



Sheridan Police Department
Policies and Procedures
28.4
Chapter 28 – Call Response
Section 4 – Domestic Violence

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Signature:

The Sheridan Police Department's response to domestic violence will be guided by the nature of the abusive act and not the relationship between the victim and the abuser. Law enforcement officers will make arrests whenever probable cause and legal authority exists. Officers will provide victims with information and protection and encourage referrals for needed services. It is the intent of this policy to aid the officers in conducting an investigation, which will aid in reducing the number of repeat family violence incidents in Sheridan.

Definitions

- Domestic Abuse - Physical abuse, threats of physical abuse, attempting to cause or causing physical harm, or acts which unreasonably restrain the personal liberty of any household member, by any other household member. Placing a household member in reasonable fear of imminent physical harm, or causing a household member to engage in involuntary sexual activity by force, threat of force, or duress.
- Household Members - Household members means persons married to each other, persons living together as if married, persons formerly married to each other, persons formerly living with each other as if married, parents and their adult children, other adults sharing a common living quarters, parents of a child who do not live together and persons who are in, or have been in, a dating relationship.
- Adult - As used in the family protection act, adult means a person who is sixteen (16) years of age or older or legally married.

28.4.1 Enforcing Domestic Violence Law

- A. When responding to reported incidents of domestic violence, officers shall take reasonable steps to stop and/or prevent violence, render aid, protect victims, enforce the law, and maintain order. Responding officers will park patrol vehicles a safe distance from the scene and conduct a listening halt, if there is no indication of exigent circumstances.. At least two officers will initiate contact when there is no indication of exigent circumstances.
- B. Upon initial response, if refused entry, the officers should be persistent about seeing and speaking alone with the victim. If access to this person is refused, the officers should request the dispatcher attempt contact with the victim by phone. If access is still refused and the officers have reason to believe someone is in imminent danger, the officers may enter the residence to check the person's welfare [see section 10.4.2.C.2(j)]. If entry must be forced,

immediate notification will be made to the shift supervisor and the shift supervisor shall respond to the scene.

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- D. Officers shall make a reasonable attempt to identify and utilize resources to assist in their interactions with non-English speaking citizens or citizens with communication disabilities. However, the officer should, whenever possible, avoid the use of friends, family or neighbors serving as the primary interpreter for the investigation.
- E. The officer shall attempt to gain the victim's trust and confidence by showing understanding, patience, and respect for personal dignity, and using language appropriate to the age, educational level and emotional condition of the victim.
- F. An arrest is expected when an officer has probable cause to believe a person has violated a domestic violence protection order within the past twenty-four (24) hours in compliance with Wyoming Statute 7-20-102(b). At least two officers will effect such arrests barring any exigent circumstances.
- G. An arrest is expected when an officer has probable cause to believe any household member has committed an assault or battery, aggravated assault, reckless endangerment, or strangulation, upon any other household member within the past twenty-four (24) hours in compliance with Wyoming Statute 7-20-102. Arrests may be without a warrant regardless of whether or not the violation was committed in the presence of the officer. (Reference Wyoming Statutes 6-2-501, 6-2-502, 6-2-504 and 6-2-509) At least two officers will effect such arrests barring any exigent circumstances.
- H. Probable cause should be determined by examining the following factors:
 - 1. Officer's observations;
 - 2. Statements made by witnesses and parties involved;
 - 3. Evidence of physical injuries;
 - 4. Medical reports;
 - 5. Examination of orders of protection;
 - 6. Confessions made by the alleged perpetrator; and
 - 7. Any other evidence which shows that an assault, battery, or violation of a protection order has taken place and the person to be arrested is the perpetrator.
- I. The following factors should not prevent an arrest from being made:
 - 1. Marital status; sexual orientation; race; religion; profession; age; disability; cultural, social or political position; or socioeconomic status of either party;
 - 2. Ownership, tenancy rights of either party, or the fact the incident occurred in a private place;
 - 3. Victim's request that an arrest not be made;
 - 4. Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction;
 - 5. Verbal assurances that the abuse will stop;
 - 6. The fact that the suspect has left the scene;
 - 7. Disposition of previous police calls involving the same victim or suspect;
 - 8. Denial by either party that the abuse occurred when there is evidence of domestic abuse;

