

North Dakota Model Law Enforcement Domestic Violence Policy

January 2010
Second Edition

Domestic Violence is a serious crime against the individual and the community. The purpose of this policy is to establish procedures for handling matters of domestic violence and abuse and to implement the most effective strategies for dealing with perpetrators of domestic violence.

**Endorsed by the North Dakota Attorney General's Office,
the North Dakota Chief's Association,
and the North Dakota Sheriff's Association**

Developed in collaboration with the following grant partners:

**North Dakota Attorney General's Office
North Dakota Department of Health – Injury Prevention & Control Division
Rural Crime & Justice Center – Minot State University
Tribal Judicial Institute – University of North Dakota
North Dakota Council on Abused Women's Services /
Coalition Against Sexual Assault in North Dakota (NDCAWS/CASAND)
Multi-Disciplinary Advisory Committee from across North Dakota**

This project was supported by Grant No. 2004-WE-AX-0051 awarded by the Office on Violence Against Women, U.S. Department of Justice to the North Dakota Department of Health. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

This policy is intended to be adapted by individual agencies and contains best practices associated with law enforcement domestic violence policies. Technical assistance is available through the North Dakota Council on Abused Women's Services/Coalition Against Sexual Assault in North Dakota (NDCAWS/CASAND) to assist agencies with the adaptation process.

For copies of this Model Policy or more information, contact:

Courtney Monroe, Criminal Justice Project Coordinator

NDCAWS/CASAND

418 East Rosser Avenue #320

Bismarck, ND 58501

701-255-6240

888-255-6240

cmonroe@ndcaws.org

www.ndcaws.org

This project was supported by Grant No. 2004-WE-AX-0051 awarded by the Office on Violence Against Women, U.S. Department of Justice to the North Dakota Department of Health. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

Acknowledgement of Grants to Encourage Arrests Program Advisory Committee

We gratefully acknowledge the assistance of the following organizations and individuals, without whose dedication, assistance, and cooperation, this project could not have been completed. Thank you.

Beth Lang, Victim/Witness Coordinator
US Attorney's Office
Bismarck, ND

Bonnie Palecek, Director
ND Council on Abused Women's Services
Bismarck, ND

Carly Mahoney, Advocate
Abused Adult Resource Center
Bismarck, ND

Dan Hill, Sheriff
Grand Forks Co. Sheriff's Dept.
Grand Forks, ND

Daryl Vance, Chief
Watford City Police Dept.
Watford City, ND

Dave Kleppe, Support Services Commander
ND State Patrol
Bismarck, ND

Don Charging, Sheriff
McLean Co. Sheriff's Dept.
Washburn, ND

Don Rudnick, Sheriff
Cass Co. Sheriff's Dept.
Fargo, ND

Donovan Rasmuson, Lieutenant
UND Police Dept.
Grand Forks, ND

Donovan Wind Sr., BIA
Spirit Lake Reservation
Ft. Totten, ND

Glen Hase, Advocate
Rape & Abuse Crisis Center
Fargo, ND

James A Boehm, Administrative Officer III
FBI CJIS SYSTEMS Officer
ND Division of State Radio
Bismarck, ND

Janelle Moos, Community Response & Prevention Specialist
ND Council on Abused Women's Services
Bismarck, ND

Jerard Hoeger, BIA
Ft. Berthold Reservation
New Town, ND

Jim Vigness, Detective
Grand Forks Police Dept.
Grand Forks, ND

Jonathan Byers, Attorney
ND Attorney General's Office
Bismarck, ND

Keith King, Chief
Bowman Police Dept.
Bowman, ND

Lloyd Halvorson, Director
Law Enforcement Training Academy
Devils Lake, ND

Mark Gaddis, Detective
Bismarck Police Dept.
Bismarck, ND

Mary Dasovick, Director of Injury Prevention and Control
Community Health Section
ND Department of Health
Bismarck, ND

Maureen Nelson, Assistant Director
Red River Regional Dispatch Center
Fargo, ND

Nancy Murphy, Sergeant
Minot Police Dept.
Minot, ND

Rebecca Ruzicka, Research Associate
Rural Crime & Justice Center
Minot State University
Minot, ND

Roberta Crows Breast, Director
Ft. Berthold Coalition Against Domestic Violence
New Town, ND

Ron Krivoruchka, Chief
Harvey Police Dept.
Harvey, ND

Rosie Doerr, Dispatcher
ND State Radio
Bismarck, ND

Shelly Carlson, GTEA Coordinator
ND Council on Abused Women's Services
Bismarck, ND

Steven Bay, Sheriff
Grant Co. Sheriff's Dept.
Carson, ND

Tahira Hashmi, Attorney
UND Tribal Judicial Institute
Grand Forks, ND

Travis Paeper, Sheriff
Sargent Co. Sheriff's Dept.
Forman, ND

Vikki Lorenz, Victim/Witness Coordinator
Williams Co. State's Attorney's Office
Williston, ND

This policy was adapted from numerous model policies throughout the United States and North Dakota. The majority of the policies contained similarly worded informational content. Specific model policies extensively utilized were from the states of Kentucky, Virginia, Vermont, and Massachusetts, from Marin County California, and from the cities of Nashville – TN, Grand Forks – ND, and Minot, - ND.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS	iii
DEVELOPMENT OF THE NORTH DAKOTA MODEL LAW ENFORCEMENT DOMESTIC VIOLENCE POLICY	5
PURPOSE / POLICY STATEMENT	6
DEFINITIONS	7
911 OPERATOR / DISPATCHER RESPONSE	9
INITIAL RESPONSE AND INVESTIGATION	11
ARREST DECISIONS	16
COURT ORDERS	19
VICTIM ASSISTANCE	21
REPORTS	24
SUPERVISOR RESPONSIBILITIES	26
TRAINING	29
INTERAGENCY COLLABORATION / MULTIPLE JURISDICTIONS	32
OFFICER INVOLVED AS AN OFFENDER OR VICTIM OF DOMESTIC VIOLENCE	34
APPENDICES (<i>Appendices folder</i>)	35

DEVELOPMENT OF THE MODEL POLICY

North Dakota Century Code § 14-07.1-14 states “Every law enforcement agency shall develop and implement...specific operational guidelines for arrest policies and procedures in crimes involving domestic violence”. This law was passed in 1989; however, a 2003 analysis conducted by the Rural Crime and Justice Center (RCJC) at Minot State University revealed that over 65% of law enforcement agencies in North Dakota did not have any such policy in place. This fact created an atmosphere of urgency for law enforcement and advocates throughout North Dakota and was the impetus for the North Dakota Department of Health – Injury Prevention and Control Division, in collaboration with the Council on Abused Women’s Services/Coalition Against Sexual in North Dakota (NDCAWS/CASAND), to seek funding through the Department of Justice Grants to Encourage Arrest Policies and Procedures Program (GTEA).

The North Dakota Department of Health – Injury Prevention and Control Division received GTEA funding in September of 2004, and contracted with NDCAWS/CASAND to carry out the goals and objectives of the grant. This funding allowed NDCAWS/CASAND to establish a statewide advisory committee to examine law enforcement domestic violence policies and hire a coordinator to assist the advisory committee with developing a model law enforcement domestic violence policy for North Dakota.

