

NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA



June 7, 2018

202.747.1904 direct
ddouglass@sheppardmullin.com

File Number: 37PA-191555

Deputy Superintendent Danny Murphy
Compliance Bureau, New Orleans Police Department
714 Broad Street
New Orleans, LA 70119

Dear Superintendent Murphy:

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

We believe that the amended Chapter 42.4 Domestic Violence, 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 ¶ 8.

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

Very truly yours,

David L. Douglass
For SHEPPARD MULLIN RICHTER & HAMPTON LLP*
2099 PENNSYLVANIA AVE., N.W., SUITE 100
WASHINGTON, DC 20006

CC: HONORABLE SUSIE MORGAN (VIA ELECTRONIC MAIL)
EMILY GUNSTON, DEPARTMENT OF JUSTICE (VIA ELECTRONIC MAIL)



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 42.4

TITLE: DOMESTIC VIOLENCE

EFFECTIVE: 04/05/201

REVISED: Replaces Policy/Procedure 320

PURPOSE

The purpose of this chapter 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. This chapter outlines the respective duties of District platoon officers and supervisors in responding to and supervising all cases that meet the definition of domestic violence as contained herein. Officers shall respond to domestic disturbance incidents (103-D), as defined in this chapter, according to **Chapter 42.4.1 – Domestic Disturbances**.

NOTE: 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.
2. It is 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 the Department's response to a report of domestic violence.
3. 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 helps each practitioner maximize victim safety and offender accountability.
4. This chapter 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 emerge, and the safety needs of victims become more evident.

DEFINITIONS

Aggravated Assault upon a Dating Partner—An assault with a dangerous weapon committed

by one dating partner upon another dating partner (R.S. 34.9.1).

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:

- (a) Cyberstalking (La. R.S. 14:40.3)
- (b) 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).
- (c) Harassing telephone calls (La. R.S. 14:285).
- (d) Sexual abuse or assault
- (e) Property crime directed against the victim (La. R.S. 14:56)
- (f) Stalking (La. R.S. 14:40.2(A))
- (g) Strangulation (La. R.S. 14:35.3 B(6))
- (h) Violation of a court order of protection or similar injunction (La. R.S. 14:79)
- (i) Death threats or death (including a third party)

Battery of a Dating Partner—The intentional use of force or violence committed by one dating partner upon the person of another dating partner (RS 14:34.9).

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):

- (a) 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.
- (b) Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of threatening, terrifying or harassing any person.

Dating Partner—Any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender.

NOTE: This definition relates specifically to charges of aggravated assault upon a dating partner and battery of a dating partner. See the Domestic Violence definition for other relationships covered by this policy.

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 Disturbance (103-D)—A call for service involving individuals with a domestic relationship that does not involve a crime.

Domestic Relationship—Any relationship involving the following, including same sex relationships:

- (a) Current or former spouses;
- (b) Parents and adult children;
- (c) Stepparents and adult stepchildren;

- (d) Foster parents and adult foster children;
- (e) Current or former dating partners, living together or not; or
- (f) Individuals who have engaged in any type of consensual sex act.

Domestic Violence—Used to refer to battering, a crime of violence, or property damage between individuals with a domestic relationship (, R.S. 46:2151, M.C.S.17271 54-525).

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.

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 (5):

- (a) A person who is presently living with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender.
- (b) A person who formerly lived with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender.
- (c) A child who presently lives with the offender, or has lived with the offender, or
- (d) 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.

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

Protective Order—See **Chapter 74.3.2 – 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.

Self-Defense—The use of force or violence in defense when it is:

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

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:

- (a) Death.
- (b) Bodily injury.
- (c) Sexual assault.
- (d) Kidnapping.
- (e) 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. 14:35.3 B(6)).

