



# LOUDON POLICE DEPARTMENT LOUDON, TN



## Chapter 7

Subject: Domestic Violence	Effective Date: 02/27/2006	Revised Date: 04/01/2020
Title: Domestic Violence	Pages: 13	Distribution: All Officers
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This directive shall consist of the following sections:

- I. Policy
- II. Definitions
- III. Dispatch Procedures
- IV. Response Procedures
- V. Arrest Determination
- VI. Seizure of Weapons in Domestic Violence Incidents
- VII. Non-Arrest Situations
- VIII. Orders of Protection
- IX. Stalking
- X. Victim Assistance
- XI. Reporting Procedures
- XII. Post-Arrest Procedures
- XIII. Training
- XIV. Evaluation

I. Policy

- a. TCA 36-3-601 (Domestic Abuse); TCA 39-17-315 (Stalking); TCA 39-17-1301 to 39-17-1322 (Weapons) and TCA 40-7-103(7) (arrest in connection with domestic violence call) acknowledge the seriousness of domestic abuse as a crime and assures a victim of domestic abuse enhanced protection from violent behavior. The intent of the law is that the official response shall communicate the attitude that violent behavior is not excused or tolerated. For law enforcement, the preferred response is arrest. In both arrest and non-arrest situations, officers will take all reasonable measures necessary to assist and/or assure the immediate safety of the victim(s), the children, the offender or any other person who may be affected; and to determine what action will be most effective in preventing future violence. This effort requires a team approach. Dispatchers must input the call with the information necessary to safeguard the lives of the officers and victims. Officers must restore order and conduct a thorough on-scene investigation in a compassionate and professional manner. Investigators must conduct a thorough follow-up investigation; supervisors must motivate, teach and direct personnel.
- b. The goals of the Loudon Police Department Domestic Abuse Policy are to reduce:
  - i. Domestic Homicides
  - ii. Domestic Assaults
  - iii. Police call-backs
  - iv. Injuries to officers
  - v. Liability risk for the department
- c. It is the policy of the Loudon Police Department that all personnel shall adhere to the provisions herein with respect to domestic abuse.

II. Definitions

- a. Abuse: inflicting or attempting to inflict physical injury on an adult by other than accidental means, physical restraint or malicious damage to the personal property of the abused party.
- b. Adult: any person eighteen years of age or older, or who is otherwise emancipated.
- c. Bodily Injury: Substantial pain to the victim or impairment of the victim's physical condition.
- d. Family of household member

- i. Adults of minors who are current or former spouses
    - ii. Adults of minors who live together or who have lived together
    - iii. Adults of minors who are dating or who have dated or who have had a sexual relationship, {as used herein “dating” and “dated” do not include fraternization between two (2) individuals in a business or social context.
    - iv. Adults or minors related by blood or adoption
    - v. Adults or minors who are related or were formerly related by marriage
    - vi. Adult or minor children of a person in a relationship that is described in subdivisions (D) (i-v)
  - e. Firearm: any weapon designed, made or adapted to expel a projectile by the actions of an explosive or any device readily convertible to that use.
  - f. Petitioner: the person alleging abuse in a petition for order of protection
  - g. Preferred Response: law enforcement officers shall arrest a person committing domestic abuse unless there is a clear and compelling reason not to arrest.
  - h. Probable Cause: the combination of facts and circumstances which leads a law enforcement officer to believe that a crime is being committed.
  - i. Respondent: the person alleged to have abused another in a petition for order of protection
  - j. Self Defense: a person’s justifiable use of physical force when and to the degree the person reasonably believes the force is immediately necessary to protect against the use or attempted use of unlawful force against them, under the factors set out in TCA 39-11-611 and following
  - k. Victim: a family or household member who is the subject of domestic abuse and who a law enforcement officer has determined is not the primary aggressor under the factors set out in TCA 36-3-619(c)
  - l. Weapon: a firearm or device listed in TCA 39-17-1302 (a)(1)-(7)
- III. Dispatch Procedures
- a. The dispatcher should give the domestic abuse call the same priority as any other life-threatening call and will, whenever possible, dispatch at least two officers to the scene. The decision as to the

priority of the call should be based upon the seriousness of the injuries or threatened harm, and whether or not the assailant is on the premises.