9. Lack of a court order restraining or restricting the suspect;
 10. Adverse financial consequences that might result from the arrest;
 11. Chemical dependency or intoxication of the parties;
 12. Assumptions as to the tolerance of violence by cultural, ethnic, religious, racial or occupational groups;
 13. Absence of visible injury or complaints of injury; and
 14. Presence of children or the immediate dependency of children on the suspect.
- J. Officers making an arrest should inform the arrestee and the victim that domestic violence is a crime and the State of Wyoming, not the victim, is responsible for decisions regarding whether charges are filed.
- K. For incidents of domestic violence in which an arrest has been made or the case referred for prosecution, the investigating officer shall complete a thorough investigation to include:
1. A clear explanation of the relationship between all involved parties to include where they reside.
 2. A detailed statement from the victim using the victim's exact words whenever necessary.
 2. A detailed description of the victim's emotional state with an emphasis on how they felt during the incident.
 3. A detailed description of observable injuries. The victim should be asked whether he or she has injuries that may not be visible.
 4. Information about past abuse. History of abuse or violence is used by the prosecutor in determining the best course of legal action. Documented past abuse can be used as evidence. This information is also helpful to other agencies in determining the appropriate level of intervention.
 5. A detailed statement from the alleged perpetrator. Whenever necessary, use his or her exact words. Document his or her emotional state and any threatening comments the perpetrator makes to the victim or police officer.
 6. A description of the scene and any evidence of an altercation.
 7. Statements from all witnesses. If there are any children present in the household, their welfare should be checked and statements obtained from them. Record the full name, address, and telephone number of each witness present.
 8. Information necessary to charge other offenses such as destruction of property or criminal trespass.
 9. It is particularly important to document the officer's conclusion about any injuries. Injury is not, in itself, sufficient evidence to establish probable cause an assault occurred. The officer must conclude from all of the evidence that the injury was intentionally inflicted in an act other than self-defense;
 10. Officers should collect any evidence which would go to prove that a violation of law has occurred. This would include photographs of the scene, photographs of the victim and suspect, and collection of any type of evidence such as weapons or bloody or torn clothing. All photograph series will start with a macro view of a scene, item of evidence or person and conclude with a scaled and un-scaled micro view.
 11. If an officer makes multiple arrests, the report should separately document how probable cause was established for each individual arrested. Arresting both involved parties should only rarely be made. Officers must investigate carefully to discern defensive acts versus aggressive acts with the goal of arresting the primary aggressor.

- L. In cases where no arrest is made on scene and where there is probable cause to file criminal charges, the case shall be immediately referred to the prosecuting attorney for determination of filing of charges.
- M. In all domestic dispute responses, regardless of an arrest, officers will provide the involved parties with the department's resources for relationship brochures. This will be documented in the case report summary so it can easily be tracked.
- N. Officers shall not threaten, suggest, or otherwise indicate the possible arrest of all parties specifically to discourage a request for intervention by law enforcement.
- O. In cases where no arrest is made, the officer should not leave the scene of the incident until the situation is under control and the likelihood of further violence has been eliminated. If the victim is leaving, the officer should remain at the scene for a reasonable period of time while the victim gathers necessities for a short-term absence from home. The officer should ask a victim who is leaving the home for his or her temporary address and phone number out of hearing of the other party.
- P. If the victim requests to go to a shelter, they shall be referred to the Advocacy & Resource Center (A&RC). The officer shall arrange for, or provide transportation to a meeting with (A&RC) or an alternative location of the victim's choice in the local area.
- Q. Officers shall see to the appropriate care of children as victims or dependents.
 - 1. In child abuse situations, the officer shall contact the on-duty Department of Family Services (DFS) caseworker.
 - 2. If, as a result of arrests and/or hospitalizations, there is no parent, legal guardian, or relative to either care for the children or direct the officer as to the appropriate temporary placement of the children, the officer should contact DFS for purposes of determining placement.
- R. When an elderly or disabled adult is either a victim of the violence or reliant on the victim or suspect who can no longer provide care, the officer should make appropriate arrangements for the person's care.
- S. The officer should, when appropriate, request the victim sign a release of medical records.
- T. Whenever the investigating officer suspects drug or alcohol use to be a factor they should offer presumptive testing to both suspect and offender and document the results in the incident report.
- U. A follow-up investigation may be required and could include:
 - 1. Interviewing victims who were physically or emotionally unable to be properly interviewed or to provide a complete statement.
 - 2. Taking photographs of victim injuries, which may not have been apparent and/or visible at the time of the initial response.
 - 3. Interviewing neighbors or other potential witnesses.
 - 4. Ascertaining if the suspect is on parole, probation and/or pretrial release and obtaining the name and phone number of the appropriate probation/parole officer.

