

	<b>KENOSHA POLICE DEPARTMENT</b>			
	<b>POLICY AND PROCEDURE</b>			
	<b>45.1 Police Officer Involved Domestic Abuse</b>			
<b>Effective Date:</b>	2/24/2005	<b>Revision Date:</b>	9/5/2008	
<b>Action:</b>	See also 42.8 Domestic Violence/Abuse/Restraining Order Injunctions		<b>Number of pages:</b>	7

**I. PURPOSE**

The purpose of this policy is to establish procedures for handling acts of domestic abuse committed by police officers and, for implementing prevention strategies. This policy will provide all department employees guidance in addressing incidents where one (or more) party to a reported domestic abuse incident is an employee of the Kenosha Police Department or a law enforcement officer for another department.

**II. POLICY**

The Kenosha Police Department takes a position of zero tolerance towards police officer domestic abuse. This policy seeks to educate and prevent domestic abuse situations.

Where incidents of domestic abuse are alleged to have occurred, the department will act quickly to protect the victim, arrest the predominate physical aggressor, and conduct an administrative and criminal investigation.

An officer of the Kenosha Police Department convicted of a domestic abuse related crime or found to be in violation of this policy is subject to departmental intervention which may include but is not limited to the following: referral to counseling services, remedial training, discipline up to and including termination.

Federal law prohibits anyone convicted of a qualifying misdemeanor domestic abuse crime from possessing firearms.

**III. DEFINITIONS**

A. **Domestic Abuse** - means any of the following engaged in by an adult person against his or her spouse, former spouse, an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common, (includes cohabitants, homosexual partners, adult children, and adult parents, adult siblings, etc.):

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. A violation of § 940.225(1), (2) or (3) [Sexual Assault – excluding 4<sup>th</sup> Degree]. Note: Marriage is not a bar to prosecution for Sexual Assault.
4. A physical act which may cause the other person, reasonably to fear imminent engagement in the conduct described above.

B. **Predominate Physical Aggressor** – means the most significant, but not necessarily the first, aggressor in a domestic abuse incident. See 968.075 (2)(ar).

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- C. **Circumstances Requiring Mandatory/Warrantless Arrest, 968.075** - If probable cause exists to believe that a domestic abuse crime is being committed or has been committed, the suspect *shall* be arrested and taken into custody, even if the victim declines to prosecute. An arrest must be made if the officer has a reasonable basis for believing there is a likelihood of continued violence against the alleged victim, or there is evidence of physical injury to the alleged victim or the person is the predominate aggressor.

(NOTE: When investigating a domestic abuse incident, and the reported act occurred more than 28 days prior (and no other supporting information is available), the officer is not mandated to arrest and take the predominate aggressor into custody. However, it is still mandatory that a report be taken.)

- D. **Protection Order** – refers to any injunction or other order issued by a court, including criminal or civil orders of protection such as restraining orders, 72 hours No Contact Provision, temporary protection orders or injunctions.

#### IV. PROCEDURES

While prioritizing the safety of victims, this policy is designed to address and/or provide the following:

- Prevention through hiring and training practices.
- Direction to supervisors for intervention when warning signs of domestic abuse are evident.
- A structured response to reported incidents of domestic abuse involving officers.
- Direction for conducting the subsequent administrative and criminal investigations.

##### A. Prevention and Training:

1. The department will adhere to a zero tolerance policy towards police officer domestic abuse and violations of this policy will not be tolerated. The department will provide training to officers on domestic abuse and this zero tolerance policy throughout all phases of their career.
2. Additional training will be provided to supervisors and administrative personnel related to domestic abuse to include but not limited to:
  - Department legal considerations and liability.
  - Media and Public Relations.
  - Conducting criminal investigation in incidents of domestic abuse when one or more persons involved is a police officer.
3. The department will establish ongoing relationships with local victim advocacy organizations to assist in prevention, training and intervention in regard to domestic abuse issues.

##### B. Early Warning and Intervention:

1. Pre-Hire Screening:
  - a. The Kenosha Police Department shall include within its background investigations of all potential new employees an inquiry as to whether domestic abuse issues or tendencies exist.
2. Department Responsibilities:
  - a. The department shall, either in response to observed warning signs or at the request of an officer, or other family member, provide non-punitive avenues of assistance before an act of domestic abuse occurs. This may include but is not limited to referral to the Employee Assistance Program. The department shall

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inform officers of the procedure for seeking confidential referrals, to confidential counseling services.

