

**NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA**



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File Number: 37PA-191555

VIA ELECTRONIC MAIL (jaginsberg@nola.gov)

Deputy Superintendent Jay Ginsberg
Compliance Bureau, New Orleans Police Department
714 South Broad Street
New Orleans, LA 70119

RE: Policy Approval

Dear Superintendent Ginsberg:

This letter constitutes confirmation that the Office of Consent Decree Monitor ("OCDM") has reviewed and provided comments on revised policy Chapter 42.4, Domestic Violence. The OCDM has no objection to the policy as revised.

We believe that revised Operating Guidelines Chapter 42.4 incorporates all requirements of the Consent Decree and sets forth clear and appropriate rules to guide officer conduct. We will continue to assess the adequacy of this policy following its implementation. If we identify any concerns following implementation, we will present those concerns to you and the Department of Justice. Additionally, we note that, pursuant to the Consent Decree, NOPD has agreed to review and revise policies and procedures as necessary upon notice of a significant policy deficiency. We also note NOPD's obligation to review this policy after a year of implementation to ensure it "provides effective direction to NOPD personnel and remains consistent with the Agreement, best practices, and current law." Consent Decree at ¶ 18.

We appreciate your team's effort, cooperation, and responsiveness throughout this process.

Sincerely,

David Douglass
For SHEPPARD MULLIN RICHTER & HAMPTON LLP*
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CC: HONORABLE SUSIE MORGAN (VIA ELECTRONIC MAIL)
EMILY GUNSTON, DEPARTMENT OF JUSTICE (VIA ELECTRONIC MAIL)

Office of the Consent Decree Monitor



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 42.4

TITLE: DOMESTIC VIOLENCE

EFFECTIVE:

REVISED:

PURPOSE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement, addressing domestic violence as a serious crime against society.

Chapter 42.4 shall apply to the respective duties of platoon officers and supervisors in responding to and supervising all cases that involve intimate partners, family or household members. Officers and supervisors shall access the Department's domestic violence policies in the Policy and Procedure folder of NOPD.org. The Communications Services and Domestic Violence Unit Standard Operating Guidelines are located in the Resource Folder on nopd.org.

POLICY STATEMENT

1. The New Orleans Police Department's response to incidents of domestic violence and violations of domestic violence related court orders shall stress enforcement of the law to protect the victim and hold accountable criminal offenders. It is also the policy of this department to facilitate victims' access to appropriate civil remedies and community resources whenever feasible and to prioritize victim safety and protection at each stage of its response to a report of domestic violence.
2. The Department's commitment to an interagency response to domestic violence crimes is largely dependent on the platoon officer's initial response to each case. The platoon officer report lays the foundation for each subsequent intervener, and its attention to specific details either helps or hinders each practitioner's efforts to maximize victim safety and offender accountability.
3. The Department's policy emphasizes the importance of accumulating information over time and incidents in order to understand and appropriately respond to the level of danger and risk posed by offenders in a crime that is often complex and difficult to prosecute. When officers treat each call as part of an ongoing case, patterns may likely emerge, and the safety needs of all victims become more evident.
4. Officers shall receive training consistent with this policy, including training specific to supervisor duties and responsibilities.

FOUNDATIONAL PRINCIPLES

5. The collaboration of criminal justice agencies within New Orleans to develop a coordinated criminal justice response to domestic violence is the City's Blueprint for Safety. The New Orleans Police Department, along with the City's other Blueprint for Safety agencies, is committed to a set of shared foundational principles that maximize safety for victims of domestic violence and holds offenders accountable while offering them opportunities to change. These foundational principles are:
 - Adhering to an interagency approach and collective intervention goals;
 - Building attention to context and severity of abuse into each intervention;
 - Recognition that most domestic violence is a patterned crime requiring continuing engagement with victims and offenders;
 - Ensuring sure and swift consequences for continued abuse;
 - Sending messages of help to victims and messages of accountability to offenders; and
 - Acting in ways that reduce unintended consequences and the adverse impact on victims.
6. NOPD shall ensure supervisors participate in ongoing interagency Blueprint monitoring, evaluation and maintenance.

DEFINITIONS:

Definitions relevant to this Policy include:

Battering—An ongoing pattern of coercion, intimidation and emotional abuse, reinforced by the use and/or threat of physical or sexual violence. Battering can include a range of tactics including:

- **Cyberstalking** (La. R.S. 14:40.3)
- **Bodily injury or threat of bodily injury**, including, but not limited to domestic abuse aggravated assault (La. R.S. 14:37.7) and domestic abuse battery (La. R.S. 14:35.3).
- **Harassing telephone calls** (La. R.S. 14:285).
- **Sexual abuse or assault**
- **Property crime directed against the victim** (La. R.S. 14:56)
- **Stalking** (La. R.S. 14:40.2 (A))
- **Strangulation** (La. R.S. 14:35 B. (3))
- **Violation of a court order of protection or similar injunction** (La. R.S. 14:79)
- **Death threats or death (including a third party)**

Community stakeholder—Entities in the community that have joined together to foster effective intervention in and prevention of domestic violence. Community stakeholders can include but are not limited to Blueprint for Safety partners, the Domestic Violence Advisory Committee (DVAC), the New Orleans Family Justice Center, law enforcement agencies, prosecutors, parole and probation officers, advocacy organizations, social service agencies, adult and child protective services, clergy, educators, government agencies, animal welfare organizations, businesses and employers.

Court order—All forms of court orders related to domestic violence, both civil and criminal, whether issued by a court of this state or another and regardless of whether service has been made.

Cyberstalking—The action of any person to accomplish any of the following (R.S. 14:40.3):

- Use in electronic mail or electronic communication of any words or language threatening to inflict bodily harm to any person or to a person's family member or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person.
- Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of threatening, terrifying or harassing any person.

Domestic abuse aggravated assault—An assault with a dangerous weapon committed by one household member upon another household member (R.S. 14:37.7).

Domestic abuse battery—The intentional use of force or violence committed by one household member upon another household member (R.S. 14:35.3).