28.4.2 Exceptions to Arrest

- A. An exception may be made to the expectation of an arrest when an officer believes, based on his or her careful judgment of the situation, that an arrest would clearly be counter-productive to the safety or welfare of the victim and/or household member. The decision not to arrest shall be confined to such circumstances and shall be articulated in the narrative report.

- B. When evidence of mutual combat is present, the situation does not necessarily dictate the arrest of both parties. Officers must determine whether any injuries were inflicted as a result of self-defense. Reasonable force to defend oneself does not include seeking revenge or punishing the other party.
- C. Efforts should be made to identify the primary aggressor. The primary aggressor is the person determined to be the most significant, rather than the first aggressor. If the officer determines that one person was the primary physical aggressor, the officer need not arrest both parties. In determining whether a person is the primary aggressor the officer shall take into account the totality of the circumstances by considering the following:
 - 1. The intent of the law to protect the domestic violence victim;
 - 2. Any threats, real or implied, which instill fear of physical violence by one partner toward another;
 - 3. Any history of violence between the partners;
 - 4. If either partner acted in self-defense;
 - 5. Height and weight of the parties;
 - 6. Criminal history;
 - 7. Level of violence;
 - 8. Demeanor;
 - 9. Corroborating witnesses;
 - 10. Use of alcohol or other drugs;
 - 11. Offensive versus defensive injuries and consistency of injury with the explanation;
 - 12. Seriousness of injuries;
 - 13. Presence of fear;
 - 14. Existing court orders; and
 - 15. Who reported the incident.

28.4.3 Documentation

- A. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident in compliance with Wyoming Statute 7-20-107. A written report shall be made irrespective of the outcome of the call or whether an arrest was made. A written report will be made irrespective of the wishes of the victim or the presence or absence of the suspect. An officer shall make no statements which would tend to discourage a victim from reporting an act of domestic violence.
- B. Subsequent violations for domestic violence are subject to enhanced penalties. Officers will refer to a suspect's criminal history to inquire and document past court proceedings in a domestic violence incident report.

28.4.4 Notification to Victim

- A. Officers shall inform any victim of domestic violence as soon as possible of:
 - 1. The availability of programs that provide services to victims of battering in the community including services available through the Advocacy & Resource Center and any other related agencies.
 - 2. The Wyoming Crime Victims Bill of Rights.
- B. Following an arrest for domestic violence, officers are required by Wyoming Statute 7-20-104 to inform the victim of the rights set forth in that section.

28.4.5 Family Violence Protection Orders

- A. Protection orders issued pursuant to the Family Violence Protection Act are enforceable by law enforcement. Officers may arrest for violations of an Order of Protection. An arrest is expected when the officer has probable cause to believe a person has violated a domestic violence order of protection within the past twenty-four (24) hours, as authorized by Wyoming Statute 7-20-102(b). The following conditions must be met before an arrest can be made:
1. An issued order of protection must state on its face the time for which the order is valid and must specifically restrain or enjoin a household member from the following:
 - a. Entering onto premises;
 - b. Physical abuse;
 - c. Threats of personal abuse;
 - d. Acts that unreasonably restrain the personal liberty of any household member;
 - e. Abducting, removing or concealing any child in the custody of another household member; or
 - f. Transferring, concealing, encumbering or otherwise disposing of petitioner's property or the joint property of the parties.
 2. A true copy and proof of service of the order has been filed with the sheriff's office having jurisdiction of the area in which the moving party resides.
 3. The person named in the order has received notice of the injunctive order;
 4. The person named in the order is acting in violation of the order or the officer has probable cause to believe that the person violated the order within the preceding twenty-four (24) hours; and
 5. The order states on its face that a violation of its terms subjects the person to a criminal penalty in violation of Wyoming Statute 6-4-404.
- B. Violation of valid foreign protection orders (orders issued by a court outside of Wyoming) is a crime. Foreign orders are deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, tribe, or territory. There shall be a presumption in favor of validity where an order, on its face, appears in compliance with these requirements. Violators of foreign protection orders should be charged with violating Wyoming Statute 6-4-404 and whatever act they did to violate the order, i.e. battery, etc.(ref: Wyoming Statute 35-21-109a.)