The advisory committee met in December of 2004, and again in June of 2005. During that time period they examined numerous drafts of this model policy and made many collaborative decisions regarding content, length, and overall philosophical ideology of the model policy. The final draft was approved by the committee in August 2005. In January 2006, the Office on Violence Against Women approved the policy. The policy has also been reviewed and endorsed by the following: the North Dakota Attorney General’s Office – October 2005, the North Dakota Chief’s Association – January 2006, and the North Dakota Sheriff’s Association – January 2006.

Since the development and distribution of the Model Policy in January 2006 there have been additional changes in legislation and language. This is the second edition which includes legislative updates from the 2007 and 2009 legislative sessions. This edition also includes information specific to strangulation as well as other updates in the appendices.

PURPOSE

Domestic violence is a serious crime against the individual and the community. The failure of any law enforcement officer to properly respond and handle a domestic violence call will expose individuals and the community to danger up to and including death. Because domestic violence can and does result in the death of individuals, every response to a domestic call should be treated the same as any other crime against a person.

The purpose of this policy is to establish procedures for addressing matters of domestic violence and to implement the most effective strategies for dealing with perpetrators of domestic violence. Domestic violence is often the result of unique and subtle emotional and social circumstances and, therefore, requires judicious response and rational application of a law enforcement officer's professional judgment and discretion. Law enforcement must exercise leadership in the community in responding to domestic violence cases and should optimize and coordinate all available resources for the handling of domestic violence cases.

POLICY STATEMENT

Victims of domestic violence should be treated with respect and dignity and be given all available assistance by law enforcement personnel responding to an incident of domestic violence. Every step possible should be taken to insure the safety of the victim, including providing a safety plan to the victim and, if necessary, transporting the victim and children to another site for their safety and protection.

The principal purpose of this policy is to establish procedures to be followed by law enforcement officers responding to domestic violence incidents so as to assure a consistent and effective response. Additionally, this policy seeks to:

1. Prevent future incidents of domestic abuse by establishing arrest as the preferred initial law enforcement response.
2. Reaffirm police responsibility and authority to make arrest decisions in accordance with state law and established probable cause standards.
3. Document allegations of domestic violence so there can be meaningful prosecution and delivery of victim services.
4. Assist in making determinations of the most immediately significant aggressor and utilizing investigation techniques to prevent dual arrest.

Appropriate and effective police response to domestic violence calls is the best mechanism for enhancing victim safety. It is also the means by which police departments can minimize departmental liability. It is, therefore, imperative that law enforcement officers receive appropriate initial training in the handling of domestic violence complaints along with training on an annual basis. Additionally, legal updates training should be provided every two years along with training pertaining to policies and procedures outlined here. It is also imperative that departments follow the statutory obligations for action, and implement these guidelines.

DEFINITIONS

- A. **“Bodily Injury”** means **“any impairment of physical condition, including physical pain”**. N.D.C.C. §12.1-01-04(4)
- B. **“Dependent Child”** means **“an individual under the age of eighteen (18) years”**. N.D.C.C. §12.1-35-01(1).
- C. **"Domestic Violence"** includes **“physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members”**. N.D.C.C. §14-07.1-01(2)
- D. **“Domestic Violence / Sexual Assault Organization”** means **“a private, nonprofit organization whose primary purpose is to provide emergency housing, twenty-four hour crisis lines, advocacy, supportive peer counseling, community education, and referral services for victims of domestic violence and sexual assault”**. N.D.C.C. § 14-07.1-01 (3)
- E. **"Family or household member"** means **“a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they are or have been married or have lived together at any time, and, for the purpose of the issuance of a domestic violence protection order, any other person with a sufficient relationship to the abusing person as determined by the court under N.D.C.C. § 14-07.1-02”**. N.D.C.C. § 14-07.1-01 (4)
- F. **“Foreign Protective Order”** means **“a protection order issued by a tribunal of another state”**. N.D.C.C. § 14-07.4-01 (1)
- G. **“Intimidation”** means unlawful coercion which is compulsion by physical force or threat of physical force. Coercion is intended to restrict another’s freedom of action by: (1) threatening to commit a criminal act against that person, (2) threatening to accuse that person of having committed a criminal act, (3) threatening to expose a secret that either would subject the victim to hatred, contempt, or ridicule or would impair the victim’s credit or goodwill, or (4) taking or withholding official action or causing an official to take or withhold action. It also includes conduct that constitutes the improper use of economic power to compel another to submit to the wishes of one who wields it. (Black’s Law Dictionary, 2000)
- H. **“Law enforcement officer”** means **“a public servant authorized by law or by a government agency to enforce the law and to conduct or engage in investigation of violations of law”**. N.D.C.C. § 14-07.1-01(6)

- I. **"Predominant aggressor"** means **"an individual who is the most significant, not necessarily the first, aggressor"**. N.D.C.C. §14-07.1-01(7).
- J. **"Probable Cause"** to justify an arrest means facts and circumstances within the officer's knowledge that are sufficient to warrant a prudent person, or one of reasonable caution, in believing in the circumstances shown, that the suspect has committed, is committing, or is about to commit (in the case of a threat) a crime. Probable cause is frequently referred to in cases and statutes as "reasonable grounds". (Black's Law Dictionary, 2000)
- K. **"Protection order"** means **"an injunction or other order, issued by a tribunal under the domestic violence or family violence laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to another individual. The term includes an injunction or other order issued under the antistalking laws of the issuing state. N.D.C.C. §14-07.4-01(5).**
- L. **"Self-defense"** means **"a person is justified in using force upon another person to defend himself against danger of imminent unlawful bodily injury, sexual assault, or detention by another person"**. N.D.C.C. §12.1-05-03. **"A person is justified in using force upon another person in order to defend anyone else if the person defended would be justified in defending himself"**. N.D.C.C. §12.1-05-04 and N.D.C.C. §12.1-05-04(1)
- M. **"Serious bodily injury"** means **"bodily injury that creates a substantial risk of death or which causes serious permanent disfigurement, unconsciousness, extreme pain, permanent loss or impairment of the function of any bodily member or organ, a bone fracture, or impediment of air flow or blood flow to the brain or lungs. N.D.C.C. 12.1-01-04 (29)**
- N. **"State"** means **"a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band that has jurisdiction to issue protection orders"**. N.D.C.C. § 14-07.4-01 (7)
- O. **"Substantial bodily injury"** means **"a substantial temporary disfigurement, loss, or impairment of the function of any bodily member or organ"**. N.D.C.C. §12.1-01-04(31)
- P. **"Victim"** means **"a natural person who has suffered direct or threatened physical or emotional harm where there is probable cause to believe that the harm has been caused by the commission of a criminal act. The term "victim" includes the family members of a minor, incompetent, incapacitated, or deceased person"**. N.D.C.C. §12.1-34-01(8).
- Q. **"Present Sense Impression"** A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter. North Dakota Supreme Court. Rule 803. Hearsay Exceptions. (1).
- R. **"Excited Utterance"** a statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition. North Dakota Supreme Court. Rule 803. Hearsay Exceptions. (2).