Domestic violence—Used to refer to battering between intimate partners, family or household members. Intimate partner, family and household relationships include (R.S. 46:2132, R.S. 46:2151, OPC 54-525):

- Adults or minors who are current or former spouses;
- Adults or minors who live together or who have lived together;
- Adults or minors who are dating or who have dated;
- Adults or minors who are engaged in or who have engaged in any type of consensual sex act;
- Adults or minors who are related by blood or adoption (i.e. parents, children, foster parents, foster children, siblings);
- Adults or minors who are related or formerly related by marriage (i.e. stepparents, stepchildren);
- Persons who have a child in common or whose relationship resulted in a current pregnancy; or
- Minor children resulting from the offender having any of the relationships listed in sections (1) through (6) of this definition.

Electronic communication—The transfer of signs, signals, writing, images, sounds, data or intelligence of any nature, transmitted in whole or in part by wire, radio, computer, electromagnetic, photo electronic or photo-optical system.

Electronic mail—The transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder or other electronic means sent to a person that is identified by a unique address or address number and received by that person (R.S. 14:40.3 (A)).

Full faith and credit—The requirement by the U.S. Code title 18 section 2265 that jurisdictions honor the terms and conditions of a protective order issued by another jurisdiction.

Harassing telephone calls—The use of a telephone call, conversation or conference with another person, anonymously or otherwise, and therein use obscene, profane, vulgar, lewd, lascivious or indecent language; making any suggestion or proposal of an obscene nature; threatening any illegal or immoral act with the intent to coerce, intimidate or harass another person; making repeated telephone communications anonymously or otherwise in a manner that is reasonably expected to annoy, abuse, torment, harass, embarrass or offend another, person, whether or not conversation ensues (R.S. 14:285).

Household member—A household member is (R.S. 14:35.3(B)(3)):

- A person of the opposite sex who is presently living with the offender “as a spouse”

(whether married or not).

- A person of the opposite sex who lived with the offender “as a spouse” (whether married or not) within the past five years.
- A child who presently lives with the offender, or has lived with the offender during the previous five years
- Any child of the offender, regardless of where the child resides.

This definition relates specifically to charges of domestic abuse battery and domestic abuse aggravated assault. See the Domestic Violence definition for other relationships covered by this policy.

Petitioner—The person alleging abuse in a petition for an order of protection.

Predominant aggressor—The person who poses the most serious ongoing threat.

Protective order— Any civil or criminal restraining order, injunction, bail or release order, probation condition and all other orders for protection issued to protect victims of domestic violence, sexual assault, dating violence or stalking or to deter offenders from further violence or abuse [. . .including] protections contained in support, child custody, and visitation orders and protective directives in other court orders. 18 U.S.C. § 2266(5). Emergency, ex parte, temporary, and final orders are subject to full faith and credit under VAWA.

Public figure—An elected official, sports figure, television or radio personality, celebrity, or other well-known person.

Respondent—The person alleged in a petition for a protective order to have abused another.

Self-Defense—The use of force or violence in defense. If force has been legally used in self-defense, there is an absolution of guilt or culpability. Officers shall apply laws regarding self-defense (La. R.S.14:19).

Stalking—The intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. Stalking shall include but not be limited to (R.S. 14:40.2 (A)) the intentional and repeated uninvited presence of the perpetrator at a person's home, workplace, school or any place that would cause a reasonable person to be alarmed or to suffer emotional distress as a result of verbal or behaviorally implied threats of:

- Death
- Bodily injury.
- Sexual assault.
- Kidnapping.
- Any other statutorily criminal act to him/herself or any member of his/her family or any person with whom he/she is acquainted.

Strangulation—Intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of the victim (R.S. 14:35 B. (3)).

Violation of Protection Order— Violation of a protective order is the willful disobedience of a preliminary or permanent injunction issued after a contradictory court hearing, or any ex parte protective order if the defendant has been given notice of the order through a contradictory hearing or service of process (La. R.S. 14:79).

DOMESTIC VIOLENCE DYNAMICS

7. All NOPD officers shall work in collaboration with victims, cognizant of the principles of “continuing engagement.” Officers shall be aware that a single incident of domestic violence is usually part of a patterned use of coercion, intimidation and the use or threat of violence – namely battering. As such, the relationship is characterized by a “continuing” set of actions committed over time and in numerous situations. Officers shall respond to domestic violence incidents in a manner that confronts the pattern of ongoing abuse and violence. Officers shall:
- Minimize the victim’s need to confront the offender whenever possible.
 - Advise the victim that the officer will not share information obtained with the suspect.
 - Treat each interaction with the victim as an attempt to build collaboration over multiple interventions.
 - Be mindful of the complex and often dangerous implications of a victim’s cooperation with the legal system.
 - Be aware that the fundamental purpose of battering is to control what the victim says, thinks, feels and does.
 - Engage in dialogue with the victim, thereby avoiding inadvertently treating her or him simply as an information source.
 - Offer a clear alternative to messages from the batterer that the victim is crazy, at fault, Unbelievable and unable to make decisions and that the abuser is unstoppable.

CIVIL IMMUNITY

8. An officer exercising due care and good faith making an arrest and/or report while responding to a domestic violence call pursuant to La. R.S. 46:2140 and La. R.S. 46:2141 shall be immune from any civil liability that may arise as a result of the action (La. R.S. 46:2142).

OFFICER AND PARTY SAFETY

9. 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.

OFFICER RESPONSE

10. All domestic violence calls assigned a code 2 priority response will be answered with two officers and, whenever possible, a supervisor. Domestic violence calls assigned a code 1A priority response may be answered by one officer. Refer to Policy/PR 316, Officer Response to Calls.
11. Single officer response to any domestic violence complaint is strongly discouraged and is only to be used when no backup unit is available. A single officer responding to a domestic violence call shall request the presence of a supervisor.

INVESTIGATIONS

12. Officers shall incorporate the following into their investigations:
- Take a proactive approach in responding to domestic violence.