- b. Officers have a moral, ethical and professional obligation to provide assistance to their fellow officers. With this in mind the department has an expectation that any officer who has knowledge of domestic abuse incident involving a fellow officer will report that incident, fulfilling their obligation to their fellow officer and to the Kenosha Police Department. A disclosure on the part of any officer, intimate partner or family member to any member of the department that an officer, intimate partner or family member has engaged in domestic abuse will be treated as an admission or report of a crime and shall be investigated.
3. Supervisor Responsibilities:
    - a. Supervisors shall be cognizant of and document any pattern of abusive behavior potentially indicative of domestic abuse including but not limited to the following:
      1. Inappropriately aggressive behavior:
        - a) Excessive and/or increased use of force on the job.
        - b) Unusually high incidences of physical altercations and verbal disputes.
        - c) Citizen and fellow officer complaints of unwarranted aggression and/or verbal abuse.
      2. Domestic abuse-related issues:
        - a) Monitoring and controlling any family member or intimate partner through such means as excessive phone calling or stalking.
        - b) Discrediting and/or disparaging an intimate partner.
      3. Deteriorating work performance:
        - a) Tardiness.
        - b) Excessive absences.
        - c) Substance abuse.
    - b. When the supervisor notes a pattern of problematic behavior, the supervisor shall:
      1. Address the behaviors through a review or other contact with the officer and document all contacts.
      2. Forward documented problematic behavior to the Chief of Police through the chain of command in a timely manner.
      3. If problematic behavior is observed that rises to a level where it is affecting the officer's ability to perform their duties as a police officer, the supervisor will prepare and submit a written report to their shift commander and the Chief of Police requesting administrative intervention.
  4. Kenosha Police Officer Responsibilities:
    - a. Officers are encouraged to take personal responsibility to seek confidential assistance from the department and/or the Employee Assistance Program to prevent a problem from escalating to the level of criminal conduct.
    - b. Officers who engage in any of the following will be subject to administrative and criminal investigation:
      1. Failure to cooperate with the investigation of a police officer domestic abuse incident.

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2. Interference with cases involving themselves or fellow officers.
  3. Intimidation/coercion of witnesses or victims.
  - c. Officers who learn they are the subject of a criminal investigation, regardless of jurisdiction, are required to immediately notify their supervisor and provide copies of notice of the court date and time, appearances and proceedings.
  - d. Officers who learn they are the subject of a protective order, regardless of jurisdiction, shall immediately notify their supervisor and provide the department of a copy of the order.
- C. Incident Response Protocols:
1. Departmental Response:
    - a. All reports of possible criminal activity implicating police officers in domestic abuse shall be documented in accordance with state statute and the policies governing the handling of any domestic abuse situation.
    - b. A copy of the report detailing the possible criminal activity implicating an officer in domestic abuse shall be directed to that officer's shift commander and the Chief of Police.
  2. Patrol Response:
    - a. Upon arrival on the scene of a domestic abuse incident involving a police officer, the arriving officers shall, as soon as practical, request that a supervisor be sent to the scene, regardless of whether the involved officer is a member of the Kenosha Police Department or another law enforcement agency.
    - b. The responding officers shall perform the following:
      - 1) Request medical assistance, if needed.
      - 2) Address the immediate safety of all parties, including children.
      - 3) Secure the scene and preserve evidence.
      - 4) Note all excited utterances, admissions and/or incriminating statements.
      - 5) Make an arrest if probable cause exists.
  3. On-Scene Supervisor Response:
    - a. A supervisor shall report to the scene of all police officer domestic abuse situations, regardless of the involved officer's jurisdiction.
    - b. The supervisor shall complete a report as to the circumstances of the incident.
    - c. The on-scene supervisor shall assume command ensuring that the crime scene is secured, that statements are obtained from victims and witnesses, that all evidence is collected and that a thorough investigation is conducted. Photographic documentation of the parties involved and the scene shall be recorded.
    - d. In cases where probable cause exists, the on-scene supervisor shall ensure an arrest is made.
    - e. The supervisor shall see to the safety of all children present at the time of the incident and all children in the household. As appropriate and necessary, the children should be interviewed and those interviews should be separate from other parties.
    - f. If the offender, the victim or both have left the scene, the supervisor shall attempt to locate them and follow through on the investigation.