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

5. 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. Officers shall respond to domestic violence incidents in a manner that confronts any pattern of ongoing abuse and violence. Officers shall:
 - (a) Minimize the victim's need to confront the offender whenever possible.
 - (b) Advise the victim that the officer will not share information obtained with the suspect.
 - (c) Treat each interaction with the victim as an opportunity to build trust, rapport, and collaboration to strengthen NOPD's ability to keep the victim safe.
 - (d) Be mindful of the complex and often dangerous implications of a victim's cooperation with the legal system.
 - (e) Use communication strategies that break down and counteract the psychological and emotional control tactics that domestic violence aggressors often use. For example, officer should listen with empathy, validate the victim's perspective where possible, and communicate that the victim's experience and safety is important to the officer and NOPD. .

OFFICER RESPONSE

6. 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 1C priority response may be answered by one officer. Refer to **Chapter 41.4.1 - Officer Response to Calls**.
7. 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

8. Officers shall incorporate the following into their investigations:
 - (a) Attempt to determine and arrest the predominant aggressor.
 - (b) Officers shall not arrest a person who acted in self-defense as defined by State statute (La. R.S. 14:19).

- (c) Take appropriate action for violation of protection orders.
- (d) Prioritize safety and protection for adult and child victims of domestic violence.
- (e) Provide victims or witnesses of domestic violence with support and assistance by providing NOFJC reference materials.

APPROACH THE SCENE

9. 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.

SECURE THE SCENE

10. Officers shall secure the scene and, as safety permits, separate all parties.
11. To ensure officer safety, responding officers shall:
- (a) Identify and secure weapons that might pose a threat during the investigation or that might be potential evidence.
 - (b) Identify all people or witnesses on the premises/scene.
 - (c) Determine the whereabouts and identities of all people on the premises/scene, including children.
 - (d) Separate occupants and witnesses from the victim and accused, keeping them out of sight and hearing range of one another, as safety permits.
 - (e) Restrain and/or remove the suspect if necessary.
 - (f) 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 as the injured party may be needed as further visual investigation continues and photographs of these areas are taken.
 - (g) Inquire about strangulation and internal injuries.
 - i. 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.
 - ii. If the victim requests medical attention, EMS shall be summoned whether the officer believes medical attention is necessary or not.
 - iii. If it appears strangulation has occurred, EMS shall be summoned.

CONDUCT INVESTIGATION

12. Officers shall obtain a comprehensive account of events by interviewing or talking with each party or witness and gathering and documenting evidence.

INITIAL OBSERVATIONS

13. Officers shall observe and note spontaneous statements by those at the scene, including:
- (a) Spontaneous statements made by the victim, suspect or witnesses.
 - (b) Observations of the scene (furniture tipped over, broken phones, doors, other damaged property; torn clothing; blood; no sign of physical altercation, etc.)
 - (c) Emotional state of parties at the scene.
 - (d) Physical appearance of parties (disheveled clothing or hair, torn clothing, obvious injury, flushed face, etc.).
 - (e) Indications of drug or alcohol use by persons at the scene and the apparent level of intoxication or impairment (specifically, are they coherent in responding to questions?).

- (f) Photograph victim and crime scene using a tool other than BWC.
- (g) Determine if a weapon was involved and secure it.
- (h) Determine if any children were, and still are present.
- (i) Check for the existence of a protective order through the Louisiana Protective Order Registry, or by other means available.