- Attempt to determine the predominant aggressor and arrest him or her. Officers shall not arrest a person who acted in self-defense as defined by state statute (La. R.S. 14:19).
- Take appropriate action for violation of protection orders.
- Prioritize safety and protection for adult and child victims of domestic violence at each stage of its response to a report of domestic violence.
- Promote the safety of law enforcement personnel responding to incidents of domestic violence.
- Provide victims or witnesses of domestic violence with support and assistance through cooperative efforts with community stakeholders in order to prevent further abuse and harassment or both.
- Respond to and investigate reports of domestic violence professionally, effectively and in a manner without bias based on race, color, ethnicity, national origin, religion, gender, disability, sexual orientation, or gender identity, in accordance with the rights secured or protected by the Constitution and laws of the United States.
- Appropriately classify and investigate reports of domestic violence.

APPROACH THE SCENE

13. Officers shall respond to domestic violence calls, directly and without delay, utilizing a tactical approach as appropriate to the circumstances of the call to maximize safety for all involved.

Officers shall:

- Obtain all available information from dispatch, including type and level of danger, weapons, report of what the caller experienced, who is at the scene and any information which could help in locating a suspect who is not on the scene
- Avoid the use of emergency lights and sirens when it is not essential so as not to alert the perpetrator to the officers' approach.
- Be alert for persons attempting to leave the scene.
- Be alert for the deployment of weapons from doors, windows or nearby vehicles.
- Avoid parking the police vehicle in front of the site of the disturbance when possible.
- Identify themselves as law enforcement officers and explain their presence and request entry in the event the incident is at a private residence, as necessary, and when exigent circumstances do not exist. A forced entry is permissible if there is probable cause to believe that the safety of a victim may be in jeopardy.
- Make contact with all parties, witnesses and/or residents of the house.
- Officers shall take into account everything they personally observe, all physical evidence and all things learned from witnesses or other persons supplying information.

SECURE THE SCENE

14. Officers shall secure the scene and, as safety permits, separate all parties.

To ensure officer safety, responding officers shall:

- Identify and secure weapons that might pose a threat during the investigation or that might be potential evidence.
- Separate the parties.
- Identify all people or witnesses on the premises.
- Determine the whereabouts and identities of all people on the premises,

including children.

- Separate occupants and witnesses from the victim and accused, keeping them out of sight and hearing range of one another, as safety permits.
- Restrain the suspect, if necessary and/or remove the suspect.
- Assess for injuries and request medical services as necessary. Ask the parties about injuries, including those that may be hidden by clothing or otherwise not readily apparent. An officer of the same sex may be needed as further visual investigation continues and photographs of these areas are taken.
- Inquire about strangulation and internal injuries.
 - If injuries appear life-threatening or if the victim is impaired, through injury or intoxication and unable to make the decision, request medical services regardless of the victim's preference.
 - If the victim requests medical attention, EMS shall be summoned whether the officer believes medical attention is necessary or not.
 - If it appears strangulation has occurred, EMS shall be summoned.

CONDUCT INVESTIGATION

15. Officers shall obtain a comprehensive account of events by interviewing or talking with each party or witness and gathering and documenting evidence. Refer to Policy/PR 600, Investigation and Prosecution.

MAKE INITIAL OBSERVATIONS

16. Officers shall make initial observations and note spontaneous statements by those at the scene, including:
 - Immediate statements made by the victim, suspect or witnesses.
 - Observations of the crime scene (furniture tipped over, broken phones, doors, other damaged property; torn clothing; blood; no sign of physical altercation, etc.)
 - Emotional demeanor of parties at the scene.
 - Physical appearance of parties (disheveled clothing or hair, torn clothing, obvious injury, flushed face, etc.).
 - Indications of drug or alcohol use by those at the scene and apparent level of intoxication or impairment (coherent in responding to questions).
 - Photograph victim and crime scene.
 - Determine if a weapon was involved.
 - Determine if any children were present.
 - Check for the existence of a protective order through the Louisiana Protective Order Registry, or by whatever means available.

PREPARE TO INTERVIEW THE PARTIES AND WITNESSES

17. Officers shall:
 - Interview all parties and witnesses away from sight and hearing range of other parties as safety permits.
 - Video or audio record all statements, when possible, in accordance with general department regulations.
 - Arrange for an interpreter when necessary. Do not utilize either party as an interpreter.
 - If the suspect has been arrested prior to the interview, give Miranda warnings before questioning the suspect.
 - Interview children in a manner appropriate to their age. Document any signs of

trauma and any apparent wounds or healing of wounds on the children and take appropriate action, in accordance with state law, to prevent imminent harm to the children.

INTERVIEW PARTIES & WITNESSES

18. Officers shall obtain a comprehensive account of events by interviewing each party involved in or witness to the incident. For each person interviewed, officers shall document:
- Identifying information:
 - Date of birth
 - Contact number
 - Email address
 - School/Employer
 - Address
 - Ask the victim if the suspect knows his or her address and phone number(s). Obtain contact information from the victim that can safely be included in the police report.
 - Account of events:
 - Specific nature of any threats
 - Indications of witness tampering or whether the suspect has threatened the victim if he/she seeks help from law enforcement
 - Manner in which weapons were used
 - Indications of stalking
 - Details about claims of strangulation
 - Indications of self-defense
 - Injuries or impairment:
 - Pain
 - Effects of strangulation
 - Breathing
 - Impaired movement
 - Emotional state
 - Recent use of alcohol or drugs
 - Relationship to other parties involved, including witnesses
 - Obtain secondary emergency contact for victim including phone number and address of victim's family member or friend that can be contacted in the event victim is unavailable. Inform the victim that this should be a safe contact as the suspect will have access to this information in the police report.
 - Presence and type of firearms and other weapons in the home, regardless of whether a weapon was used in the current incident.
 - Whether a protective order is in place and, if one is said to exist, whether the victim possesses a copy.
 - If witnesses provide information about prior incidents, document the information to establish a pattern.

CONDUCT RISK ASSESSMENT

19. Officers shall ask any intimate partner, family or household member who alleges violence was used against them or a crime was committed against them the **Four Risk Questions**:
- Do you think he/she will seriously injure or kill you, your children or someone else close to you?

