

Domestic Violence Policy

Date of Issue: August 27, 2012/Revised 11-13-18
General Order: 01-1995
Subject: Domestic Violence Policy
Issued By: Annette M. Mecklenburg, Chief of Police

PURPOSE:

To provide police officers of the city of Cleveland Heights guidelines and procedures to follow when responding to calls of domestic violence. It is the intent of this policy to prescribe preferred courses of action which police officers should take in response to domestic violence that will enforce the law while also serving to intervene and prevent future incidents of violence.

POLICY:

It is the policy of this agency to reduce the incidence and severity of domestic violence, protect victims of domestic violence and provide support through a combination of law enforcement and community services. The intent of this policy is to prescribe that the preferred course of action is arrest.

PROCEDURES:

- A. Officers shall observe that the state's domestic violence law has changed significantly in four areas. Officers shall conform to these changes:
1. The preferred course of action is to arrest the primary physical aggressor if there are reasonable grounds to believe that the offense of domestic violence has been committed or a protection order has been violated.
 2. A police officer who investigates domestic violence or alleged violation of a protection order shall make a written report whether or not an arrest is made; if the officer does not make an arrest, the report must contain a clear statement of the officer's reasons for not doing so.
 3. The victim must be advised of the availability of a temporary protection order or civil protection order and be provided with the following information: the report-taking officer's name, badge number and rank; the report number; a telephone number the victim can call for information about the case; the telephone number of a domestic violence shelter in the area; and information about any local victim advocate program.
 4. There is now statewide enforcement of a Temporary Protection Order and Civil Protection Orders; a complainant may file a notice of the issuance of a TPO or CPO with any law enforcement agency in any county. A Temporary Protection

Order or Civil Protection Order issued anywhere in the state, and properly registered with any law enforcement agency, is enforceable in Cleveland Heights even if the Cleveland Heights Police Department has not been provided with a copy of the order.

Officers shall note that the new state law provides sanctions to be imposed upon a peace officer who fails to comply with any provision in the policy or with the arrest policies specified in Section 2935.03.

B. Effective immediately, officers are required to comply with the following guidelines:

1. Officers shall arrest the primary physical aggressor where there are reasonable grounds to believe that an offense of domestic violence has taken place.
 - a. If the officer determines that a person has caused serious physical harm or attempted to cause serious physical harm by means of a deadly weapon, the officer shall treat the incident as a felonious assault and arrest the primary physical aggressor; the officer is not required to arrest but may arrest any other person who committed an offense but is not the primary physical aggressor.
 - b. The officer shall treat the incident as an aggravated assault if the party who caused or attempted to cause serious physical harm was under the influence of sudden passion caused on the part of the victim by serious provocation of a nature that would incite a reasonable person to use deadly force.
 - c. An officer shall treat an incident as domestic violence when the officer has reasonable grounds to believe that:
 - (i) a person knowingly caused or attempted to cause physical harm to a family or household member, or;
 - (ii) a person recklessly caused physical harm to a family or household member.
 - d. An officer shall treat an incident as domestic violence when the officer has reasonable grounds to believe that a person by threat of force knowingly caused a family or household member to believe they were in imminent danger of physical harm.
 - e. Reasonable grounds exist when:
 - (i) a person executes a written statement alleging domestic violence;
 - (ii) no written statement has been executed, but the officer has trustworthy information given to him by the alleged victim or a witness to the offense;
 - (iii) the officer witnesses the offense.

- f. If there are reasonable grounds that family or household members have committed the offense against each other, it is the preferred course of action to arrest the primary physical aggressor. In determining the primary physical aggressor, the officer should consider all relevant circumstances including:
 - (i) any history of domestic violence;
 - (ii) whether the alleged violence was caused by a person acting in self-defense;
 - (iii) the comparative severity of any injuries;
 - (iv) each person's fear of physical harm and the reasonableness of that fear.
 - g. Officers shall not require that the victim consent to the filing of charges or sign a complaint as a prerequisite to arresting the offender.
 - h. An officer shall not consider as a factor any shortage of cell space at Cleveland Heights jail or any other detention facility in determining whether to arrest the offender.
 - i. The officer shall seize any deadly weapon that has been used or brandished in a domestic violence situation pursuant to O.R.C. 2933.43.
 - j. Officers shall enforce a Temporary Protection Order or Civil Protection Order when there exists reasonable cause to believe one has been issued. A Temporary Protection Order or Civil Protection Order issued anywhere in the state, and properly registered with any law enforcement agency, is enforceable in Cleveland Heights.
 - k. Officers shall not consider any failure of the alleged victim to testify against the offender at previous court proceedings for domestic violence in determining whether there exist reasonable grounds to arrest the offender. Officers shall consider the trustworthiness of any statements made by the alleged victim or witness in conjunction with available physical evidence in determining whether there exist reasonable grounds to believe an offense has occurred.
2. When responding to a call of domestic violence, officers shall perform all of the following:
- a. Respond without undue delay to a report of an alleged incident of domestic violence or a violation of a protection order. Officers shall consider any call dispatched as "domestic violence," "a family disturbance," "a disturbance at the household," "a family fight," "a family argument," "a domestic situation," "a possible domestic," "a fight inside the house," or any other similar description to be an incident of domestic violence, until such time as officers are able to

arrive on the scene and determine the exact nature of the call. At least two officers are to be dispatched to any domestic violence call. A basic patrol road supervisor shall be dispatched to any call of domestic violence or violation of a TPO or CPO, provided that one shall be available. If a basic patrol division road supervisor is not available, a traffic bureau road supervisor shall be dispatched, provided that one shall be available.