INTERVIEW THE PARTIES AND WITNESSES

14. Officers shall:
- (a) Interview all parties and witnesses away from sight and hearing of other parties as safety permits.
 - (b) Arrange for an interpreter when necessary. Do not utilize either party as an interpreter.
 - (c) 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.
15. Officers shall obtain a comprehensive account of events by interviewing each person involved or witness to the incident. For each person interviewed, officers shall obtain the requisite information for the EPR and document:
- i. The suspect's address and phone number(s), if known. Only include information from the victim that can safely be included in the police report.
- (a) Account of events:
- i. Specific nature of any threats
 - ii. Indications of witness tampering or whether the suspect has threatened the victim if he/she seeks help from law enforcement
 - iii. Manner in which weapons were used
 - iv. Indications of stalking
 - v. Details about claims of strangulation
 - vi. Indications of self-defense
- (b) Other information:
- i. Relationship to other parties involved, including witnesses
 - ii. 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.
 - iii. Presence and type of firearms and other weapons in the home, regardless of whether a weapon was used in the current incident.
 - iv. Whether a protective order is in place and, if one is said to exist, whether the victim possesses a copy.
 - v. If witnesses provide information about prior incidents, document the information to establish a pattern.

CONDUCT RISK ASSESSMENT

16. Officers shall ask any person who alleges domestic violence was used against him/her the **Four Risk Questions**:
- (a) Do you think he/she will seriously injure or kill you, your children or someone else close to you?
 - i. What makes you think so?
 - ii. What makes you think not?
 - (b) How frequently does he/she intimidate, threaten or assault you?
 - i. Is it changing?

- ii. Getting worse?
- iii. Getting better?
- (c) Describe the time you were the most frightened or injured by him/her.
- (d) 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,
 - i. Who threatened you?
 - ii. When was the threat made?
 - iii. Describe the nature of the threat.
 - iv. Was a weapon used?

COLLECT EVIDENCE

- 17. 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 **Chapter 83.1 - Collection and Preservation of Evidence**).
- 18. Officers shall pay particular attention to evidence specific to sexual abuse, stalking and strangulation.
- 19. Officers shall:
 - (a) Inform the victim in advance of actions to be taken and, if necessary, obtain consent to search (See: **Chapter 1.2.4 – Search & Seizure**) the scene or obtain a warrant.
 - (b) 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 for the Domestic Violence Unit shall be provided by the officer.
 - (c) Collect and secure evidence related to the probable cause determination, regardless of whether the suspect has been arrested.
 - (d) 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 associated with the incident.
 - (e) Photograph and, if necessary, 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.)
 - (f) Photograph and collect electronic evidence such as text messages, email, voicemail and similar evidence. Refer to **Chapter 83.2 - Computers and Digital Evidence**.
 - (g) Document any previous domestic violence convictions and if the predominant aggressor is currently on probation or parole.

STRANGULATION

- 20. 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:

- (a) 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?")
 - (b) 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).
 - (c) 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.
 - (d) 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?")
21. 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

22. 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.
23. Officers shall document any and all information regarding stalking behavior provided by the victim, such as:
- (a) Driving by or appearing at the victim's residence, workplace or school;
 - (b) Entering victim's home;
 - (c) Delivering items, such as flowers, letters, gifts, etc.;
 - (d) Annoying or threatening hang up phone calls, emails or text messages;
 - (e) Disabling or tapping the victim's phone;
 - (f) Audio or videotaping the victim without the victim's knowledge;
 - (g) Photographing the victim or the victim's acquaintances;
 - (h) Intercepting mail;
 - (i) Ordering products or subscriptions in the victim's name;
 - (j) Attempting to obtain information about the victim from others; and
 - (k) 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.

USE OF RISK ASSESSMENT

24. Before making a probable cause determination, officers shall ask any party who **alleges**

a domestic violence 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.

25. Answers to risk questions shall be utilized in the following circumstances:
- (a) 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.
 - (b) 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.

ARREST DECISION: OFFICER RECEIVES ADMISSION THAT ONLY ONE PERSON COMMITTED AN ILLEGAL ACT

26. 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.**

ARREST DECISION: CONFLICTING ACCOUNTS OR ALLEGATIONS THAT BOTH PARTIES COMMITTED A CRIME

27. If the officer receives conflicting accounts of the incident or if the officer receives allegations that a crime was committed against both parties, 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.