- What makes you think so?
- What makes you think not?
- How frequently does he/she intimidate, threaten or assault you?
 - Is it changing?
 - Getting worse?
 - Getting better?
- Describe the time you were the most frightened or injured by him/her.
- Have you ever been threatened or intimidated by the other party/parties for seeking help or attempting to seek help from law enforcement, the courts or others? If so,
 - Who threatened you?
 - When was the threat made?
 - Describe the nature of the threat
 - Was a weapon used?

COLLECT EVIDENCE

20. Officers shall collect, preserve and document all relevant physical evidence including evidence substantiating the victim's injuries and the attack (weapons, torn clothing, phone cords, etc.) as well as evidence recording the crime scene, in accordance with departmental procedure and policy on evidence collection (Refer to Policy 808, Collection and Preservation of Evidence).
21. Officers shall pay particular attention to evidence specific to sexual abuse, stalking and strangulation.
22. Officers shall:
 - Inform the victim in advance of actions to be taken and, if necessary, obtain consent to search the scene or obtain a warrant.
 - Document and photograph all injuries, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs shall be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident, or whose injuries change in appearance warranting additional photographs, shall be asked to contact the Domestic Violence Unit in the event that the injuries later become visible. Contact information shall be provided by the officer.
 - Collect and secure evidence related to the probable cause determination, regardless of whether the suspect has been arrested at the scene.
 - Photograph disarray at the scene, damaged property, including all evidence seized as well as broken windows and doors, damage to vehicles, damaged telephones and similar evidence if associated with the incident.
 - Photograph and, if possible, collect damaged property such as broken phones and bloody or torn clothing. (NOTE: Do not seize a functioning telephone, cell phone, or other communications device if it is the only working phone available to the victim.)
 - Photograph and collect electronic evidence such as text messages, email, voicemail and similar evidence. Refer to Policy/PR 814, Computers and Digital Evidence.
 - Conduct criminal history records search in any available records databases.
23. If there is probable cause to believe a vehicle was used in the commission of a crime involving domestic violence, obtain a search warrant unless exigent circumstances exists to search for evidence of stalking, kidnapping or any domestic violence related crime.

STRANGULATION

24. Be alert to the signs and symptoms of strangulation, such as scratches along the neck or chest, while being aware that strangulation does not always result in visible or immediate symptoms. If the victim has any symptoms of strangulation, immediately request EMS. Officers shall conduct an initial interview with the victim regarding the method of strangulation and its effects. Officers shall note:
- Information regarding the offender's intention while strangling the victim ("What did the person say before, during and after strangling you? What did he/she do immediately prior to attacking you? What was his/her demeanor, facial expressions?")
 - Evidence that normal breathing or circulation of the blood was impeded (including: raspy or hoarse voice, coughing; loss of voice, difficulty talking, wheezing, shortness of breath, difficulty breathing, hyperventilation, difficulty swallowing or pain in throat, swelling of the tongue, nausea or vomiting, or dizziness).
 - Injuries including: scratches, abrasions, marks to the neck or face, impressions of hand or fingers in the skin, impression in the skin which might indicate the use of a cord or other ligature, jewelry, or other object, apparent swelling in the neck, ruptured capillaries in the eyes, under the eyelids or on the neck or fingernail marks on the victim's face, neck or chest.
 - Information regarding how the pressure was applied on the throat or neck or the blockage of the nose or mouth of the victim. (For example: "Did the person who hurt you use one hand or both hands? Use his/her arms, knees or another body part on your throat or head area? Block your nose or mouth? Did he/she use any objects, e.g., cords, ropes, against your neck/throat? Where exactly were his/her hands or the object that was used on your neck/throat? Can you demonstrate how you were strangled?")
25. Officers shall document all evidence of strangulation in the written report, using the term "strangulation" rather than "choking," unless quoting the party interviewed.

STALKING, CYBERSTALKING & HARASSING PHONE CALLS

26. Be alert to the possibility that any single report of domestic abuse could be part of a pattern of stalking behavior. Be aware of the possibility that actions that would not otherwise be illegal or might not cause alarm in another context could be examples of stalking behavior. Pay particular attention to repeated violations of protection orders and stay away orders. Ask questions of the victim to determine if the current incident is an isolated event or part of a pattern of behavior.
27. Officers shall:
- Document any and all information regarding stalking behavior provided by the victim, such as:
 - Driving by or appearing at the victim's residence, workplace or school;
 - Entering victim's home;
 - Delivering items, such as flowers, letters, gifts, etc.;
 - Annoying or threatening hang up phone calls, emails or text messages;
 - Disabling or tapping the victim's phone;
 - Audio or videotaping the victim without the victim's knowledge;
 - Photographing the victim or the victim's acquaintances;
 - Intercepting mail;
 - Ordering products or subscriptions in the victim's name;
 - Attempting to obtain information about the victim from others; and

- Spreading false rumors or allegations about the victim.
- When the electronic device or medium cannot be processed through forensics, officers shall document and attempt to photograph all text messages, emails, social media and web content transmitted between the two parties.

ARREST DECISION

28. When making a decision to arrest, officers shall refer to the Domestic Violence Arrest Matrix, located in the Resource Folder on nopd.org, and shall abide by the standards for arrest as defined in this chapter, charging the arrested subject with the appropriate state charge.
29. The Department has a pro-arrest arrest policy for domestic violence incidents. An officer shall arrest when he or she finds probable cause that a domestic violence incident occurred. However, if there is probable cause to believe that a victim of battering committed a misdemeanor, and that the victim of battering does not pose an impending danger to the other party, the officer has limited discretion not to arrest. To exercise this discretion not to arrest, the officer shall receive approval from a supervisor and document evidence supporting this decision in his or her report.
30. The Department **strongly discourages dual arrests** for domestic violence incidents.

USE OF RISK ASSESSMENT

31. Before making a probable cause determination, officers shall ask any party who alleges a crime was committed against him/her or his/her property the Four Risk Questions (conduct risk assessment above) regarding History/Patterns & Severity of violence used.
32. Answers to risk questions shall be utilized in the following circumstances:
 - When there is probable cause that a misdemeanor has been committed, the risk questions should be used to help an officer determine whether there is impending danger.
 - “Impending danger” is not an assessment based on a single incident, but rather on the history of violence, patterns of physical, sexual and emotional abuse and the severity of any violence used.
 - When there are conflicting accounts of the incident or there are allegations that both parties committed a crime, the officer has to conduct a predominant aggressor assessment.

