

City of Johns Creek Police Department

<i>Subject:</i> Family Violence	<i>Number:</i> 02-08	
<i>Reference:</i> See also Victim Witness; and Arrest	<i>Amends:</i>	
<i>Effective:</i> 04/08	<i>Review Date:</i> Annually	<i># of Pages:</i> 5

PURPOSE:

Establish policies and standardized procedures that professionally addresses the incidents of family violence and provide guidance in the Department's response, responsibility, and the documentation of reported acts of family violence.

POLICY: (02-08)

It is the policy of this Department to fully investigate and provide accurate reporting of all family violence complaints which come to the attention of this Department, to arrest offenders where it is lawful and appropriate, to provide protection and assistance to victims of family violence, and to inform all parties involved of the various services which may be available to them within the criminal justice system, from social service agencies, and other types of community programs and/or resources. This Department has adopted the model law enforcement protocol for handling family violence incidents as outlined by the Georgia Commission on Family Violence.

SCOPE:

Applicable to all officers, members, and employees.

DEFINITIONS:

Family Violence is defined in the Official Code of Georgia Annotated 19-13-1 as one or more of the following acts between past or present spouses, person who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household.

- A. Any felony; or
- B. Commission of the offenses of battery, simple battery, simple assault, stalking, criminal damage to property, unlawful restraint or criminal trespass. The term "family violence" shall not be deemed to include reasonable discipline administered by a parent to a child in the form of corporal punishment, restraint, or detention, (Acts 1993 p. 1534, effective April 27, 1993.)

- C. Penalties are provided for violation of protective orders issued by the Court. According to Official Code of Georgia Annotated 19-13-6(b), "[a]ny person who violated the provisions of a domestic violence order which excludes, evicts, or excludes and evicts that person from a residence or house hold shall be guilty of a misdemeanor."

PROCEDURES:

Receipt of Calls and Complaints (02-08-01)

A. Dispatch and Officer Response

1. Upon receipt of a call for service the dispatcher should determine as quickly as possible whether or not the call concerns an incident of family violence. If so, the dispatcher should ascertain as much information as possible from the complainant, e.g., injuries, weapons involved, whether minor children are present/involved, exact location and other relevant information.
2. Once the information has been received, the dispatcher shall immediately designate one primary unit and, whenever possible, a backup unit. The responding officers shall be provided with all available information by the dispatcher upon initial dispatch. Each officer shall approach family violence complaints with caution and discretion. Common sense and sound judgment are the primary criteria for handling any police function.
3. The dispatcher shall notify a supervisor whenever the in-coming call involves violence or a threat to life and/or bodily harm (such as a weapon involved.) The officer will call a supervisor to the scene if after arriving they find these conditions. Supervisors should, whenever possible, monitor the radio traffic involving the family violence complaint and proceed to the scene of the incident, whether or not they have been called by the dispatcher.

B. Arrival at the Scene

1. Each officer dispatched shall respond immediately to the location; if the disturbance is found "in progress" by an officer on patrol, he/she shall notify the dispatcher of the location, nature of disturbance, and the necessity of a back-up unit and/or supervisor. If the disturbance is not in progress, the officer should immediately attempt to contact the complainant and proceed with the investigation.
2. Officers responding to family violence complaints will coordinate their arrival at the scene without delaying the response time. Upon arrival at the scene of family violence, the responding officers will advise the dispatcher of the location of the complainant if different from the original dispatched location. Each officer shall park his/her vehicle in a readily accessible position. All vehicles shall be locked and secured.
3. If the disturbance is at a private residence, officers shall attempt to contact the complainant before proceeding further. Officers will not enter a private residence except on the direct invitation of the owner or resident, unless probable cause exists to make an arrest or a confrontation is in progress. In any event, the officer should make every effort to speak to every occupant of the residence before leaving.
4. 

5. Under no circumstances shall the officers "take sides" with either party in the dispute. These family violence complaints should be handled as criminal incidents. Reconciliation or divorce and such alternatives should **never** be suggested or discussed with the parties involved. Officers should be prepared to offer referrals to the victim concerning the location of shelters, victim witness assistance programs, counseling, etc.