28.4.6 Federal Violations

- A. Interstate Domestic Violence 18U.S.C. 2261(a)(1) and (2)
1. It is a federal crime to travel across a state line or enter or leave Indian country with the intent to kill, injure, harass, or intimidate that person's spouse or intimate partner, and in the course of or as a result of such travel, intentionally commits or attempts to commit a crime of violence against the partner.
 2. It is a federal crime to cause a spouse or intimate partner to cross a state line or enter or leave Indian country by force, coercion, duress, or fraud and, in the course of or as a result of that conduct, commits or attempts to commit a crime of violence.
- B. Interstate Stalking 18U.S.C. 2261A(1)
- It is a federal crime for a person to travel across a state line with the intent to kill, injure, harass, or place under surveillance with the intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel places that person or that person's immediate family in reasonable fear of death or serious bodily injury or substantial emotional stress.

- C. Interstate Travel to Violate a Protection Order 18U.S.C. 2262(a)(1) and (2)
 - 1. It is a federal crime for a person to travel across a state line or enter or leave Indian country with intent to engage in conduct that violates the portion of a protection order that prohibits violence, threats of violence, repeated harassment or bodily injury to the person or persons for whom the protection order was issued.
 - 2. It is a federal crime for a person to cause a victim to cross a state line or enter or leave Indian country by force, coercion, duress, or fraud and in the course or as a result of that travel, to engage in conduct that violates the order of protection.
- D. Cyber Stalking 18U.S.C. 2261A(2)

It is a federal crime to use the mail, or any facility of interstate commerce including the internet to engage in a course of conduct that causes substantial emotional distress or fear to the person or his or her immediate family with intent to:

 - 1. Kill, injure, harass, or place under surveillance with the intent to kill, injure, harass or intimidate, or
 - 2. Cause emotional distress, or place in fear of death or serious bodily injury a person in another state.
- E. Gun Control Act 18 U.S.C. 922(g)
 - 1. It is unlawful for any person to possess a firearm while subject to an order restraining them from harassing, stalking, or threatening an intimate partner.
 - 2. It is unlawful for any individual who has been convicted of a misdemeanor domestic violence charge to own or possess a firearm. There are special rules that apply to determine whether the person should be deemed convicted of the crime as well as for those whose convictions have been expunged, set aside, pardoned, or had civil rights restored [see 18 U.S.C. Statute 921(a)(33)].

28.4.7 Law Enforcement Involved Domestic Incidents

- A. Employee Involved Domestic Incidents
 - 1. The Sheridan Police Department policy on domestic violence involving police department employees is designed to ensure that employees and their families are treated with equal protection under the law. Additionally, the department must ensure that sworn officers are evaluated for fitness for duty in instances that may arise from these incidents.
 - 2. Any department employee served with an order of protection or similar civil protection order from any jurisdiction will notify the on-duty supervisor of the order. The employee will provide a copy of that order to a supervisor as soon as possible, but prior to the employee's next scheduled shift.
 - 3. If a member of the department is involved in a domestic incident outside the jurisdiction of the Sheridan Police Department and another law enforcement agency is summoned to the scene, the member will notify the on-duty supervisor at the Sheridan Police Department. This notification will be made regardless of the disposition of the incident by the investigating agency.
 - 4. The supervisor receiving notification by a member involved in a domestic incident in another jurisdiction will immediately notify his or her bureau commander so a determination can be made regarding who will be responsible for the inquiry into the circumstances surrounding the incident. That person will, based on the available information, determine if there are any issues regarding the member's fitness for duty.

5. When an officer is dispatched to a domestic violence call and it is learned an employee of the Sheridan Police Department is involved, the supervisor on duty will be immediately notified and respond to the scene. The procedures outlined in this section will be strictly observed. Additionally, the supervisor will evaluate the circumstances surrounding the event and determine if there are any problems regarding the employee's fitness for duty. The supervisor will notify the bureau commander who will determine if the criminal investigation should be conducted by an outside agency.
- B. Law Enforcement Officers from Other Jurisdictions
1. In every case where a reported incident of domestic violence involving a sworn officer of another police jurisdiction occurs in Sheridan, the on-duty supervisor will respond. The supervisor will conduct an inquiry with the responding officers to determine the circumstances of the incident. If the officer from the other jurisdiction displays, or is alleged to have displayed, behavior that might affect his or her ability to perform as a police officer, or is alleged to have committed a crime during a domestic violence incident, the on-duty supervisor will notify a supervisor from the employing agency.
 2. The supervisor will notify the bureau commander of the incident.