911 OPERATOR / DISPATCHER RESPONSE TO DOMESTIC VIOLENCE CALLS

- A. The dispatcher who receives a call reporting threatened, imminent, or ongoing domestic violence, and/or the violation of any protection order, including orders issued pursuant to **N.D.C.C. § 14-07.1-06** and restraining orders, shall rank the call among the highest priority calls. The dispatcher shall dispatch officers to every reported incident. The dispatcher, whenever possible, shall dispatch two officers to the scene.
- B. The dispatcher receiving a call regarding domestic violence should make every effort to keep a victim of domestic violence on the telephone until field units arrive. This provides assistance in monitoring the situation and enables the dispatcher to provide the most recent information to the field officers when they arrive at the scene. The dispatcher will obtain as much information as possible and communicate the information to the field units. The dispatcher shall determine the following, if possible:
- What is the emergency? Address? Apartment number? Call back number? Other phone number where caller might be located?
 - Is anyone injured?
 - If yes, is an ambulance needed?
 - Are weapons involved or available? Has a weapon been used in the past?
 - Who am I speaking to? Are you the victim? If not, where is the victim? Are you a witness?
 - Is the domestic verbal or physical?
 - What has happened? What is happening right now?
 - Who is the suspect and is he/she present? If not, has the suspect left the scene (i.e. on foot, in a vehicle, etc., Obtain a description of the suspect, description of vehicle, the direction in which the suspect left, and his/her expected whereabouts).
 - Any alcohol or drugs involved? Any alcohol or drugs at the scene?
 - Are there children present? How many? What is their location at the scene?
 - Are there other individuals present? How many? What is their location at the scene?
 - Is there any type of restraining order in place? Has the suspect been served a copy of the order?
 - Any outstanding warrants?
 - Is there a previous history of domestic violence / assault? Have the police been to this address before?
 - Are there threats of suicide / homicide? Have there been threats in the past?
- C. If the phone call is disconnected, the dispatcher will immediately attempt to re-establish contact with the caller and notify field units. If the assailant is interfering with the phone call, the dispatcher will notify the field units of this information. Field units will still respond if the phone call has been disconnected or if the caller requests cancellation of the call.
- D. If the complainant must leave the telephone to seek safety, advise the complainant to lay the phone down and not disconnect so dispatch or 911 operator can monitor the situation.

- E. The dispatcher or 911 operator, in speaking with a victim of domestic violence, will **not** discuss the victim's desire to "press charges", "drop charges", or "prosecute". It is inappropriate for any dispatcher or 911 operator to make any comment or statement which seeks to place the responsibility for enforcement action with the victim.
- F. Agencies taking domestic violence calls should be aware that the 911 tape frequently becomes a valuable piece of evidence in the prosecution of domestic violence cases, and should, therefore, make every effort to preserve this evidence and not discard / tape over / delete the 911 call. [Please review **N.D.C.C. §12.1-11-05(1) (b)** for further explanation.]
- G. Dispatch centers should have a current list of domestic violence programs, shelters, and victim/witness programs on hand to assist law enforcement in offering services to victims of domestic violence. [See Appendix A, B, and C.]
- H. When possible, check with officers to find out if they want the recording of the 911 phone call.

INITIAL RESPONSE AND INVESTIGATION

A. Officer Safety / Arrival at the Scene – NOTE: Officer safety should guide all responses to domestic violence calls.

1. Obtain all available information from the dispatcher before or upon arrival at scene.
2. Approaching the scene:
 - a. Whenever possible, a minimum of two law enforcement officers should respond to a domestic call.
 - b. Avoid the use of sirens and other such alarms, when allowed by law and policy and when safe arrival is still possible, in the vicinity of the scene. (The assailant may turn a weapon upon law enforcement, or flee the scene, if alerted.)
 - c. Observe the location of the dispute before contacting the complainant. Consider the surroundings. If possible, approach and park in a manner not to be seen.
 - d. Before knocking on the door, listen and look in any nearby window(s) to obtain additional information about the situation (layout of the house, number of people involved, weapons, etc). Law enforcement must be concerned for their own safety. To minimize the possibility of injury, law enforcement should stand to the side of the door when knocking. The unexpected may occur when the door opens.

B. On Scene Response

1. Identify selves as law enforcement, give an explanation of law enforcement presence, and request entry into the home. Ascertain identity of complainant – ask to see complainant.
 - a. If entry is refused, law enforcement must explain that they need to make sure there are no injured persons inside.
 - b. Refusal of entry or no response to a knock at the door may require a forced entrance to check safety of people inside. Law Enforcement may also make a warrantless entry to conduct a search if emergency /exigent circumstances exist. Law Enforcement must have a reasonable belief that such an emergency does exist (i.e. if law enforcement believes that someone is in distress and in need of assistance). Exigent circumstances are defined as:
 - (1) Lives are threatened;
 - (2) Property and/or evidence is about to be destroyed; or
 - (3) Suspect's escape is imminent.
 - c. Law enforcement may conduct a search of the premises if consent has been given to do so. Although a consent search eliminates a need for a warrant and for probable cause, such consent must be freely and voluntarily given. If two people have joint ownership or possession of a place or thing, either one may give a valid consent.

- (1) A spouse can consent to the search of premises used jointly by both husband and wife. This is also true if man and woman are only cohabitants. If one of them exercises sole control over part of the premises, the other cannot give valid consent to search that part.
2. Once entry is secured, law enforcement shall:
 - a. If possible, physically separate parties involved in domestic violence to prevent any further immediate contact between the parties. **[Note: This includes removing the victim from the suspect's line of sight. If it is necessary to remove one party from inside the residence to the outside area, and officer safety permits, the suspect should be removed outside and the victim allowed to remain inside in a protected environment.]**
 - b. Restore order by gaining control of the situation.
 - c. Take control of all weapons used or threatened to be used in the crime. **NOTE: For the safety of both parties, if it is not required in a protection order, an officer still may suggest the respondent surrender weapons to law enforcement for a temporary period of time.**
 - d. Assess the need for medical attention and call for medical assistance if indicated.
 - (1) If a party appears minimally injured and yet refuses medical assistance, carefully document any observed injuries as well as the refusal of medical treatment.
 - (2) If a party appears severely injured, medical personnel shall be called with or without the consent of the party.
 - Attempt to obtain a medical records release signed by the victim/suspect at the scene, when possible.
 - If possible, send waiver signed by victim/suspect to medical facility as soon as possible and obtain copy of records for report including doctor's name and phone number.
 - e. Document all parties present at the scene.
 - f. Interview all parties i.e. victim, suspect, children, and/or any witnesses separately and away from the line of sight and hearing of the suspect; Use direct quotes of victims and witnesses about their fears and concern
 - g. Assess and document the condition of the incident scene. What does it look like? (i.e. holes in wall, broken items, chairs tipped over, etc.) **[Note: Photograph and/or videotape scene and document in report.]**
 - h. Record/document any excited utterances
 - i. Collect and photograph all relevant evidence required for successful prosecution **[Note: Use Appendix D or E to document any injuries.]**
 - j. Determine if a crime has occurred.