OFFICER RECEIVES ADMISSION THAT ONLY ONE PERSON COMMITTED AN ILLEGAL ACT

33. If the officer receives an admission that only one person committed an illegal act and verifies the accuracy of this admission, thereby establishing probable cause for arrest, the officer shall conduct an arrest. However, if the officer finds probable cause that a person committed a misdemeanor, and that person is a victim of previous battering who poses no risk of impending danger, the officer may choose not to arrest. **The officer shall obtain supervisor approval of a decision not to arrest and document the decision in the report.**

CONFLICTING ACCOUNTS OR ALLEGATIONS THAT BOTH PARTIES COMMITTED A CRIME

34. If the officer receives conflicting accounts of the incident or if the officer receives allegations that a crime was committed against both parties, and more than one party, the officer shall follow these steps in this order: **A)** Self-defense determination; **B)** Predominant aggressor assessment, if required; and **C)** Arrest decision:

A. Self-defense determination. The officer shall **first** assess for self-defense.

Generally, self-defense is the use of force or violence when it is:

- Apparently necessary to prevent a forcible offense or trespass against property in that person's lawful possession; and
- Reasonable (La. R.S. 14:19).

Under Louisiana law there is NO DUTY TO RETREAT. When a person is in a place where he/she has a right to be and is not engaged in unlawful activity, he/she may stand his/her ground and meet force with force. (R.S. 14:19). Other special self-defense scenarios and affirmative defenses include: justifiable homicide; defense of others; use of self-defense while in a dwelling, place of business or motor vehicle; and committing a crime under threat of great bodily harm.

Officers shall follow the Self-Defense and Affirmative Defenses Tool when making a self-defense or affirmative defense determination. This document can be located in the Resource Folder on nopd.org.

DO NOT arrest a party who the officer has determined has an affirmative defense or has acted in self-defense.

Officers shall conduct a thorough self-defense assessment when they receive conflicting accounts or allegations that two or more parties committed a crime. To conduct this assessment, officers shall determine whether the use of force falls under state law for self-defense (La R.S. 14:19):

- *The use of force or violence upon the person of another is justifiable when committed for the purpose of preventing a forcible offense against the person or a forcible offense or trespass against property in a person's lawful possession, provided that the force or violence used must be reasonable and apparently necessary to prevent such offense, and that this Section shall not apply where the force or violence results in a homicide.*
- *There shall be a presumption that a person lawfully inside a dwelling, place of business, or motor vehicle held a reasonable belief that the use of force or violence was necessary to prevent unlawful entry thereto, or to compel an unlawful intruder to leave the premises or motor vehicle, if both the following occur:*
 - *The person against whom the force or violence was used was in the process of unlawfully and forcible entering or had unlawfully and forcible entered the dwelling, place of business, or motor vehicle.*
 - *The person who used force or violence knew or had reason to believe that any unlawful and forcible entering was occurring or had occurred.*
- *A person who is not engaged in unlawful activity and who is in a place where he or she has a right to be shall have no duty to retreat before using force or violence as provided for in this Section and may stand his or her ground and meet force with force.*

B. Predominant aggressor assessment. If the officer determines that both parties used illegal force or took illegal action, and neither party acted in self-defense, the officer shall conduct a **predominant aggressor assessment**.

In making a predominant aggressor determination, the officer shall look for the **person who, by his or her actions in this incident and through history and previous actions, has caused the most physical harm, fear and intimidation against the other**, considering all of the evidence, including:

- What each party's purpose is in using violence
- Evidence from complainants and witnesses
- Extent of personal injuries
- Threat of future injury
- Prior incidents of domestic violence (see answers to 4 risk questions and prior incidents based on dispatch history)
- Future welfare of any minors
- Who uses the highest level of violence in the relationship

C. Arrest decision. If there is a predominant aggressor, the officer:

- Shall arrest the predominant aggressor if there is probable cause that the predominant aggressor committed a felony or misdemeanor.
- Shall arrest both parties if there is probable cause to believe both parties committed a felony and the supervisor concurs with the decision. **Dual arrests are strongly discouraged, and officers must obtain supervisor approval before making a dual arrest.** If a dual arrest is made, the circumstances and the supervisory review and approval of the arrest decision must be documented in the investigative report.
- If probable cause exists that the victim of battering committed a misdemeanor, an arrest of the victim of previous battering is permitted only if both parties pose a risk of impending danger. **Officers must obtain supervisor approval before making a dual arrest and document the investigation in the report.**

35. If there is no predominant aggressor, officers shall arrest when there is probable cause of a misdemeanor or a felony. As set forth below in Paragraphs 29 - 32, **dual arrests are strongly discouraged**. Officers must obtain supervisor approval before making a dual arrest and document the investigation in the report.

DUAL ARRESTS

36. Officers shall obtain their supervisor's approval before making a dual arrest.
37. The department discourages dual arrests. The only circumstances in which an officer would make a dual arrest are:
- Both parties committed a felony; or
 - Both parties committed a misdemeanor, and both pose a risk of impending danger.
38. A dual arrest **shall not** be made if a person acted in self-defense.

39. The arresting officer shall use the same item number for both arrests. The report shall include a detailed explanation of the probable cause for each arrest.

WHEN NO PROBABLE CAUSE EXISTS

40. When an arrest cannot be made due to a lack of probable cause that a crime has been committed, then the officer shall do the following:
- Explain to the victim why an arrest is not being made.
 - Advise the victim of his or her rights and explain the procedures for filing a criminal complaint.
 - Encourage the victim of battering to contact the New Orleans Family Justice Center and provide information about the availability of Civil Protective Orders.
 - Address a victim's need for medical care and transport to a safe place.
 - Encourage the victim to call 911 if they are in danger.
41. Officers shall notify their supervisor and provide a detailed explanation as to why an arrest was not made.