- b. The dispatcher should make every effort to relay any and all information gathered from the complainant so that it may be helpful to responding officers in assessing the situation including call history.
  - c. During the initial call for assistance, the dispatcher will ask the following and any more appropriate questions:
    - i. What is the location of the emergency in phone number?
    - ii. Who am I speaking to?
    - iii. Are you involved or a witness?
    - iv. Has anyone been injured and is an ambulance needed?
    - v. Is the offender present? If not, where? Description of the offender, mode of travel and description of the vehicle?
    - vi. Are weapons involved? What kind? Or other weapons in the house?
    - vii. Is the offender under the influence of alcohol or drugs? What substance?
    - viii. Are children present? What age?
    - ix. Is an order of protection on file?
    - x. Has the offender ever threatened to hurt a police officer?
  - d. The dispatcher, in speaking with a victim of domestic abuse, should not discuss or make any comments concerning the victims desire to “press charges,” “drop charges,” or prosecute.
  - e. The dispatcher should advise the victim in any way possible to ensure the victims safety, including but not limited to waiting at another location or leaving the residence if the suspect may return.
  - f. If the dispatcher receives a second call to cancel the original call responding officers should be instructed to continue on the call to ensure that all parties are safe.
  - g. Advise supervisor on duty of the call.
- IV. Response procedures
- a. When responding to a domestic abuse call, officers will:
    - i. Establish control of the scene and restore order by
      - 1. Separating the parties
      - 2. Assessing the need for medical attention
      - 3. Protecting the crime scene

- ii. Interview all parties separately (victim, offender in witnesses). interview children in a manner appropriate for their age.
  - iii. Determine if arrest is appropriate, as described in article 5.
  - iv. Communicate to the parties that domestic abuse is a crime and will not be excused or tolerated.
  - v. Collect and record evidence. When appropriate, take color photographs of injuries and property damage.
  - vi. Prepare an incident report. (Appropriate forms will be provided.)
  - vii. Provide victim assistance as outlined in article 7.
- b. Officers should wait to be invited inside but should not hesitate to make forced entry if necessary, to protect the victim(s).
  - i. A forced entry is permissible anytime there is probable cause to believe that the safety of an individual may be in jeopardy.
  - ii. When making assessment regarding forced entry or continuance of investigation when there is no response from occupants, officers will base their decision to act on:
    - 1. Information provided by the dispatcher;
    - 2. The urgency of the request;
    - 3. The use of 911;
    - 4. The dispatcher's assessment of the seriousness of the request;
    - 5. Witness information;
    - 6. Everything they personally observe;
    - 7. All physical evidence;
    - 8. Any other pertinent factors.
  - iii. Supervisory personnel should monitor the receipt of any domestic abuse called dispatch and respond to the location whenever possible. Supervisors will provide additional safety, monitor the situation and will be available for advice. A review will be made as soon as practical as to whether the responding officers followed policy.
- c. When officers respond to a domestic violence call in the victim or offender is a law enforcement officer, the officers will call the line supervisor to the scene.
- d. If the offender has left the scene and a crime has been committed, officer should:

- i. Follow felony arrest procedures if a felony has been committed;
  - ii. Conduct a search of the immediate area, if legally permissible;
  - iii. Obtain information from the victim and witnesses as to the whereabouts of the offender;
  - iv. When appropriate, refer to the matter to the investigative unit or the victim witness officer for follow up.
- V. Arrest determination
  - a. Pursuant to TCA36-2-601 to TAC 36-3-620 (Domestic Abuse), If a law enforcement officer has probable cause to believe that a person has committed a crime involving domestic abuse, whether the crime is a misdemeanor or a felony, or was committed with in or without the presence of an officer , the preferred response to the officer is to arrest.
    - i. Offenders should be charged with the appropriate violations of the Tennessee Code Annotated
    - ii. Domestic abuse cases can either be simple assault or aggravated assault based on the facts. Pursuant to TCA 39-13-102, For an assault to be aggravated assault, one of the following aggravating factors must be present:
      - 1. Serious bodily injury to the victim;
      - 2. Use or display of a deadly weapon by the offender;
      - 3. Violation of a court order of protection, diversion agreement or probation agreement;
      - 4. Failure or refusal of parent or custodian of victim to protect victim from an aggravated assault or aggravated child abuse.
    - iii. Arrest is mandatory for violation of an order of protection where officers have proper jurisdiction and have reasonable cause to believe that respondent has violated or is in violation of the order and verification has been made that the order is valid. If the order is ex-parte, respond it must have been served or otherwise have actual knowledge of the order.
    - iv. Pursuant to TCA 39-13-406, The aggravated criminal trespass statute, an offender entering or remaining at the residence of the petitioner with the knowledge of an order of protection may be charged with aggravated criminal trespass if the

offender intends, knows or is reckless about whether or not his or her presence will cause fear for the safety of another.

- v. Pursuant to TCA 39-13-214, The viable fetus is a victim statute, if the victim of domestic abuse has incurred serious bodily injury and is pregnant and carrying a viable fetus (currently recognized by courts as six months into gestation), the offender may be charged with assault or other crimes against persons to the viable fetus.
- vi. Pursuant to TCA 71-6-101 to 71-6-119 (Tennessee adult protection act), if the victim of domestic abuse is 60 years of age or older or a mentally impaired adult, officers shall notify the Tennessee Department of adult Protective Services to investigate allegations of the abuse.
  - 1. Abuse is defined in this act as infliction of physical pain, injury or mental anguish, or the deprivation of services by caretaker that are necessary to maintain the welfare of an adult or in a situation in which an adult is unable to provide or obtain services which are necessary to maintain that person's health and welfare.
  - 2. In making the report to the adult Protective Services, the officer should provide the following information:
    - a) The name and address of the adult, or any other person responsible for the adult's care;
    - b) The age of the adult;
    - c) The nature and extent of the abuse, neglect or exploitation;
    - d) The identity of the perpetrator, if known;
    - e) The identity of the complaint if possible, in any other information the officer believes might be helpful in establishing the cause of abuse, neglect or exploitation.
- b. If a law enforcement officer has probable cause to believe that two or more persons committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall try to determine who was the primary aggressor. Arrest is the preferred response only with respect to the primary aggressor. The officer shop presumed that arrest is not the appropriate response for the person

or persons who are not the primary aggressor. If the officer believes that all parties were equally responsible, the officer shall use his or her best judgment in determining whether to arrest all, any or none of the parties.

- c. To determine who is the primary aggressor, the officer shall consider:
  - i. The history of domestic abuse between the parties;
  - ii. Evidence from the persons involved in the domestic abuse;
  - iii. The likelihood of future injury to each person;
  - iv. Whether one of the persons acted in self-defense;
  - v. Evidence from witnesses of the domestic abuse; And
  - vi. The relative severity of the injuries inflicted on each person.
- d. An officer shall not:
  - i. Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel; Or
  - ii. Base the decision on whether or not to arrest on:
    - 1. The consent or request of the victim; Or
    - 2. The officer's perception of the willingness of the victim or the witnesses to the domestic abuse to testify or participate in judicial proceeding.
  - iii. Issue a misdemeanor citation in lieu of arrest.
- e. When determining primary aggressor in self-defense during an investigation of domestic abuse, the officer should consider the following:
  - i. Pursuant to TCA 39-11-611, the self-defense statute, a person is justified in threatening or using force against another person when and to the degree of the person reasonably believes the force is immediately necessary to protect against the others use or attempted use of force. The person must have a reasonable belief that there is an imminent threat of death or serious bodily injury. The danger creating the belief up death or serious bodily injury must be real, or honestly believed to be real at the time, and must be founded upon reasonable grounds. There is no duty to retreat before a person uses force.