C. Preliminary Investigation

1. Interviewing all individuals present at scene

- a. Ensure safety and privacy by interviewing the victim in a place separate from the suspect.
- b. Critical to the success of the interview is the law enforcement officer's demeanor. Officers must listen, show interest in the disputants and their problem, maintain objectivity, and remain aware of nonverbal communications signals. Maintain good eye contact through natural, spontaneous glances. (Fixed gazes or staring increase fear and hostility.). A relaxed stance and appropriate facial and head movements demonstrate interest and encourage the parties to continue speaking.
- c. After the parties have provided their statements, the officers should ask about details for clarification, and summarize the stated account (which allows the parties to point out anything that might be misrepresented).
- d. Determine if there is a need for an interpreter/translator for any of the parties. Be mindful of the implication of using children as translators.
- e. Be aware that parties may make excited utterances which may have evidentiary value. Record these utterances when practical and note them in your report.

2. Interviewing victim

[Note: If possible, officer should tape record the victim's- with the victim's consent – statement for evidentiary purposes]

- a. Determine what happened.
- b. Ascertain if anyone has any injuries, who caused them, and what weapons or objects were used to perpetrate the violence.
- c. Ascertain victim's relationship to the suspect.
- d. Ascertain if any threats were made against the victim or others, particularly children.
- e. Ascertain if any property was damaged or if any pets were hurt.
- f. Ascertain if there was any forced sexual contact against the victim's will.
- g. Determine if there are any court cases pending against the suspect or if there are any protective orders in effect.
- h. Determine if the suspect is on probation or parole.
- i. Document victim's condition and demeanor in report.
- j. Photograph and document in report:
 - Damaged clothing while on the victim
 - Seize torn or damaged clothing
 - Smearred makeup
 - Evidence of injury **[Note: Use Appendix D or E to document any injuries.]**
 - Condition of crime scene **[Note: When documenting the scene photographically, officers are reminded to take both close-up and full scene pictures. If possible, officers should also videotape the scene.]**

- k. Obtain the phone number of the victim's residence and include that number in the incident report so jail/court/victim-witness/advocate personnel may inform the victim of the suspect's release on bail. Obtain alternative contact information, (i.e. additional phone numbers, etc.) where messages can be safely left if the victim decides to leave the residence for safety reasons. Also, if possible, record name, address, and phone number of two close friends or relatives of the victim who will know of her/his whereabouts 6-12 months from the time of the investigation. **[Note: If the victim will be seeking to hide from the abuser, KEEP A SEPARATE RECORD of the address and phone number where the victim will be located.]**
- l. Provide contact information for local domestic violence program.
- m. Arrange for follow-up photographs of the victim within one to three days in order to demonstrate the extent of the injuries that may later become more obvious.
- n. The law enforcement officer shall not advise victims of domestic violence that they can "press" charges or "drop" charges. The decision to prosecute is made by the states attorney. The victim and suspect will be advised that once a crime report is taken, he/she has no control over the decision to arrest and/or prosecute.
- o. Document any presence or use of alcohol and/or drugs.

3. Interviewing Suspect

[Note: If possible, officer should tape record the suspect's statement for evidentiary purposes]

- a. Determine what happened.
- b. Any injuries, who caused them, and what weapons or objects were used to perpetrate the violence.
- c. Document suspect's condition and demeanor in report.
- d. Ascertain suspect's domestic violence and criminal history – any previous contact with law enforcement.
- e. Photograph and document in report:
 - Damaged clothing while on the suspect
 - Torn or damaged clothing
 - Smearred makeup
 - Evidence of injury **[Note: Use Appendix D or E to document injuries.]**
- f. Document any presence or use of alcohol and/or drugs.
- g. Document any admissions to the allegations of domestic violence.

4. Interviewing Witnesses

- a. Interview any witnesses to the incident – children, other family members, neighbors, etc. – as soon as possible.

- b. Remember: witnesses may be experiencing significant trauma. This trauma may affect their recall abilities and may produce varying versions of events. This does not diminish the credibility of their description of events.
- c. If witnesses provide information about prior assaults, document them to assist in establishing a pattern of abuse.
- d. Interview emergency medical services (EMS) witnesses, emergency room (ER) personnel, and/or dispatch for corroborating evidence.

5. Interviewing Children

- a. Children should be interviewed with care and kindness. Sit, kneel, or otherwise be at their level when speaking to them. Signs of trauma or abuse should be noted in the report. **[Use Appendix D or E to document any injuries.]**
- b. Children should be questioned in an age appropriate manner and interviewed without leading questions. The interview should be done away from the other parties, without parental influence.
- c. Document children's full names, ages, dates of birth, and relationship to the parties.
- d. Document the children's demeanor.
- e. Children should be reassured and praised by the law enforcement officer after the child's statement has been recorded.
- f. If a child is present at the scene of a domestic call or is the victim of domestic abuse, the law enforcement officer should determine whether the child has been subjected to physical abuse, sexual abuse, or neglect, and comply with the requirements of **N.D.C.C. § 50-25.1**. If the child has been physically injured, the law enforcement officer shall ensure the child receives appropriate medical attention (this may require that the officer escort the child to the nearest hospital for treatment, arrange transportation via ambulance or guardian, etc.).
- g. If the legal parent or guardian of a child can no longer provide care (i.e. when the victim is hospitalized), the law enforcement officer should consult with the legal guardian or parent on determining the disposition of the child and should make a good faith attempt to follow the request of the legal guardian or parent.
 - If the law enforcement officer reasonably believes that the child's immediate surrounding or conditions endanger the child's health and welfare, the officer may take the child into immediate custody pursuant to **N.D.C.C. § 50-25.1**.
 - When children are present, law enforcement shall document the basic circumstances surrounding their exposure to the incident in the police report and forward a referral to Child Protective Services as directed by current collaborative agreement.

ARREST DECISIONS

- A. **Arrest:** Officers will make an arrest when probable cause and legal authority exist to make an arrest. Field release and referral to court is not recommended in domestic violence cases when grounds for an arrest are present. **“If the law enforcement officer has probable cause to believe that a person has committed a crime involving domestic violence, whether the offense is a felony or misdemeanor, and whether or not the crime was committed in the presence of the officer, the law enforcement officer shall presume that arresting the person is the appropriate response”.** N.D.C.C. § 14-07.1-10(1).
- B. **Arrest without a Warrant:** **“A law enforcement officer may arrest a person without a warrant if the arrest is made within 12 hours from the time the officer determines there is probable cause to arrest for an assault of a family or household member as defined in N.D.C.C. § 14-07.1-01, whether or not the assault took place in the presence of the officer. *After 12 hours have elapsed, the officer must secure an arrest warrant before making an arrest.* A law enforcement officer may not arrest a person without first observing that there has been recent physical injury to, or impairment of physical condition of, the victim”.** N.D.C.C. § 14-07.1-11(2).