C. Enforcement of Laws in Family Violence Complaints

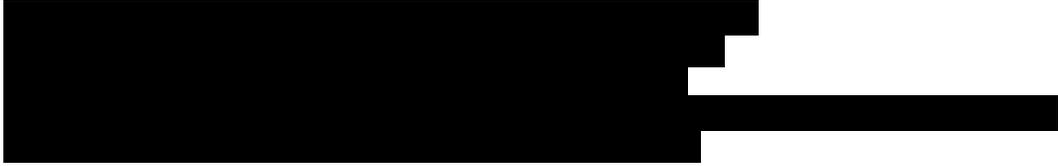
The existence of probable cause and of the elements of a crime shall be the sole factors that determine the proper method of handling the incident. Factors which **are not** to influence the officer's course of action in family violence incidents include: the relationship or marital status of the suspect and the victim; sexual orientation; speculation that the complainant may not follow through with the criminal justice process or that the arrest may not lead to a conviction; the complainant's history or prior complainants; whether or not the person lives on the premises with the complainant; the complainant's emotional state; injuries are not visible; verbal assurances that violence will cease; the location of the incident, (i.e., public or private); the potential financial consequence of arrest; or the existence or lack of a temporary restraining order or other protective orders.

1. An arrest shall be made in the event there is probable cause to believe that a crime has occurred. All persons arrested should be taken into custody. A pro-arrest policy is to be implemented by this agency; it is the intention of this agency to engage in aggressive law enforcement with respect to crimes involving family violence. Discretion not to make an arrest should **never** be based solely on the incident being characterized as a "domestic" matter. If an officer has probable cause to believe a felony has occurred, an arrest **shall be** made irrespective of whether the officer believes the offense may ultimately be prosecuted as a misdemeanor.
2. The person should be arrested in the event a misdemeanor family violence incident occurs in the officer's presence, or if the officer has probable cause to believe an act of family violence has been committed. Such situations include, but are not limited to, an officer who witnesses an act of family violence, a violation of a restraining order, or illegal possession of a weapon.
3. If there is probable cause to believe a crime has been committed outside the officer's presence which does not meet the requirements for a felony arrest but does meet the requirements for a misdemeanor offense, the officer **shall** make an arrest. In the event the officer does not make an arrest, he/she shall make a good faith effort to inform the complainant of his/her right to appear before a magistrate and seek a warrant for arrest. Whenever possible such discussion should be held out of the presence of the person. An officer shall not dissuade complainants from attempting to obtain a warrant from a magistrate. Again, officers should provide information regarding available family violence shelters, victim witness assistance programs, counseling, etc.

Investigation of Family Violence Cases (02-08-02)

Officers arriving at a family violence scene should conduct a thorough investigation and submit reports of all incidents of violence and all crimes related to family violence. The Family Reporting form **will be** completed and processed in accordance with O.C.G.A. 17-4-20.1. The following steps should be included in an officer's investigation and subsequent report:

A. Arrival at scene



B. Preliminary investigation

1. Interview everyone separately - victim, person, children, other witnesses;
2. Ask victim and suspect if they have pain even if there are no visible injuries;
3. Document victim's and suspect's condition. For example, torn clothing, disheveled appearance, evidence of injury, and disarray in house;
4. Document size relation of victim and suspect, keeping in mind that larger is not always stronger;
5. Determine which of the parties involved was the primary aggressor, by investigating the following:
 - a. Was one party in actual fear of the other?
 - b. Did one party escalate the level of violence, i.e., did a man react to a slap by beating the woman up?
 - c. Was one party physically larger and/or stronger than the other?
 - d. Does relevant history include the following?
 - *physical violence
 - *sexual violence
 - *violence against others
 - *destruction of property, harm to pets;
 - e. Was one party usually the aggressor?
 - f. Did any injuries appear to be defense wounds?
6. If victim has a restraining order or temporary protective order against suspect, obtain a copy of the order and valid proof of service. If not, inform victim how to get an order.
7. If victim has a restraining order or other protective order which has not yet been served on the suspect, inform the suspect of the order and note in the report this was done. The officer should also enforce the applicable provisions of the order (e.g., "stay away" provision).
8. If suspect is taken into custody:
 - a. Document spontaneous statements;
 - b. Prevent communications between suspect and victim/witnesses;
 - c. Advise suspect of Miranda rights; and
 - d. Take statements.
9. Evidence gathering should include:
 - a. Document condition of crime scene (disarray of physical surroundings);
 - b. Photograph crime scene, if applicable;
 - c. Ensure that victim's/suspect's injuries are photographed; and
 - d. Impound and/or photograph weapons and other evidence of the crime.
10. Medical treatment investigation should include:
 - a. Obtain authorization for release of medical records from victim, if possible;
 - b. Document extent of injuries/treatment if known; and
 - c. Obtain names, addresses and phone numbers of fire, ambulance or paramedic personnel treating the victim.
11. In making a permanent record of the incident and subsequent investigation, the following should be included as part of the reporting procedure:
 - a. Maintain objectivity in reporting - avoid personal opinions regarding comments from victim/suspect;

