arrest.

3. Any subsequent domestic violence offense committed by the person arrested within the 72 hours following the original arrest will elevate the later offense from a misdemeanor to a felony. (Wis. State Statute 939.621)
4. Officers shall direct the complainant to call the Milwaukee County Sheriff's Department at (414) 226-7070 for information regarding waiver of the 72-hour no contact provision.
5. Officers who have been informed that the complainant has waived the 72-hour no contact provision shall either be presented with a copy of the waiver or contact the Sheriff's Department, Records Division, to confirm the validity of the waiver.
6. The arresting officer(s) shall give each complainant (and potential complainants, when no probable cause exists) a pink Domestic Violence Referral Notice.