1. Making the arrest:

- a. Arrest the suspect, if he/she is present, apply handcuffs, inform him/her that the decision to arrest is a law enforcement one, and transport securely to the jail.
- b. If the assailant is absent, and if the victim wishes, transport the victim, and children, (or arrange for transportation to) a safe shelter or other appropriate place. Circulate a “be-on-the-lookout” message describing the assailant and arrange for an arrest warrant.

C. **Factors that should not be considered in making the arrest:**

- Marital status, sexual orientation, race, or cultural, social, political or professional position.
- Ownership, tenancy rights of either party, or the fact that the incident occurred in a private place.
- Belief that the victims will not cooperate with criminal prosecution or that the arrest may not lead to a conviction.
- Verbal assurances that the abuse will stop.
- Disposition of previous police calls involving the same victim or suspect.
- Past law enforcement calls to assist at residence.
- Denial by either party that the abuse occurred when there is evidence of domestic abuse.
- Lack of a court order restraining or restricting the suspect.
- Concern about reprisals against the victim.
- Adverse financial consequences which might result from the arrest.

- Chemical dependency or intoxication of the parties.
- Who made the call: Whether it's the neighbor, victim, suspect or child.
- If investigating the violation of an Order for Protection, it does not matter who initiated the contact between the parties.

D. Arrest when two or more complaints are received: “A law enforcement officer investigating a crime involving domestic violence may not threaten, suggest, or otherwise indicate, for the purpose of discouraging requests for law enforcement intervention, that the family or household members will be arrested. When complaints are received from two or more family or household members, the officer shall evaluate each of the complaints separately to determine if either party acted in self-defense as defined in N.D.C.C. § 12.1-05- 03. If self-defense is not a factor, to determine whether to seek an arrest warrant or to pursue further investigation, the officer may determine which party has engaged in the most immediately significant aggression by considering certain factors, including the comparative severity of injuries involved and the likelihood of future harm.” N.D.C.C. § 14-07.1-10(2).

E. Predominant Aggressor: The party that poses the greatest threat. The predominant aggressor is the person determined to be the most significant, but not necessarily the first, aggressor. Law enforcement officers shall identify a predominant aggressor based on the totality of the circumstances. Some or all of these circumstances may be present:

- Comparative severity of injuries.
- The relative size, bulk, and strength of the parties involved.
- Likelihood of future harm/injury to any party.
- Use of weapons.
- Is one party specially trained in martial arts, boxing, or hand-to-hand combat techniques?
- Who is most afraid?
- Location or nature of injuries [Offensive vs. Defensive injuries].
- Did one party escalate the level of violence [Push followed by serious beating]?
- History of abuse [Is one person usually the predominant aggressor]?
- Existence of court protective orders.
- Demeanor of the parties.
- Use of alcohol and/or other drugs.
- Existence of corroborating evidence or witnesses.
- Criminal history.
- Timing of victimization claim [Person claimed to have been assaulted only after arrested].

[Note: This policy strongly discourages officers from making dual arrests.]

Indicators of Defensive Injuries

- Wounds on victim's palm(s) or hand(s)
- Wounds on inside and outside of victim's arms
- Bumps on the victim's head [especially on the back]

- Bite marks on suspect's chest, biceps, forearms
- Scratches on suspect's face, chest, neck [strangulation cases]
- Bruising behind ears of victim [strangulation cases]

[Note: Remember, self-defense does not include acts inflicted to punish or retaliate]

F. Law Enforcement Immunity: “A law enforcement officer may not be held criminally or civilly liable for making an arrest if the officer acts in good faith on probable cause and without malice”. N.D.C.C. § 14-07.1-11(3) and N.D.C.C. § 14-07.1-13(5).

COURT ORDERS

- A. **Order for Protection:** “A law enforcement officer shall arrest a person without a warrant if the person has committed the offense of violating a protection order under N.D.C.C. § 14-07.1-06, whether or not the violation was committed in the presence of the officer.” N.D.C.C. § 14-07.1-11(1). **NOTE: The law requires an arrest whether or not the excluded party was invited back to the residence.**
1. If a law enforcement officer determines that an otherwise valid protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order and make a reasonable effort to serve the order upon the respondent. After informing the respondent and serving the order, the officer shall allow the respondent a reasonable opportunity to comply with the order before enforcing the order.
 2. Law enforcement should pay special attention to and assess the lethality of each respondent when serving protection orders. **[Note: Officers should utilize Appendix D or F to assist in the determination of lethality.]**
- B. **Surrender of Weapons:** A respondent may be required in a protection order to surrender for safekeeping any firearm or other specified dangerous weapon, as defined in N.D.C.C. § 12.1-01-04(6), in the respondent’s immediate possession or control or subject to the respondent’s immediate control, if the court has probable cause to believe that the respondent is likely to use, display, or threaten to use the firearm, or other dangerous weapon in any further act of violence. If so ordered, the respondent shall surrender the firearm to the Sheriff, or the sheriff’s designee, of the county in which the respondent resides, or the chief of police, or the chief’s designee, of the city in which the respondent resides. **NOTE: For the safety of both parties, if it is not required in a protection order, an officer still may suggest the respondent surrender weapons to law enforcement for a temporary period of time.**
1. **Individuals – including law enforcement officers and military personnel – are prohibited from possessing or transferring (or returning) a firearm while subject to a protection order. 18 U.S.C. § 922 (g) (8) and 18 U.S.C. § 922 (d) (8).** Individuals cannot possess ammunition either. **EXCEPTION: Law Enforcement officers and military personnel are exempt from these prohibitions for official duty” firearms only. 18 U.S.C. § 925 (a) (1). [Federal Law]**
 2. **Individuals – including law enforcement officers and military personnel – are prohibited from possessing or transferring (or returning) a firearm if that person has been convicted of a misdemeanor crime of domestic violence.** No exception is made for law enforcement officers and military personnel. **18 U.S.C. § 922 (g) (9) and U.S.C. § 922 (d)(9). [Federal Law]**
 3. **Forfeiture of Weapons: “Any firearm or dangerous weapon used or possessed while in the commission of a felony or a misdemeanor involving violence or intimidation must be seized.” N.D.C.C. § 62.1-01-02.**

- C. **Order Prohibiting contact**: “A law enforcement officer **shall** arrest a person without a warrant if the officer determines there is probable cause that the person has committed the offense of violating an order prohibiting contact under this section, whether or not the violation was committed in the presence of the officer.” N.D.C.C. § 12.1-31.2-02.
NOTE: The law requires an arrest whether or not the excluded party was invited back to the residence.
- D. **Disorderly Conduct Restraining Order**: “A law enforcement officer **may** arrest the respondent without a warrant and take the respondent into custody if the law enforcement officer has probable cause to believe the respondent has violated an order issued under N.D.C.C. § 12.1-31.2-01.” N.D.C.C. § 12.1-31.2-01(7) (c) NOTE: The law allows an arrest whether or not the excluded party was invited back to the residence.
1. If a law enforcement officer determines that an otherwise valid disorderly conduct order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order and make a reasonable effort to serve the order upon the respondent. After informing the respondent and serving the order, the officer shall allow the respondent a reasonable opportunity to comply with the order before enforcing the order.
- E. **Foreign Orders (Full Faith and Credit)**:
1. “A law enforcement officer, upon determining that there is probable cause to believe that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of this state. Presentation of the protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid foreign protection order exists. The protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for law enforcement.” N.D.C.C. § 14-07.4-03 (1).
 2. “If the protection order is not presented, the officer may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.” N.D.C.C. § 14-07.4-03 (2).
 3. “If a law enforcement officer determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order and make a reasonable effort to serve the order upon the respondent. After informing the respondent and serving the order, the officer shall allow the respondent a reasonable opportunity to comply with the order before enforcing the order.” N.D.C.C. § 14-07.4-03 (3).