- f. If a law enforcement officer decides to arrest two or more parties, the officer shall include in the report the grounds for arresting two or more parties.
- VI. Seizure of weapons in domestic violence incidents
- a. If an officer has probable cause to believe that a criminal offence involving abuse against a family or household member has occurred , the officer shall seize all weapons that are alleged to have been used by the abuser or threatened to be used by the abuser in the Commission of a crime.
  - b. Incident to arrest for a crime involving abuse against a family or household member and officer Macy's a weapon that is in Plainview or discovered pursuant to a consensual search if necessary, for the protection of the officer or other persons. Provided, however, an officer is not required to remove a weapon such officer believes is needed by the victim for self-defense.
  - c. The provisions of TCA 39-17-1317, relative to the disposition of confiscated weapons shall govern all weapons seized pursuant to this law that were used or threatened to be used by the abuser to commit the crime. All other weapons seized shall be returned upon disposition of this case.
- VII. Nonarrest situations
- a. Officers may use discretion in determining whether to leave the residence while both parties are present or asking one party to agree to leave temporarily.
  - b. Officers may have one or both parties sign an affidavit as to what happened in the alleged incident.
  - c. Officers should stand by while one party gathers belongings to go to a place of safety.
- VIII. Orders of protection
- a. Administration
    - i. A line of communication should be established between the courts regularly issuing orders of protection to ensure copies are issued to the appropriate agencies.
    - ii. Appropriate agency should serve the order of protection to the respondent an inner such order into the Tennessee Crime Information Systems State of Tennessee Orders of Protection (S.T.O.P.) file.

b. Enforcement

- i. When informed that an order protection is in effect, officers will verify its existence invalidity by contacting the issuing court or by making inquiry to the State of Tennessee Orders of Protection (S.T.O.P.) file to determine the contents of the order.
- ii. In the case of ex-parte order protection officer should ensure that it has been “served” on the respondent or that the respondent has otherwise acquired actual knowledge of his existence before taking further action
  1. In making a determination if the respondent does in fact have actual knowledge of an ex parte order of protection, officers may rely on the notation on the order itself showing another officer has made notification, entry into the state of Tennessee orders of protection file, at a mission by the respondent, or any information supplied by the petitioner or other party which may be reasonably believed.
  2. If the respondent does not have actual knowledge of the ex parte order of protection, officer should inform him or her of the existence and the substance of its contents.
  3. Officer should notify the appropriate agency that the respondent has been notified of the order and to modify the entry into the state of Tennessee orders of protection file.
  4. If service has been previously made or officers determined that the respondent had actual knowledge thereof, and there is probable cause to believe that they respond it has violated the terms of the order and officers have jurisdiction, officers shall arrest the respondent.
  5. If the order has been issued in another County, officers should make every attempt to verify the order, its service of whether the respondent has actual knowledge of the order. A request may be made to the issuing County to fax a copy of the order. Upon receipt of the order, officers will take appropriate action. If out of

County orders cannot be verified coming no action will be taken.

IX. Stalking

- a. Incidents of domestic abuse often culminate into acts of stalking against the victim. As states in TCA 39-17-315:
  - i. “A person commits the offence of stalking who intentionally and repeatedly follows or harasses another person in such a manner as we cause that person to feel terrorized, frightened, intimidated, threatened, harassed, or molested , and the actually causes the victim to fill terrorist, frightened, intimidated, threatened, harassed, or molested.”
    - 1. Follow means maintaining a visual or physical proximity over a period of time to a specific person in such a manner as would cause a reasonable person to have fear of an assault come up bodily injury or death.
    - 2. Harasses means a course of conduct directed at a specific person which would cause a reasonable person to fear an assault, bodily injury or death, including but not limited to verbal threats, written threats, vandalism or non-consented physical contact.
    - 3. Repeatedly means on two or more separate occasions.