ENFORCING PROTECTIVE ORDERS

42. In enforcing protective orders, officers' primary responsibility is to ensure the safety of the Petitioner. An officer **SHALL ARREST** a suspect when there is probable cause to believe that the offender has willfully violated a protective order (La. R.S. 14:79).
43. Officers shall use every reasonable means to enforce a protective order, including, but not limited to, the immediate arrest of the violator.
44. First officers must verify a protective order is in place. If officers are able to verify the order is in place, they must then enforce the order.
45. If the order cannot be enforced because it has not been served, officers shall attempt to serve the order.

VERIFYING PROTECTIVE ORDERS

46. If there is a paper copy of the order available, an officer shall enforce the order if it is authentic on its face. No other verification is required. A protective order does not need to be registered in order to be enforced.
47. Officers shall presume an order is valid if:
- The order gives the names of the parties.
 - The order contains the dates it was issued.
 - It has not expired (orders do not need an expiration date to be valid).
 - It contains the name of the issuing court.
 - There is an indication the order was issued by a judicial officer or other appropriate authority, which could be indicated by various methods, including a stamp, signature or seal.
 - The order specifies the terms and conditions against the offender.
48. If the victim does not have a copy of the order or if the officer cannot determine whether the order is valid on its face, the officer shall attempt to verify the order using the following methods:

- Contact the Louisiana Supreme Court Protective Order Registry (504-568-5753, during normal business hours or 1-877-830-9680 24hr pager).
- Contact NCIC Protective Order File
- Communicate with the court or law enforcement in the issuing jurisdiction
- Draw upon personal knowledge of the officer or information obtained through an interview

49. An officer shall enforce a protective order according to Paragraphs 26 – 32 of this chapter, whether or not the victim has a copy of the protective order, if the officer is able to verify the existence of the order.

ENFORCING LOUISIANA PROTECTIVE ORDERS

50. Where the violation of a protective order constitutes a crime under La. R.S. 14:79, the officer on the scene shall arrest the offender.

SERVING PROTECTIVE ORDERS

51. If the defendant did not receive notice of the order, and service of process is needed, the officer shall attempt to serve the respondent with the order by providing him or her a certified copy of the protective order whenever possible. The officer shall note that service of the order was made in the police report and shall notify the respondent of the consequences of violating the order (La. R.S. 14:79). The officer may give the respondent the victim's copy of the order but shall assist the victim in obtaining a new copy of the order.

52. Officers shall inform victims that a copy of their police report can serve as proof that the defendant was served and that the order can now be enforced for any future violations.

ENFORCEMENT OF FOREIGN ORDERS

53. Officers shall enforce protective orders valid in an issuing foreign jurisdiction as if they were orders of Louisiana, whether or not the order has been registered (18 U.S.C. § 2265).

54. Officers shall enforce foreign orders as written, even if the order offers protection not offered in Louisiana.

55. Violating an order from another state is a crime under La. R.S. 14:79.

56. Orders from another state are entitled to full faith and credit if:

- The court that issued the order had personal jurisdiction over the parties and subject matter jurisdiction over the case; and
- The person against whom the order was issued must have had notice and an opportunity to be heard related to the allegations of abuse and the relief sought, or opportunity to be heard will be granted within a reasonable amount of time.

(See "Enforcing Foreign Protective Orders" in the Resource Folder on nopd.org)

CONDUCTING AN ARREST

57. Once a determination is made that an arrest will be conducted, the officer shall:
- Take the accused into custody as soon as the officer determines that arrest is appropriate;
 - Document any spontaneous statements made by the suspect on scene and in the officer's vehicle;
 - Advise the victim that there is no guarantee the suspect will remain in custody; and
 - Ensure the pink copy of the Louisiana Victim Notice and Registration (LAVNS) form is provided to Central Lock-up to ensure the victim receives notice of the suspect's release from jail.

RESPONDING WHEN A SUSPECT IS NOT ON SCENE

58. Officers shall obtain the following information when the suspect has left the scene prior to officers' arrival:
- Suspect's name, date of birth and physical description, including clothing
 - Suspect's direction and mode of travel upon leaving the premises
 - Description of the suspect's vehicle, if applicable
 - Where the suspect might have gone
 - Where the suspect stays when not with the victim
 - Whether the suspect has ever interfered with the victim's attempts to seek help, especially from law enforcement
59. Officers shall take the following actions when the suspect has left the scene prior to officers' arrival:
- Search for the suspect in the immediate area and the direction and area where the suspect might have fled.
 - Check with the victim or others at the scene for the suspect's phone number. If the suspect's number is available, call the suspect in an attempt to locate, request a meeting place or obtain the suspect's account of the incident over the phone. Interviewing the suspect in person is preferred.
 - Encourage the victim to call 911 if the suspect returns.
 - Offer to transport the victim or arrange for transport to shelter or another safe place if needed.
 - Provide whatever assistance is reasonable to help the victim to secure broken doors or windows.
 - Collect and process evidence in the same manner as when an arrest has taken place.
 - After leaving the scene, when possible, drive by the residence over the next few hours and return to look for the suspect.
 - Prepare an arrest warrant when probable cause exists.

COLLECTING AND DOCUMENTING RISK INFORMATION IN FELONY CASES

60. Once an officer has conducted a felony arrest or determined there is probable cause to process a felony arrest warrant, the officer shall obtain (if not already obtained during investigation) and document the following risk information from the victim :
- Substance abuse
 - Gun ownership

- Record of violence
- Employment status of the perpetrator
- Prior threats with a dangerous weapon
- Threats to kill
- Forced sex
- Choking
- Control of daily activities
- Threats of suicide
- Threats to harm children

61. It is necessary for officers to document this information in the report, as this risk information must be considered by judges in setting bail for felony domestic violence cases.

VICTIM ASSISTANCE

62. Officers shall work in collaboration with victims and provide specific support and attention to safety in responding to domestic violence calls.

63. Officers **shall not**:

- Make any statements that would discourage a victim from reporting an act of domestic violence.
- Ask the victim if he/she wants the suspect arrested.
- Ask the victim if he/she will testify in court.
- Tell the perpetrator what the victim has told the officers.
- Threaten, suggest or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel.