4. **“Registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order.” N.D.C.C. § 14-07.4-03 (4).**

F. **Law Enforcement Immunity: “A law enforcement officer is immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a foreign protection order or the detention or arrest of an alleged violator of a foreign protection order if the act or omission is done with good faith.” N.D.C.C. §14-07.4-05”.**

VICTIM ASSISTANCE

A. If an arrest occurs:

1. Complete an incident report and, if the victim requests, provide a copy or arrange to have a copy provided to the victim – this would be done absent good cause not to do so. Additionally, explain to the victim the procedure (who/where to call) to obtain a copy of the report. The procedure applies to domestic violence incidents, protection order violations, stalking incidents, and any other domestic violence related crime.
2. Advise the victim of the importance of preserving evidence.
3. Explain to the victim about protective orders and how to obtain them.
4. If the victim wants to leave the premises to ensure safety, remain at the scene while the victim packs essentials. Advise the victim to take only personal items plus important papers (i.e. bank account numbers, social security cards, passports, birth certificates, etc.).
5. If the victim needs a ride at the time of the incident, the officer may assist by transporting the victim to the Law Enforcement Center to wait for someone to pick up the victim (Domestic Violence Advocate, family member, friend, etc) or an officer may transport the victim to a safe place within reasonable distance. (A shelter – no matter what distance – shall be deemed “reasonable distance”).
6. Provide the victim with the telephone numbers of the local or nearest domestic violence center and/or shelter.
7. Advise the victim that the case may be prosecuted even if the victim later recants and/or chooses not to cooperate with prosecution.

B. If an arrest does NOT occur:

1. Complete an incident report and, if the victim requests, provide a copy or arrange to have a copy provided to the victim – this would be done absent good cause not to do so. Additionally, explain to the victim the procedure (who/where to call) to obtain a copy of the report. The procedure applies to domestic violence incidents, protection order violations, and stalking calls.
2. Advise the victim of the importance of preserving evidence.
3. Explain to the victim about protective orders and how to obtain them.
4. If the victim wants to leave the premises to ensure safety, remain at the scene while the victim packs essentials. Advise the victim to take only personal items plus important papers (i.e. bank account numbers, social security cards, passports, birth certificates, etc.).
5. If the victim needs a ride at the time of the incidents, the officer may assist by transporting the victim to the Law Enforcement Center to wait for someone to pick up the victim (domestic violence advocate, family member, friend, etc) or an officer may transport the victim to a safe place within reasonable distance (a shelter – no matter what distance – shall be deemed an appropriate transport).
6. Provide the victim with the telephone numbers of the local or nearest domestic violence center and/or shelter.

7. Law enforcement shall assure the victim that they will assist in future emergencies and explain measures for enhancing the victim's own safety

C. For ALL incidents:

1. Law enforcement shall refer victims of domestic violence to the appropriate community resources, such as:
 - a. Domestic Violence Centers
 - b. Shelters
 - c. Victim/Witness Programs
 - d. Mental Health Agencies
 - e. Medical doctors
 - f. Legal Assistance agencies
 - g. Social Services
2. Law enforcement shall provide victim contact information to jail staff and jail staff shall notify the victim before the suspect's release. [**Note: Law enforcement should utilize Appendix G for assistance in notifying the victim.**]
3. Law enforcement shall contact the local or nearest domestic violence advocacy center in situations involving arrests on domestic-related crimes to enable advocacy centers to make contact with the victim in order to:
 - a. Provide information concerning the court process and available services;
 - b. Elicit victim's input into the court process;
 - c. Ascertain the victim's wishes regarding conditions of release; and
 - d. Offer or facilitate accompaniment throughout the court process.

REPORTS

A. **Required Reports:** “A law enforcement officer **shall** make a written report of the investigation of any allegation of domestic violence regardless of whether an arrest was made. If the officer determines through the course of an investigation that one of the individuals has engaged in the most immediately significant aggression, the report must include the name of that individual and a description of the evidence that supports the findings. The officer shall submit the report to the officer’s supervisor or to any other person to whom the officer is required to submit similar reports.” N.D.C.C. § 14-07.1-12

1. The investigating officer shall prepare an investigation report regarding the incident in accordance with existing departmental policy. Any domestic violence call handled by this department shall have the initial report completed before the officer goes off duty. The complete report shall be written and completed within five (5) days from the incident’s occurrence regardless of whether an arrest was made or not. [Note: Officers should utilize Appendix D.]

B. **Documentation:** The following should be documented within the report [Note: Officer should utilize **Appendix H** for documentation purpose.]:

- The victim’s and suspect’s exact words / excited utterances;
- Elements of all crimes investigated;
- Any visible injuries and/or complaints of pain – documentation should include a description in the police report, as well as photographs and medical reports (including a medical release), if medical treatment was obtained;
- Whether either party was photographed;
- Whether alcohol and/or drugs were present or used in the incident;
- Any past domestic violence (if possible, attach copies of previous reports made if law enforcement responded to other incidents);
- Note if weapons were present and/or are possessed by the suspect;
- Any court orders currently or previously in place (i.e. an Order for Protection, custody order, etc.);
- Any restraining order violations;
- List the phone number of the victim’s residence along with alternative contact information, (i.e. additional phone numbers, etc.) where messages can be safely left if the victim decides to leave the residence for safety reasons. Also, if possible, record name, address, and phone number of two close friends or relatives of the victim who will know of her/his whereabouts 6-12 months from the time of the investigation. [Note: If the victim will be seeking to hide from the suspect, **KEEP A SEPARATE RECORD of the address and phone number where the victim will be located.**]
- Referrals provided to domestic violence program and other victim services; and
- If the parties do not speak English, please note what language they do speak for the benefit of other staff attempting to contact them. *Use objective interpreters*

(someone who is not a family member or a percipient witness) to obtain statements and/or tape-record statements.