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

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:

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

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

- (a) Shall arrest the predominant aggressor if there is probable cause that the predominant aggressor committed a domestic violence felony or misdemeanor.
- (b) 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.
- (c) If probable cause exists that the victim of battering committed a domestic violence misdemeanor on the batterer, 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.**

28. If there is no predominant aggressor, officers shall arrest when there is probable cause to believe one or more of the parties committed a misdemeanor or a felony. As set forth below in the **Dual Arrests** section, **dual arrests are strongly discouraged.** Officers must obtain supervisor approval before making a dual arrest and document the investigation in the report.

DUAL ARRESTS

29. Officers shall obtain his/her supervisor's approval before making a dual arrest.
30. The department discourages dual arrests. The only circumstances in which an officer shall make a dual arrest are:
- (a) Both parties committed a felony; or
 - (b) Both parties committed a misdemeanor, and both pose a risk of impending danger.
31. A dual arrest **shall not** be made if one of the parties acted in self-defense.
32. 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 TO ARREST

33. When an arrest cannot be made due to a lack of probable cause that a crime has been committed, the officer shall do the following:
- (a) Explain to the victim why an arrest is not being made.
 - (b) Advise the victim of his or her rights .
 - (c) Encourage any victim of domestic violence to contact the New Orleans Family Justice Center and provide information about the availability of Civil Protective Orders.
 - (d) Address a victim's need for medical care and transport to a safe place.
 - (e) Encourage any victim to call 911 if he/she is in danger.
34. Officers shall notify their supervisor and provide a detailed explanation as to why an arrest was not made prior to leaving the scene and giving a disposition for the call.

PROTECTIVE ORDERS

35. Refer to **Chapter 73.4.2 – Protective Orders** for guidance on handling protective

orders.

RESPONDING WHEN A SUSPECT IS NOT ON SCENE

36. Officers shall obtain the following information when the suspect has left the scene prior to officers' arrival:
- (a) Suspect's name, date of birth and physical description, including clothing.
 - (b) Suspect's direction and mode of travel upon leaving the premises.
 - (c) Description of the suspect's vehicle, if applicable.
 - (d) Where the suspect might have gone.
 - (e) Where the suspect stays when not with the victim.
 - (f) Whether the suspect has ever interfered with the victim's attempts to seek help, especially from law enforcement.
37. Officers shall take the following actions when the suspect has left the scene prior to officers' arrival:
- (a) Search for the suspect in the immediate area and the direction and area where the suspect might have fled if the incident recently occurred or there is reason to believe the suspect may be in the area.
 - (b) 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.
 - (c) Encourage the victim to call 911 if the suspect returns.
 - (d) Offer to transport the victim or arrange for transport to shelter or another safe place if needed.
 - (e) Provide whatever assistance is reasonable to help the victim to secure broken doors or windows.
 - (f) Collect and process evidence in the same manner as when an arrest has taken place.
 - (g) After leaving the scene, when possible, drive by the residence over the next few hours and return to look for the suspect.
 - (h) Prepare an arrest warrant when probable cause exists.

COLLECTING AND DOCUMENTING RISK INFORMATION IN FELONY CASES

38. 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 :
- (a) Substance abuse
 - (b) Gun ownership
 - (c) Record of violence
 - (d) Employment status of the perpetrator
 - (e) Prior threats with a dangerous weapon
 - (f) Threats to kill
 - (g) Forced sex
 - (h) Choking
 - (i) Control of daily activities
 - (j) Threats of suicide
 - (k) Threats to harm children
39. 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 DYNAMICS AND ASSISTANCE