64. It is likely that a victim's need for law enforcement assistance will continue beyond the individual incident the officer is responding to. An officer's reaction can define whether the victim sees law enforcement as a resource for ending the violence in the future. For this reason, it is important that officers use appropriate victim interview skills. The most important rule is: In the victim's own words, at the victim's own pace. That means that officers should:

- Avoid interrupting the victim with questions
- Ask open-ended questions
 - "Tell me about. . ."
 - "And then what happened?"

65. It is very common for a DV victim to feel angry, and some of that anger may be misdirected towards police officers. Even if officers are experiencing misdirected anger, it is important that officers:

- Remain patient and calm in the face of hostility.
- Reassure the victim that he or she can continue to call law enforcement if necessary. This is especially true for victims who seem hostile or angry.
- Reassure the victim that the violence is not her or his fault and that she or he did the right thing by calling law enforcement.
- Provide the victim with privacy and dignity. This includes allowing her or him to change clothes if needed, shielded from on-lookers.

66. Victims are most likely to disclose abuse to the responding officer immediately following an assault. Most of the information on lethality and risk will be disclosed at this point in time.
67. By following the above information, officers can both get the most complete information about the crime that was committed and encourage victims to continue to turn to law enforcement for assistance.
68. Officers shall take the following actions to provide victim assistance:
 - Remain at the scene until the likelihood of further imminent violence has passed.
 - Recognize that remaining calm and professional even if the victim is upset or hostile will enable officers to obtain better information.
 - When possible, obtain a phone number of someone who will always know how to reach the victim. Check with the victim to make sure the number is safe to include in the report.
 - Provide victim with:
 - The Official Notice to Adult Victims of Family Violence form (Form #45); and
 - The Rights of Crime Victims and Witnesses brochure (see Policy/PR 336, Victim Witness Assistance).
 - The Louisiana Victim Notice and Registration (LAVNS) form. Tell the victim that the hotline numbers and community assistance listed on the Official Notice to Adult Victims of Family Violence (Form #45) are available to provide support 24 hours a day.
 - Provide transportation to or arrange transportation for the victim to a safe location if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
 - Assist the victim in obtaining medical treatment.
 - Notify the victim of his/her right to apply for a protective order and that assistance with this process can be obtained through the New Orleans Family Justice Center.
 - Refer all victims to the New Orleans Family Justice Center.
69. Refer to Policy/PR 336, Victim and Witness Assistance, for general guidelines on providing victim assistance.

CHECKING ON THE WELFARE OF AND INTERVIEWING CHILDREN

70. Officers shall check on the welfare of each child at the scene.
71. Officers shall attempt to talk with each child at the scene and explain that the officers are there to help and to make sure everyone is safe. Do so immediately, and privately, if possible.
72. Be aware of how the child is responding to the situation and try to reduce the child's anxiety and fear.
73. Be alert to and document any spontaneous and relevant statements made by a child witness.

74. Officers shall not interview a child when information available to the officer suggests that it might be harmful. Document the reasons for not interviewing the child or children in the report. Consider the following in determining whether to interview children:
- Child's physical, emotional or psychological ability to give a statement
 - Child's age and ability to understand questions and formulate responses
 - Non-offending parent/guardian's preferences as to whether and how to talk with the child or children.
75. When possible, officers shall document:
- In general, what the child heard and determine if the child has been injured or directly harmed.
 - Names and dates of birth of any children present.
 - Presence and location of any children at the incident.
 - Physical and emotional condition of any children present.
 - Child or children's involvement in the incident, if any.
76. Officers shall call for medical assistance or transport the child to the nearest hospital for treatment if a child has been injured and is in need of medical care.

AVOID ARREST IN FRONT OF CHILDREN

77. Officers shall avoid subduing or arresting a party in front of children whenever possible. If a child witnesses the arrest, talk with the child to provide reassurance that the arrested person will be alright, the child did nothing wrong, the arrest is not his or her fault, law enforcement is there to help keep everyone safe for the night and that law enforcement, not the non-offending parent, is making the arrest decision.

PROTECTIVE CUSTODY OF CHILDREN

78. When the actions of the officer result in a situation where no responsible adult will be present in the home to care for the children (e.g., dual arrest or a single arrest and the other parent/adult must seek medical treatment), the officer shall inquire of the custodial parent if there is someone who can be contacted to care for the children. When required by law (Louisiana Children's Code, Art. 601, et. Seq.), or when actions taken by the officer will result in a situation where no responsible adult can be located to care for the children, officers shall contact Juvenile Services (Policy/PR 324, Temporary Custody of Juveniles).

INCIDENT INVOLVING DEPARTMENT EMPLOYEES

79. When responding to a domestic call involving a department employee, officers shall:
- Secure the scene and address the safety needs of those present.
 - Request their supervisor be dispatched to the scene to oversee the investigation.

RESPONDING TO INCIDENTS INVOLVING A LAW ENFORCEMENT OFFICER

80. Upon arrival on the scene of a domestic violence call involving a law enforcement officer, the responding officer shall:
- Immediately notify Communication Services and request a supervisor report to the scene, regardless of the involved officer's jurisdiction.
 - Be aware of the heightened risk that the suspect will likely possess firearms, other weapons, physical combat training or all three.
 - Secure the scene and all weapons.
 - Be aware that the suspect might attempt to make emotional appeals to fellow officers.

INCIDENTS INVOLVING PUBLIC FIGURES

81. When responding to a domestic call involving a public figure, officers shall:
- Secure the scene and address the safety needs of those present.
 - Request their supervisor be dispatched to the scene.
 - Conduct an investigation at the direction of their supervisor.
 - Make an arrest decision in accordance with department regulations.
 - Advise Communication Services NOPD Command Desk to make the necessary notifications.
 - When possible, take precautions to protect the victim's confidentiality, such as not using the victim's name or incident address over radio.