C. Lethality Assessment Provided to Prosecutor's Office: Officers should provide information regarding a suspect's dangerousness / lethality to the prosecutor for use at arraignment. Therefore, officers should gather information regarding the suspect's:

- Criminal history;
- History of abusing the current victim, including expired or dismissed protective orders;
- History of abusing other victims;
- History of abuse from other jurisdictions (including tribal and other states);
- Ownership, presence, or access to firearms, and their location;
- Use of weapons in prior abuse of current or previous victim(s);
- Present or past threats against or abuse of pets;
- Present or past attempts or threats to kill; and
- Present or past attempts or threats to commit suicide

D. Documentation in non-arrest cases: In addition to the above considerations, in cases in which an arrest is not made for domestic violence, stalking, or related crime, the incident still must be documented. In such cases, law enforcement should note in the incident report:

1. What referral information was provided; and
2. Why no arrest was made, nor any warrant sought.

E. Access to Domestic Violence Reports: Law enforcement will provide, at no cost, one copy of all domestic violence face sheets and incident reports to a domestic violence victim upon request. Absent good cause, the face sheet should be made available during business hours, within a reasonable amount of time of the request. Incident reports should be completed in an expeditious manner.

Reports should also be provided, at no cost when requested, to domestic violence advocates, shelters, and/or victim-witness coordinators under the same timelines provided above.

SUPERVISOR RESPONSIBILITIES

A. **Assurances for Practice:** Supervisors will ensure that the provisions of the North Dakota Century Code and these policy guidelines are met by reviewing each domestic violence incident report. Specifically supervisors will assure that:

- Dispatch logs will be reviewed to ensure that an incident report has been filed, even in cases in which no arrest was made. Calls which are received as allegations of domestic violence or a domestic disturbance will not be reclassified because no probable cause to arrest existed. Incident reports will be filed in those cases.
- A supervisor, or his or her designee within the department who is specifically trained to review domestic violence cases, in order to ensure that policy guidelines are met, will carefully review incident and arrest reports. If upon review of an incident report it is believed that probable cause exists, the supervisor will ensure that criminal charges are initiated according to statute and these guidelines.
- Whenever a department identifies a particular case as posing significant danger or risk, that case will be discussed at roll call, or through other channels in order to become aware of the situation.

B. **Referrals:** Supervisors will ascertain that appropriate referrals were provided to the victim and documented in the incident report.

C. **Follow-up Investigation / Reports:**

1. When assigning follow-up investigation or reviewing reports for completeness, supervisors shall, at a minimum, ensure the following is accomplished:
 - a. Verify the inclusion of all investigative steps regarding initial law enforcement response/investigation. [**Note: Supervisors shall ensure victims are re-contacted within 72 hours of the call to ascertain whether further law enforcement assistance is needed.**]
 - b. Obtain medical records when needed, if not already obtained.
 - c. Interview background witnesses who may not have been available to the law enforcement officer at the time of the incident (i.e. neighbors, medical personnel, dispatch, etc.).
 - d. Re-interview witnesses as necessary.
 - e. If possible, contact the victim and witnesses to inform them of the status of the case and/or the intended referral to the states attorney's office.

- f. Obtain subsequent photographs of injuries to the victims within one to three days of the incident (particularly when there were no initial photos taken or the initial photos did not show injuries to the victim).
 - g. Upon review of the follow-up investigation, the supervisor will ensure that additional charges are initiated whenever appropriate. For example, a supervisor should look beyond offenses charged out to ascertain if other charges are present (i.e. in addition to a protection order violation the facts may also support a stalking charge).
2. Follow-up investigation shall not consider the desire of the victim to “drop” charges in assessing whether the case should be submitted to the prosecuting attorney’s office.
3. Personnel handling domestic violence cases should analyze each domestic violence case by asking the following questions:
 - a. Can the elements of the offense be established without the testimony of the victim? For example:
 - Did the victim make an excited utterance?
 - Are there any eye witnesses to the offense?
 - Did the victim provide a detailed statement of the offense to an officer (preferably tape-recorded) or to another person who can impeach the victim if they appear in court and testify falsely?
 - Is there other corroborating evidence (such as injuries or a 911 tape) that would support the charge?
 - Did the suspect make admissions to the allegations of domestic violence?
 - b. The case should be evaluated for referral to the Prosecutor’s office for review regardless of the victim’s wishes.
4. Under no circumstances should a victim be asked if he/she wishes to “press charges” or “drop charges”. Investigative personnel shall not ask a victim if they want to “prosecute” the offender. The victim should be informed that the decision to proceed is out of his/her control.
5. If the victim presents a different version of the incident, the person/investigator taking the statement should incorporate some of the following questions and note in the follow-up report:
 - a. Financial concerns;
 - b. Contact with the defendant after the incident:
 - Were threats made?
 - Were they overt or subliminal?
 - c. Child custody / visitation issues; and

d. Immigration concerns

D. Training: Supervisors will ensure that officers are provided and attend training at least once a year on one or more of the topics listed in the training section of this policy.

TRAINING

This law enforcement agency shall establish a written schedule for annual or semi-annual training for members of this agency on domestic violence. The goals of the training are to keep officers up-to-date on domestic violence laws, the department's domestic violence policy and procedures, and officer safety techniques in addition to providing officers with an in-depth understanding of the intricate issues and dynamics involved in domestic violence cases.

All licensed peace officers within this department, including administration and supervisors, should be trained in accordance with N.D.C.C. § 14-07.1-14 and, at a minimum, receive at least four hours annually or two hours semi-annually on one or more of the following topics:

- Domestic violence dynamics & its impact on society;
- Effects of domestic violence on children;
- Protective order process / service;
- Predominant aggressor;
- Offensive / Defensive injuries;
- Stalking;
- Report writing in domestic violence cases;
- Law changes;
- Policy changes;
- On-Scene investigation;
- Lethality and risk assessment;
- Immigration Issues;
- Model protocols for addressing domestic violence;
- Available community resources;
- Victim Services;
- Reporting requirements.

Additional Administrative/Command/Supervisory training related to domestic violence should address the following:

- Department legal considerations and liability
- Media and public relations
- Criminal versus Administrative investigations
- Conducting lethality / dangerousness assessments

The Chief of Police, Sheriff, or his/her designee, shall ensure the review of the department's training policy annually and make any revisions deemed necessary.

A. Collaboration: Law enforcement should exercise a leadership role within the criminal justice community in the area of domestic violence. Law enforcement should collaborate with and invite other professionals, such as Domestic Violence Advocates, Child Protection Workers, Prosecutors, Probation/Parole, Jail Staff, and Dispatch, to training opportunities.

1. The department should collaborate with local domestic violence victim advocacy organizations, and the state domestic violence coalition in the development of a domestic violence training curriculum, and, whenever possible, shall use local

advocates or the state domestic violence coalition in the training of officers. [See **Appendix I** for agreement form.]

2. The department should collaborate with local, state, and national law enforcement agencies that have already implemented domestic violence training. The information gathered can serve as a guideline for the development of domestic violence training curriculum, and experienced officers from these jurisdictions can assist in training within the department.
3. The department should provide, if requested, copies of all departmental policies, procedures, and protocols on domestic violence to local domestic violence victim advocacy organizations.
4. The department should provide training, when requested, to local domestic violence victim advocacy organizations on the department's domestic violence policies, procedures, and protocols.

