

Fennimore Police Department Domestic Abuse		
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PURPOSE

The purpose of this policy is to establish guidelines for officers responding to domestic abuse complaints. Our goal is to keep victims safe and hold abusers accountable for criminal behavior.

POLICY

It is the policy of the Fennimore Police Department to thoroughly investigate all domestic abuse incidents and arrest the predominant physical aggressor when supported by probable cause that a domestic abuse crime has been committed.

DISCUSSION

The Fennimore Police Department is committed to addressing domestic abuse complaints. Officers should always be aware the potential for continued violence exists and they may find themselves dealing with volatile and irrational combatants. Officers should respond to each situation with respect for the rights and dignities of all parties involved while using extreme caution.

DEFINITIONS

- **Domestic Abuse:** means any of the following activities engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided, or against an adult with whom the person has a child in common, Wis. Stat. § 940.225(1)(a).
 - Intentional infliction of physical pain, physical injury or illness.
 - Intentional impairment of physical condition.
 - An act of First, Second, or Third Degree Sexual Assault, as defined in Wis. Stat. § 940.225. (Note: Marriage is not a bar to prosecution for sexual assault.)
 - A physical act which may cause the other person reasonably to fear imminent engagement in the conduct described above.

- **Predominant Aggressor** - means the most significant, but not necessarily the first, aggressor in a domestic abuse incident, Wis. Stat. § 940.225(1)(e).

PROCEDURE

Circumstances Requiring Arrest

Officers shall arrest and take a person into custody if the officer has reasonable grounds to believe that the person is committing or has committed domestic abuse and the person's actions constitute the commission of a crime and any of the following circumstances are present, Wis. Stat. § 968.075(2):

- The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim is likely.
- There is evidence of physical injury to the alleged victim.
- The person is the predominant aggressor.

On occasion, officers will encounter a victim who is too afraid of the suspect to make a formal complaint. Likewise, officers deal with victims who desire enforcement action, only to recant later. The officer is responsible for determining if the essential elements of a crime are present and will ultimately decide if an arrest shall be made.

- An officer's decision to arrest under this policy may not be based upon the consent of the victim to any subsequent prosecution or on the relationship of the persons involved in the incident.
- An officer's decision not to arrest may not be based solely upon the absence of visible indications of injury or impairment.
- If the suspect is not on the scene and cannot be located within a reasonable amount of time, the investigating officer shall complete the investigation and refer the report to the District Attorney's Office requesting the issuance of a complaint and warrant or summons.
- Officers should be aware of Wis. Stat. § 968.075(6m), Officer Immunity, which states that officers are immune from civil and criminal liability arising out of a decision to arrest or not arrest if the decision is made in a good faith effort to comply with this policy.
- When determining to arrest a subject, officers should consider whether the party acted in self-defense or in defense of another.

- If the officer's probable cause for arrest is based on a report of an alleged domestic abuse incident, the officer is required to make an arrest only if the report is received by the Fennimore Police Department within 28 days after the incident is alleged to have occurred.
- When the officer has probable cause to believe that spouses, former spouses, or other adults who reside together or formerly resided together or adults who have at least one child in common are committing or have committed domestic abuse against each other, the officer does not have to arrest both persons, but should arrest the person whom the officer believes to be the predominant aggressor. In determining who is the predominant aggressor, an officer should consider the following:
 - The need to protect victims of domestic violence.
 - The relative degree of injury inflicted on the persons involved.
 - Any history of domestic abuse between these persons, if the officer can reasonably ascertain that history.
 - Statements made by witnesses.
 - The extent to which each person present appears to fear any party.
 - Whether any party is threatening or has threatened future harm against another party or another family or household member.
 - Whether either party acted in self-defense or in defense of another person.
- Officers are discouraged but not prohibited from arresting more than one party. If both parties engaged in domestic abuse and only the predominant aggressor was arrested, officers will document in their reports why only one party was arrested (Example: small children were present at the scene and one party was required to care for them.)
- Fennimore Police Officers may make an arrest in situations that may not meet the domestic abuse mandatory arrest criteria but in which the officer has reasonable grounds to believe continued domestic abuse against the victim is likely and/or there is evidence of physical injury to the alleged victim. (Example: reports of incidents which occurred more than 28 days ago or incidents involving parties who are in a dating relationship but are not living together.)

Victim's Rights and Services

Victims of domestic abuse will be provided an *Information for Victims of Crime in Wisconsin* brochure explaining victim rights, agency contact information and local domestic abuse support services. The "If you are the victim of domestic abuse" paragraph on the front page of the brochure will be read to victims.

Release of Arrested Subjects

Immediate release of a person arrested pursuant to mandatory arrest criteria is prohibited.

- Release is permitted if:
 - Arrested subjects post an appropriate bond prior to release or
 - Arrested subjects appear before a judge for an initial appearance
- The arresting officer is responsible for having the 72 hour no contact form signed by the suspect and providing the jail with a copy of the form.

The *Information for Victims of Crime in Wisconsin* provides victims with information on how to contact the Grant County Jail or WI-VINE services to receive notification of changes in suspect custody status.

Required Reports and Notices

If a law enforcement officer does not make an arrest under this section when the officer has probable cause to believe that a person is committing or has committed domestic abuse and that person's acts constitute the commission of a crime, the officer will prepare a written report stating why the person was not arrested. The report will be sent to the district attorney's office for review immediately after investigation of the incident has been completed.

When a person is arrested for domestic abuse, the officer will complete the "Victim Notice – No contact Provision" form with the victim. This form advises the victim of the provisions of Wis. Stat. § 968.075(5). The form will be reviewed with the victim. If the victim refuses to sign the form, the officer will indicate this on the form and have a second person witness the refusal to sign if possible. **Absent a signed waiver, the 72-hour no-contact provision will be in effect.**

When a person is arrested for domestic abuse, the officer must ensure that the "Notice of No Contact Provision Increased Penalty Conditional Release" form is completed and signed. This form must be completed after the victim completes the "Victim Notice – No contact Provision" form. **If the suspect refuses to sign the 72 hour no contact form, the suspect will not be released from custody, Wis. Stat. § 968.075(5)(b) 1.** This form is not required if the victim chooses to waive the 72-hour no-contact provision of the offender's arrest.

Domestic Abuse Incidents Involving Police Department Personnel

When Fennimore Officers respond to an incident of alleged domestic violence involving department personnel, the responding officers should do the following:

- Secure the scene, separate the involved parties and request an outside agency (Grant County Sheriff's Office, City of Lancaster or City of Boscobel Police) respond and investigate the incident.
- Notify a supervisor.

DISCLAIMER

This policy is for department use only and does not apply in any criminal or civil proceeding. Department policy should not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violation of this policy will only form the basis for departmental administrative sanctions and is not intended for use in courts of civil or criminal jurisdiction.

/s/ Christopher J. French

09/21/2020

Christopher J. French
Chief of Police

Date