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- g. When a Kenosha Police Officer is arrested, the supervisor shall relieve the accused officer of his/her service weapon.
  - h. In all instances of police officer domestic abuse where a decision not to arrest, based on a lack of probable cause has been made, the on-scene supervisor shall complete a detailed written incident report.
  - i. The on-scene supervisor should consider the relationship of the officers conducting the investigation to the officer involved in the domestic abuse incident. In order to prevent any conflict of interest the on-scene supervisor may wish to have other officers and/or supervisors assist with the initial investigation.
  - j. The on-scene supervisor shall as soon practical notify the involved officer's shift commander and the Chief of Police of the incident.
  - k. The on-scene supervisor shall ensure the victim is informed of or provided the following:
    - 1) The availability of an on-scene advocate.
    - 2) Confidential transportation to a shelter, or any other location that ensures victim safety.
    - 3) Procedures for obtaining restraining and/or protective orders.
    - 4) Judicial process and victim rights.
    - 5) Information on community resources and local domestic violence victim advocacy organizations.
    - 6) All other notifications as required by law.
4. Additional Critical Considerations:
- a. When responding to a domestic abuse incident involving a police officer from another jurisdiction, the same procedures as those set out in Section IV paragraph C (1-3) of this policy shall be followed. The on-scene supervisor shall notify the highest ranking member of the accused officer's department or their designee. All notifications and attempts to notify shall be fully documented.
  - b. In the event that the reportable domestic abuse incident involves the Chief of Police of the Kenosha Police Department, the supervisor shall notify the Kenosha County District Attorney and the Mayor of the City of Kenosha.
  - c. In responding to domestic abuse situations where the victim is a police officer, standard domestic abuse response and investigation procedures should be followed.
  - d. In responding to domestic violence incidents where the parties involved are both police officers, standard domestic violence response and investigation procedures should be followed. After probable cause and predominate physical aggressor are determined, an arrest should be made.
5. Department Follow-Up:
- a. Given the circumstances of the incident and to prevent the appearance of a conflict of interest, the investigation may be turned over to an outside agency. This decision will be made by the Chief of Police or designee.
  - b. In a timely manner the Chief of Police shall ensure that officers who responded to a police officer domestic abuse call are debriefed. The debriefing shall include the following:

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- 1) A review of department confidentiality guidelines.
  - 2) A direct order prohibiting discussion of the incident outside of the official inquiry.
  - 3) A clear delineation of assignments.
- c. If an arrest warrant charging a Kenosha Police Officer with a domestic abuse related crime or a civil protective order is issued at a later time and is to be served by the Kenosha Police Department, it shall be served by no fewer than two officers with at least one being a supervisor of the rank of Sergeant or above the rank of the officer being served.
- d. On-scene and follow-up investigators shall proactively seek out information on existing restraining and/or protective orders and, if found, shall enforce them.
- D. Victim Safety and Protection:
1. The department shall work with community resources and advocacy agencies to connect victims and their children with appropriate services.
  2. The Chief of Police or designee shall designate a principal contact for the victim. That departmental contact shall within the confines of departmental policy and open records laws assist the victim throughout the investigation.
  3. All officers shall be aware of the possibility of victim/witness intimidation or coercion and the potential of increased danger to the victim when they leave an abusive partner.
  4. If an officer has any information that intimidation or coercion of the victim/witness is occurring, the officer shall prepare a written report and immediately deliver it to their supervisor. The supervisor shall forward the report to the investigator in charge of the case and the Chief of Police.
    - a. Given the possibility that a victim may recant or choose not to participate in court proceedings, supplemental evidence should be sought out and preserved.
- E. Post-Incident Administrative and Criminal Decisions:
- The department shall conduct separate administrative and criminal investigations of alleged incidents of police officer domestic abuse in a manner that maintains the integrity of both investigations and promotes zero tolerance. If the facts of the case indicate that domestic abuse has occurred or any departmental policies have been violated, administrative action may be taken separately and distinct from any criminal proceedings. The department will adhere to all necessary protocols to ensure an accused officer's departmental, labor association and legal rights are upheld during the administrative and criminal investigations. Pending the administrative and criminal investigations for alleged acts of domestic abuse and/or violation of departmental policies, the department may assign the accused officer to administrative duties.
1. Administrative Investigation and Decisions:
    - a. The responsibility to complete the administrative investigation of a police officer domestic abuse incident shall rest with the Internal Affairs Division of the department. The Chief of Police may ask an outside law enforcement agency to conduct the administrative investigation.
    - b. When an investigation of an incident uncovers officers who had knowledge of violence on the part of another officer but failed to notify the department or engaged in actions intended to interfere with the investigation, the department shall investigate those officers.

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2. Criminal Investigations and Decisions:
  - a. The Chief of Police may request an independent agency conduct the criminal investigation. If the investigation will be conducted by the Kenosha Police Department the responsibility shall rest with the Investigative Division.
  - b. If additional criminal activity is found to have occurred it shall be documented separately, assigned a case number, and investigated thoroughly.
  - c. The department shall completely investigate the charges and where warranted seek prosecution even if the victim recants.
3. Disciplinary Procedures:
  - a. If there is just cause to discipline an officer, the Chief of Police will do so in accordance with department practice and state law.
  - b. Federal law prohibits anyone convicted of a qualifying misdemeanor domestic abuse crime from possessing firearms. The department shall ensure compliance with Federal law.