B. Training: Domestic Violence related training may be conducted at: department meetings, shift briefings, formal training sessions, field training, or any other approved manner. Additionally, trainings should include written bulletins, videotapes, verbal reminders, and presentations provided by the prosecutor's office, domestic violence agency, victim/witness program, the state domestic violence coalition, or officers specializing in domestic violence response.

1. In-service training – the department should select a series of effective and concise materials on domestic violence for routine dissemination to all personnel. Periodic in-service trainings on domestic violence and stalking should be held to review directives and discuss their implementation.
2. Roll-call training – Officers should receive regular instruction about domestic violence and stalking during roll call.

C. Program Evaluation: To enhance the effectiveness of trainings, the department should work with internal or external research resources to evaluate the training being provided. For example, to ascertain if an in-service on the most immediately significant aggressor was effective, the department should determine whether dual arrests declined and if officers investigated and documented how the most immediately significant aggressor was determined.

1. Internal research techniques/resources may include, but are not limited to:
 - a. Surveys
 - b. Pre/Post tests
 - c. Gathering statistical data

2. External resources who may assist and provide research techniques and resources include, but are not limited to:
 - a. North Dakota Council on Abused Women's Services / Coalition Against Sexual Assault in North Dakota
 - b. Rural Crime and Justice Center – Minot State University
 - c. Local universities that can assist with research techniques and applications

INTERAGENCY COLLABORATION / MULTIPLE JURISDICTIONS

Law enforcement must exercise leadership in the community in responding to domestic violence cases. This includes optimizing and coordinating all available resources for assisting victims in addition to collaborating and developing protocols with other agencies (not just law enforcement) to enhance victim safety and ensure accountability for the suspect.

A. The Violence Against Women’s Act: Federal Crimes:

1. **Interstate Domestic Violence:** means “**crossing a state line** in order to commit domestic violence and subsequently committing the act. This crime occurs when:
 - a. A person who travels across a state line or enters or leaves Indian country with the intent to kill, injure, harass, or intimidate that person’s spouse or intimate partner; **and**
 - b. Who, in the course of or as a result of such travel, intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner.” 18 U.S.C. § 2261 (a) (1).

2. **Interstate Domestic Violence:** means “**causing another to cross a state line** due to domestic violence. This crime occurs when:
 - a. A person who causes a spouse or intimate partner to cross a state line or to enter or leave Indian county by force, coercion, duress, or fraud; **and**
 - b. In the course of or as a result of that conduct, intentionally commits a crime of violence and thereby causes bodily injury to the person’s spouse or intimate partner.” 18 U.S.C. § 2261 (a) (2).

3. **Interstate Violation of a Protection Order:** means “**crossing a state line** in order to commit domestic violence in violation of a protection order and subsequently violating the protection order. This crime occurs when:
 - a. A person who travels across a state line or enters or leaves Indian country with the intent to engage in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment or bodily injury to the person or persons for whom the protection order was issued; **or**
 - b. Would violate the protection order if the conduct occurred in the jurisdiction in which the order was issued; **and**
 - c. Subsequently engages in conduct which violates the protection order.” 18 U.S.C. § 2262 (a) (1).

4. **Interstate Violation of a Protection Order:** means “**causing another to cross state lines fleeing because of domestic violence committed in violation of a protection order. This crime occurs when:**
- a. **A person who causes a spouse or intimate partner to cross a state line or to enter or leave Indian country by force, coercion, duress, or fraud; and**
 - b. **In the course or as a result of that conduct, intentionally commits an act that injures the person’s spouse or intimate partner in violation of a valid protection order issued by a state.” 18 U.S.C. § 2262 (a) (2).**

B. Domestic Violence in Indian Country: Law enforcement in Indian country can be a complicated undertaking. The jurisdictional framework that exists in North Dakota for both tribal and non-tribal lands creates many law enforcement concerns. Like nearly every other state, North Dakota has encountered uncertainties about whether or not a particular law enforcement agency is authorized to act. It is imperative that each individual law enforcement agency work with individual tribal governments to strengthen cooperative relationships in order to provide safety for domestic violence victims and maximize law enforcement resources.

C. Agreements with Advocacy Programs: Enhancing victim safety is something law enforcement cannot do alone. In order to increase victim safety and offender accountability, law enforcement agencies should establish collaborative working agreements with advocacy programs. [See Appendix I].

D. Collaboration with the Military: All domestic violence incidents involving military suspects shall be handled according to this policy if:

- 1. The incident occurred outside the boundaries of a military facility; and
- 2. Local law enforcement agencies are called to assist in handling such an incident.

The intent of this policy is to eliminate all informal referrals, diversions, or report taking omissions in the handling of domestic violence incidents involving military personnel. No informal agreements with military police or a suspect’s commanding officers shall take precedence over a suspect’s arrest and prosecution by the non-military authorities.

OFFICER PERPETRATED DOMESTIC VIOLENCE

The [insert name of your agency] acknowledges that some police officers commit domestic violence against their intimate partners and some police officers are victims of domestic violence. As such, it is imperative to have a separate policy establishing specific operational guidelines on how to handle domestic violence incidents which involve law enforcement officers.

The development and implementation of a separate policy underscores the [insert name of your agency] commitment to creating and maintaining a work environment that does not tolerate domestic violence. Where incidents of domestic violence are alleged to have occurred, the department will act quickly to protect the victim, arrest the perpetrator, and conduct parallel administrative and criminal investigations.

This policy delineates a position by the department of absolute intolerance of domestic violence. An officer found guilty of domestic violence, either through criminal court or an administrative hearing, shall have his/her police powers revoked. Once implemented, the policy will apply to past convictions, and existing and future police officer domestic violence crime.

[Please review this department’s “Officer Involved Domestic Violence Policy” for specific operational guidelines and procedures.]

North Dakota Model Law Enforcement Domestic Violence Policy Appendices

Please see folder titled “Appendices” for the following documents:

- Appendix A:** North Dakota Domestic Violence Programs
- Appendix B:** North Dakota Victim/Witness Programs
- Appendix C:** Domestic Violence Worksheet
- Appendix D:** Injury Diagram Worksheet
- Appendix E:** Strangulation Report
- Appendix F:** Strangulation Supplemental Report
- Appendix G:** Strangulation Card
- Appendix H:** Lethality Assessment Sheet
- Appendix I:** Victim Notification Information
- Appendix J:** Evidence Collection Form
- Appendix K:** Working Agreement with Advocacy Program
- Appendix L:** Authorization for Release of Medical Records and Information
- Appendix M:** Common Charges Related to Domestic Violence*
- Appendix N:** Collaborative Agreement with Child Protection Services
- Appendix O:** Summary of Federal, State, and Tribal Jurisdictions
- Appendix P:** Power & Control Wheel**
- Appendix Q:** Unnatural Power and Control**
- Appendix R:** Brief Overview of Domestic Violence

*Please see folder “ND Century Code” or visit the ND Legislative Branch:
<http://www.legis.nd.gov/information/statutes/cent-code.html>

** For additional Power and Control Wheels visit the National Center on Domestic and Sexual Violence at: http://www.ncdsv.org/publications_wheel.html