REPORTS

82. All Domestic Violence investigations shall be given a case disposition of RTF (report to follow) *regardless of whether or not an arrest was made*. Under no circumstance shall a NAT (necessary action taken) disposition be used for domestic violence incidents.
83. Reports shall include victim statements and disposition of the case (La. R.S. 46:2141; Ch. C 1574).
84. The "D" designator shall be used on all domestic violence incidents.
85. When responding to a domestic violence call, the officer shall complete all domestic violence forms in their entirety, including the NOPD Domestic Violence Patrol Report Checklist (Form #46) and injury documentation on the Domestic Violence Supplemental page.
86. Officers shall utilize the NOPD Domestic Violence Patrol Report Checklist when investigating a Domestic Violence call for service. The checklist contains important questions that need to be asked and answered for a complete investigation. The officer shall document the responses within the narrative of the report. Officers shall complete a predominant aggressor assessment to include the **4 Risk Questions** listed on the checklist. This checklist is used as a guideline to ensure the officer is receiving the necessary information on the scene.
87. **The checklist shall NOT be attached to the police report;** however, the checklist shall be attached to the officers' Daily Activity Sheet (Trip sheet) when submitted at the end of their tour of duty.

ELECTRONIC MONITORING DEVICES

88. An investigating officer shall complete a report when he/she has been notified by an alert from an electronic monitoring device that an offender may have violated a court order. The report shall be forwarded to the appropriate prosecutor and issuing court within 24 hours of the alert (La. R.S. 46:2143; C. Cr. P. 335.1). The investigating officer shall attempt to contact the victim and make reasonable attempts to locate the offender.

CHANGING THE SIGNAL

89. Should the officer believe the parties do not meet relationship criteria for intimate partners, family members or household members, the officer shall contact his/her supervisor for approval to proceed with the investigation as a non-domestic incident.
90. Should the officer believe the parties do meet the relationship criteria in this chapter for intimate partners, family members or household members, but the incident has not been classified with a "D" signal code, the officer shall notify dispatch to change the signal code to a domestic incident.
91. ***Only a supervisor may downgrade the signal of a domestic violence call.***

DISTRICT LEVEL DETECTIVES

92. Any district level detective conducting a supplementary investigation of a domestic violence case shall abide by the Domestic Violence Unit Standard Operating Guidelines.

DOMESTIC VIOLENCE UNIT STANDARD OPERATING GUIDELINES

93. The Domestic Violence Unit supervisor shall be responsible for returning incomplete reports to the appropriate platoon supervisor or District Commander for review and a supplement, when necessary.
94. The Domestic Violence Unit will be responsible for follow-up investigations of felonies, certain misdemeanors and certain cases where the offender is not arrested on the scene.

PLATOON SUPERVISOR

95. Platoon supervisors shall relay the department's priorities and expectations, thereby reinforcing the interagency response and the platoon officer's key role. This is accomplished by the supervisors' attending domestic violence calls at the scene when required by department regulations; reviewing reports to maintain the department's report-writing standards; and reinforcing the importance of thorough reports to victim safety and offender accountability.

SUPERVISOR RESPONSIBILITIES WHEN CHANGING A DOMESTIC VIOLENCE SIGNAL

96. Only a supervisor may change the signal of a domestic violence call by notifying Communication Services on the primary dispatch talk group for that District. The supervisor shall also complete a Request for Signal/Disposition Change form (Form #226) if the determination to reclassify the signal is made after the initial scene is marked up. A call for service shall not be reclassified when the relationship between the parties fits the intimate partner, family or household member definition.

SUPERVISOR SCENE OVERSIGHT

97. Supervisors shall be responsible for monitoring any domestic violence calls dispatched to the officers under their direct supervision.
98. Whenever possible, platoon supervisors shall respond to the scene for Priority 2 domestic violence calls for the purpose of providing additional safety, monitoring officers' on-scene activities and compliance with policy and offering assistance and advice. Refer to Policy/PR 316, Officer Response to Calls.

SUPERVISOR REPORT REVIEW

99. Platoon supervisors shall:
 - Conduct reviews of platoon officers' reports.
 - Utilize the tool Supervising the *Platoon Officer Response to Domestic Violence: Platoon Officer Report Checklist*, located in the Resource Folder on n opd.org, to ensure the necessary domestic violence elements are present in each platoon officer's report.
 - Return incomplete reports to the officer for corrections and meet with officers to discuss ongoing problems with report writing.

SUPERVISOR APPROVAL OF DECISIONS NOT TO ARREST AND DUAL ARRESTS

100. Supervisors are responsible for approving or disapproving an officer's decision to make a dual arrest consistent with Paragraphs 21 – 32 of this chapter.
101. When notified of a lack of probable cause to make an arrest, supervisors shall:
 - Advise the officer to make an arrest based on the information provided; or
 - Advise the officer to document the reason for not making an arrest.

SUPERVISOR RESPONSIBILITIES IN EMPLOYEE INVOLVED INCIDENTS

102. Supervisors shall:
 - Respond to scene of all department employee-involved domestic violence incidents.
 - Notify the Public Integrity Bureau and follow department regulations.
 - Ensure the scene is secured, including weapons, and oversee the scene until PIB investigators arrive on scene.
 - Ensure the victim is given the required information about victims' rights and is given the Official Notice to Adult Victims of Family Violence form (Form #45).

SUPERVISOR RESPONSIBILITIES IN INCIDENTS INVOLVING PUBLIC FIGURES

103. Supervisors shall:
 - Respond to scene of all domestic violence incidents involving public figures.
 - Notify the Communication Services NOPD Command Desk to make notifications.
 - Ensure the victim is given the required information about victims' rights and is given the Official Notice to Adult Victims of Family Violence form (Form #45).

PUBLIC INTEGRITY BUREAU SUPERVISOR

104. A Public Integrity Bureau Investigator shall conduct investigations of department employees involved in domestic violence incidents.

TRAINING

105. The Commander of the Education and Training Division or his/her designee shall develop a plan for training officers who respond to domestic violence calls in accordance with department policy. Training will reflect changes in policy, law and developments in best practices over time.
106. All officers shall receive, at least annually, comprehensive mandatory instruction on this policy and responding to domestic violence calls.