40. Officers shall work in collaboration with victims and provide specific support and attention to safety in responding to domestic violence calls.
41. Officers **shall not**:
- (a) Make any statements that would discourage a victim from reporting an act of domestic violence.
 - (b) Ask the victim if he/she wants the suspect arrested.
 - (c) Ask the victim if he/she will testify in court.
 - (d) Tell the perpetrator what the victim has told the officers.
 - (e) Threaten, suggest or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel.
42. 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:
- (a) Avoid interrupting the victim with questions
 - (b) Ask open-ended questions
 - i. "Tell me about. . ."
 - ii. "And then what happened?"
43. 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:
- (a) Remain patient and calm in the face of hostility.
 - (b) 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.
 - (c) 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.
 - (d) Provide the victim with privacy and dignity. This includes allowing her or him to change clothes if needed, shielded from on-lookers.
44. 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.
45. 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.
46. Officers shall take the following actions to provide victim assistance:
- (a) Remain at the scene until the likelihood of further imminent violence has passed.
 - (b) 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.
 - (c) Provide victim with:
 - i. The Official Notice to Adult Victims of Family Violence form (Form #45); and
 - ii. The Rights of Crime Victims and Witnesses brochure (see Policy/PR 336, Victim Witness Assistance).
 - iii. 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.

- (d) 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.
 - (e) Assist the victim in obtaining medical treatment.
 - (f) 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.
 - (g) Refer all victims to the New Orleans Family Justice Center.
47. Refer to **Chapter 55.1 - Victim and Witness Assistance** for general guidelines on providing victim assistance.

CHECKING ON THE WELFARE OF AND INTERVIEWING CHILDREN

48. Officers shall check on the welfare of each child at the scene.
49. 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.
50. Be aware of how the child is responding to the situation and try to reduce the child's anxiety and fear.
51. Be alert to and document any spontaneous and relevant statements made by a child witness.
52. Officers shall not interview a child when the officer believes that the interview might be traumatic or harmful to the child.. Document the reasons for not interviewing the child or children in the report. Consider the following in determining whether to interview children:
- (a) Child's physical, emotional or psychological ability to give a statement.
 - (b) Child's age and ability to understand questions and formulate responses.
 - (c) Non-offending parent/guardian's preferences as to whether and how to talk with the child or children.
53. When possible, officers shall document:
- (a) In general, what the child heard and determine if the child has been injured or directly harmed.
 - (b) Names and dates of birth of any children present.
 - (c) Presence and location of any children at the incident.
 - (d) Physical and emotional condition of any children present.
 - (e) Child or children's involvement in the incident, if any.
54. Officers shall call for medical assistance or transport the child to the nearest hospital for treatment as appropriate to the level of care needed if a child has been injured.

AVOID ARREST IN FRONT OF CHILDREN

55. 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

56. 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 (**Chapter 44.1.4 - Temporary Custody of Juveniles**).

INCIDENT INVOLVING DEPARTMENT EMPLOYEES

57. When responding to a domestic violence 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

58. 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

59. When responding to a domestic violence 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

60. Officers shall provide case dispositions to domestic violence calls for service according to the guidance below:
- RTF** (report to follow) *regardless of whether or not an arrest was made* if there has been **any contact** with any involved party, witness, or complainant either in person or by phone.
 - NAT** (necessary action taken) **cannot** be used for domestic violence incidents.
 - GOA** (gone on arrival) can only be used if there has been **no contact** with any involved party, witness, or complainant either in person or by phone.
 - UNF** (unfounded) can only be used if there is clearly no substantive domestic violence issue present or the incident occurred out of parish. A supervisor must approve any disposition of unfounded.

61. Reports shall include victim statements and disposition of the case (La. R.S. 46:2141; Ch.C. 1574).
62. The “D” signal code designator shall be used on all domestic violence incidents.
63. 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.
64. Officers shall utilize the NOPD Domestic Violence Patrol Report Checklist (Form #46) when investigating a **domestic violence call** for service. This checklist is used as a guideline, which contains important questions that need to be asked and answered for a complete investigation, ensuring the officer is receiving the necessary information on the scene. 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 in the checklist. **The responses to the 4 Risk Questions shall be documented in the report narrative. The responses shall also be included in an arrest warrant or gist when applicable.**
65. **The checklist shall be attached to the police report as a document.**