- b. Officers investigating domestic violence or an alleged violation of a protection order shall make a written report of the incident whether or not an arrest is made. The report is to be titled "Domestic Violence," and the P.O.C. code "3898" is to be used. If the officer does not arrest, the officer must articulate in the report a clear statement of the reasons for not arresting.
- c. Upon arriving at the scene of a domestic violence call, officers are to separate the alleged victim and the offender and conduct separate interviews in separate locations.
- d. Officers must advise the victim of the availability of a temporary protection order or a civil protection order. Officers shall provide for the victim the report-taking officer's name, badge number, and rank; the report number of the incident; a telephone number to the Cleveland Heights Police Department Detective Bureau for the purpose of checking upon case status; the Domestic Violence and Child Advocacy Center (216) 391- 4357, or the Family Helpline (216) 229 - 8800. This information is included in CHPD Form 2150, an example of which is attached to this General Order.
- e. Officers shall complete Form 2150 in its entirety. The form consists of two parts: the top portion of the form, titled "domestic violence reporting checklist", contains information for officers in order to ensure compliance with the new law; the bottom portion of the form is a domestic violence fact sheet containing information for the victim. The top portion of the form shall be attached by the OIC to the yellow copies of the report. The bottom portion of the form shall be completed legibly by the officer taking the report, after which the officer shall detach the bottom portion and give it to the victim of the domestic violence. The officer shall obtain the name of the person to whom the bottom portion of the form was given; this information shall be recorded on the last line of the top portion (departmental copy) of the form. In the event that the victim is unable to accept service of the bottom portion of the form (for example, if the victim were unconscious or undergoing medical treatment), the officer shall give the form to a family member or responsible person on behalf of the victim; the officer shall record this family member or responsible person's name on the last line of the top portion of the form and note that person's relationship to the victim.
- f. Officers' reports shall include:
 - The officer's observations of any injuries;

- Whether any weapons were observed at the scene;
 - An account of the actions or statements of the parties involved;
 - Whenever possible, a written statement from the victim that indicates the frequency and severity of any prior incidents of domestic violence, the number of times the victim has called for assistance and, if known, the disposition of those calls.
 - When charges are already pending against the offender for domestic violence or violation of a protective order and the offender violates a court order limiting the offender's pretrial behavior, the officer shall note any such violation in his report.
 - If the officer does not make an arrest, the report must contain a clear statement of the officer's reasons for not doing so.
- g. The investigating officer shall sign the complaint for domestic violence when the officer has reasonable grounds to believe that an offense of domestic violence has taken place but the victim is unwilling or unable to sign the complaint.
- h. Offenders arrested for domestic violence shall be charged in the appropriate degree specified in O.R.C. 2919.25 (D).
- i. Anytime an Officer takes a report for Domestic Violence, at the conclusion of his/her investigation, the Officer shall contact the Domestic Violence Hotline to report the information to a counselor. This information will then be to an advocate who will contact the victim to offer support and assistance. Some of the information that is to be provided will include, but is not limited to, name of the victim, name of the perpetrator, address of where incident occurred, and details surrounding the incident. The Hotline shall be notified in all cases of Domestic Violence when a report is taken, regardless of whether or not the victim wishes to pursue charges nor whether or the suspect was arrested.

The phone number for the Domestic Violence Hotline is 216-391-HELP (4357).

The Officer shall document in his/her report the fact that the Hotline was contacted regarding the incident, along with the name of the person to whom the information was given and the case number assigned to the call.

- C. The procedure for obtaining a Temporary Protection Order and Permanent Protection Order set forth in O.R.C. '2919.26 has changed.
1. The list of offenses for which a temporary protection order may be issued has been expanded to include a violation of any municipal ordinance that is substantially similar to the offense of domestic violence, assault, menacing by stalking or aggravated trespass and involves a person who was a family or household member.

2. Under the previous law, a person who requested a temporary protection order was required to appear before the court; the recently enacted law will permit another person to appear on behalf of the complainant when the complainant is unable to appear because of hospitalization or a medical condition resulting from the offense.
 3. During all stages of a proceeding dealing with a TPO, the complainant may be accompanied by a victim advocate or another person to provide support to the victim.
 4. Under the new law, a complainant may file a notice of the issuance of a TPO with any law enforcement official in any county. There is now statewide enforcement of a TPO. Officers shall enforce a valid temporary protection order issued by any Ohio court, regardless of whether the order is issued or registered in Cuyahoga County.
 5. The penalty for a violation of a TPO has been increased to a misdemeanor of the first degree.
- D. The law concerning Civil Protection Orders set forth in O.R.C. 3113.31 has changed.
1. Statewide enforcement of a Civil Protection Order is now required. Officers shall enforce a protection order or consent agreement approved by any Ohio Court and registered with a law enforcement agency in any county.
 2. The victim may be accompanied by an advocate at all stages of any proceeding dealing with a CPO.
- E. This order is not intended to hold officers, employees and agents of the Cleveland Heights Police Department to a higher standard of duty or standard of care than that which is required by state law and should not be interpreted as a more stringent policy than the one specified in O.R.C. 2935.03, et seq., revised effective 12-09-94.

Approved by the order of

Annette M. Mecklenburg, Chief of Police
(GENERAL ORDER #01-1995/revised 08-27-12/revised 11-13-18)