X. Victim Assistance

- a. Pursuant to TCA 36-3-619, the officer shall offer to transport the victim to a place of safety such as a shelter or similar location or the residence of a friend or relative, unless it is impractical for the officer to transport the victim, in which case the officer shall offer to arrange for transportation as soon as feasible;
- b. Offer to transport the victim to the location where arrest warrants are issued in the city or County and assist the victim in obtaining the arrest warrant against the alleged abuser;
- c. Advise the victim of a shelter or other service in the community; And
- d. Provide the victim notice of legal rights available by giving the victim a copy of the following statement:
  - “IF YOU ARE THE VICTIM OF DOMESTIC ABUSE, you have the following rights:
    - 1. You may file a Criminal complaint with the District Attorney general.

2. You may request a protection order. A protection order may include the following:

- a) An order preventing the abuser from committing further domestic abuse against you,
- b) An order requiring the abuser to leave your household,
- c) An order preventing the abuser from harassing you or contacting you for any reason,
- d) An order giving you or the other parent custody or Visitation with your minor child or children,
- e) An order requiring the abuser to pay money to support you in the minor children if the abuser has legal obligation to do so, and
- f) An order preventing the abuser from stalking you. The area crisis line is 865-966-STOP (865-966-7867)

- e. The victim will acknowledge receipt and understanding of these rights by signing the form.
- f. If the offender is arrested inform the victim that the offender may be allowed to post bail to be released.

XI. Reporting procedures

- a. When an officer investigates an allegation that domestic abuse has occurred, the officer shall make a complete report in file the report with the officer's supervisor.
- b. If the officer decides not to make an arrest or decides to arrest two or more parties, the officer shall include in the report the grounds for not arresting anyone or arresting two or more parties.
- c. If the officer seizes any weapons, an inventory of seized weapons shall be appended to the domestic abuse report.
- d. The "Domestic Violence Investigations Law Enforcement Log Sheet" shall be forwarded on or before the 10th day of the month following the month of the report to the administrative office of the courts.

XII. Post arrest procedures

- a. The law enforcement agency having custody of the defendant shall provide a copy of the conditions of release or bail to the defendant upon his or her release.

- b. When a defendant who is arrested for or charged with a domestic abuse crime or a violation of an order or protection is released from custody the law enforcement agency having custody shall:
  - i. Use all reasonable means to immediately notify the victim of the alleged offence of the release, and
  - ii. Furnish the victim of the alleged offence at no cost a certified copy of the conditions of release;
  - iii. Notify probation or parole Department if the defendant is on probation or parole.

### XIII. Training

- a. The training officers shall be responsible for implementing a comprehensive training program for officers who are likely to encounter situations of domestic violence. The goals of the training are to inform the officers of:
  - i. Domestic abuse laws;
  - ii. Department's domestic abuse policy and procedure;
  - iii. Dynamics of domestic abuse;
  - iv. Police officer safety tactics;
  - v. Response and investigation procedures;
  - vi. Methods of victim assistance;
  - vii. Community resources available such as battered women's shelters.

### XIV. Evaluation

- a. The chief of police, or designee, shall ensure the review of this policy on an annual basis and make any revisions deemed necessary.
- b. The purpose of the evaluation will include, but not be limited to:
  - i. Determining whether policy goals have been met;
  - ii. Determining the effectiveness of the response;
  - iii. Determining the effectiveness of the data collection system;
  - iv. Measuring the community response to the department's performance;
  - v. Determining whether all required laws are being met;
  - vi. Identifying additional training needs.