CHANGING THE SIGNAL

66. Should the officer believe the parties do not meet the domestic relationship criteria defined in this chapter, the officer shall contact his/her supervisor for approval to proceed with the investigation as a non-domestic incident. The officer shall explain the reasons / circumstances that justify the signal change and record the explanation on his/her BWC.
67. Should the officer believe the parties do meet the domestic relationship criteria defined in this chapter, 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.
68. **Only a supervisor may change the signal of a domestic violence call to a domestic disturbance or non-domestic signal by notifying Communication Services on the primary dispatch channel** for that District or, if the signal change is to occur after the item has been marked up, by a Request for Signal/Disposition Change form (Form #226). A call for service shall not be reclassified as non-domestic when the involved parties are in a domestic relationship as defined by this Chapter.
69. The supervisor shall specifically inquire whether the relationship of the parties meets the guidelines of this Chapter before changing the signal. If the officer states there is no domestic relationship, the supervisor shall require an explanation as to why there is no domestic relationship before changing the signal. The supervisor shall conduct these communications on scene or over the District Talk Group. Any signal changes shall be communicated on the primary dispatch channel.
70. The Compliance Bureau reviews signal changes for items that change from a domestic signal to a non-domestic signal. This review includes EPR and BWC recordings on the event/item.

NOTE: Both the supervisor and officer should be aware that omitting material facts that could affect the justification for a signal change is

considered a violation of Rule 2 – Moral Conduct, paragraph 3 – Honesty and Truthfulness.

DISTRICT INVESTIGATIVE UNIT DETECTIVES

71. Any district detective conducting a supplemental investigation of a domestic violence case shall abide by the **Domestic Violence Unit Standard Operating Guidelines located in the Resource folder in NOPD.org.**

DOMESTIC VIOLENCE UNIT STANDARD OPERATING GUIDELINES

72. 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.
73. 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.

DISTRICT PLATOON SUPERVISOR

74. 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 SCENE OVERSIGHT

75. Supervisors shall be responsible for monitoring any domestic violence calls dispatched to the officers under their direct supervision.
76. Whenever possible, platoon supervisors shall respond to the scene for Code 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 **Chapter 41.4.1 - Officer Response to Calls.**

SUPERVISOR REPORT REVIEW

77. Platoon supervisors shall:
- (a) Conduct reviews of platoon officers' reports to ensure compliance with this Chapter.
 - (b) Refer to the Supervisor's *Domestic Violence Report Review Checklist (Form 341)*, located in the Resource Folder on nopd.org, to verify the necessary domestic violence reporting elements are present in each platoon officer's report.
 - (c) 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

78. Supervisors are responsible for approving or disapproving an officer's decision to make a dual arrest consistent with this chapter.
79. When notified of an officer's determination of insufficient probable cause to make an

arrest, supervisors shall review all relevant information concerning the incident and either:

- (a) Advise the officer to make an arrest based on the information provided; or
- (b) Advise the officer to document the reason for not making an arrest.

SUPERVISOR RESPONSIBILITIES IN INCIDENTS INVOLVING NOPD MEMBERS

80. Supervisors shall:
- (a) Respond to scene of all department employee-involved domestic violence incidents.
 - (b) Notify the Public Integrity Bureau and follow department regulations.
 - (c) Ensure the scene is secured, including weapons, and oversee the scene until PIB investigators arrive on scene.
 - (d) 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

81. Supervisors shall:
- (a) Respond to scene of all domestic violence incidents involving public figures.
 - (b) Notify the Communication Services - to make notifications.
 - (c) 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

82. A Public Integrity Bureau Investigator shall conduct any investigation involving a member of the department involved in a domestic violence incident.

TRAINING

83. The Commander of the Education and Training Division or his/her designee shall develop a lesson 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.
84. All officers shall receive, at least annually, comprehensive mandatory instruction on this Chapter and responding to domestic violence calls.