- b. Ensure that elements of all involved crimes are included in the report;
 - c. Document any injuries victim/suspect have sustained;
 - d. Document past history of violence;
 - e. Document statements of victim, suspect, and all witnesses;
 - f. Document physical evidence obtained; and
 - g. Document probation/parole status.
12. Officers should not advise victims of family violence they can "press" charges or "drop" charges. If a victim spontaneously states that prosecution is not desired, the victim should be told the decision to prosecute is made by the District Attorney or Solicitor. Again, victims should be given information regarding the availability and location of shelters, victim witness assistance programs, etc.

Follow-Up Investigation (02-08-03)

- A. All family violence reports prepared by officers should be reviewed and follow-up investigation as needed. Whenever possible, review should be conducted by officers with family violence training.
- B. Follow-up investigations should be geared to the requirements of the prosecuting office's family violence unit or the particular prosecutor handling the case.
 - 1. At a minimum, follow-up investigation submitted to the prosecutor for consideration should include the following:
 - a. Verify the inclusion of all investigative steps described above regarding patrol officer response/investigation;
 - b. Obtain medical records, if available;
 - c. Preserve a copy of the 911 tape involving the original call for assistance as needed;
 - d. Interview/re-interview witnesses as necessary;
 - e. Contact the victim to inform him/her of the status of the case and the intended referral to the District Attorney or Solicitor;
 - f. Obtain photographs of injuries to the victim (irrespective of whether photos were taken by the responding officer);
 - g. Record name, address, and phone number of two close friends or relatives of the victim who will know the victim's whereabouts 6 - 12 months from the time of the incident; and
 - h. Conduct a complete criminal history of the suspect and attach it to the investigator's report.
 - 2. Follow-up investigation should not consider the desire of the victim to "drop" charges in assessing whether the case should be submitted to the prosecuting attorney.
 - 3. Investigative personnel handling family violence cases should analyze each family violence case by asking the following questions:
 - a. Can the elements of the offense be established without the testimony of the victim?
 - I. If the answer is "yes", the case should be submitted to the prosecutor for review irrespective of the wishes of the victim.
 - II. If the answer is "no", the next question should be considered.
 - b. Will the victim come to court and tell the truth if subpoenaed to do so by the State?
 - I. If the answer is "yes", the case should be submitted to the prosecutor for review.
 - II. If the answer is "no", can further investigation locate additional

witnesses or evidence which would allow prosecution without a cooperative victim, such as:

- *witness statements
- *physical evidence
- *circumstantial evidence
- *prior inconsistent statements
- *content of 911 tape
- *defendant's statement

If so, the evidence should be obtained and the case should be submitted to the District Attorney or Solicitor. If not, the case need not be submitted, but should be filed with Records.

- III. Under no circumstances should a victim be asked if he/she wishes to "press charges" or "drop charges." Investigative personnel should not ask a victim if he/she wants to "prosecute" his/her partner. The focus of the investigative follow-up should be on the questions contained above in section 3 and the victim should be informed that the decision to proceed is out of his/her control.

Record and Report Keeping (02-08-04)

Family violence forms are kept in the miscellaneous file section by case number. A copy is made for investigators. When the investigator returns this copy to records, a records clerk will mail to GCIC. (This particular copy will not be put in the press file.)

Victims' Assistance (02-08-05)

In all family violence matters, regardless of the outcome, the primary investigating officer shall furnish to the alleged victim a copy of the Family Violence Victim Assistance pamphlet, and make available information concerning family violence shelters, counseling, etc.