

Domestic Abuse

316.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent, and reduce domestic abuse through vigorous enforcement and to address domestic abuse as a serious crime against society. The policy specifically addresses the commitment of this office to take enforcement action when appropriate, to provide assistance to victims and to guide deputies in the investigation of domestic abuse.

316.1.1 DEFINITIONS

Definitions related to this policy include:

Court order - All forms of orders related to domestic abuse, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

Domestic abuse - Commission of any of the following if committed against a family or household member by another family or household member (Minn. Stat. § 518B.01, Subd. 2):

- (a) Actual or fear of imminent physical harm, bodily injury, or assault
- (b) Threats of violence with intent to terrorize as specified by Minn. Stat. § 609.713, Subd.1.
- (c) Criminal sexual conduct (Minn. Stat. § 609.342 to Minn. Stat. § 609.3451)
- (d) Interference with an emergency call as specified by Minn. Stat. § 609.78, Subd.2.

316.2 POLICY

The Washington County Sheriff's Office's response to incidents of domestic abuse and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic abuse is criminal behavior. It is also the policy of this office to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

316.3 OFFICER SAFETY

The investigation of domestic abuse cases often places deputies in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all deputies to exercise due caution and reasonable care in providing for the safety of any deputies and parties involved.

316.3.1 UNIVERSAL CONSENT FORM

The universal consent form has been approved by the Washington County Attorneys office and will be used to document consent in Domestic Abuse cases.

[See attachment: Instructions for MN Standard Consent Form \(PDF\)](#)

[See attachment: MN Standard Consent Form \(PDF\)](#)

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316.3.2 LETHALITY ASSESSMENT PROGRAM - LAP

The Lethality Assessment Form has been approved by the Office and shall be completed by the primary deputy responding to all domestic calls for assistance. The LAP Form shall be completed and faxed to Tubman Family Alliance (651-770-5506) prior to the primary deputies end of tour. The LAP form will be forwarded to the Records Division and noted in the offense report that the LAP form has been faxed.

[See attachment: LAP Form 06-28-11.jpg](#)

316.4 INVESTIGATIONS

The following guidelines should be followed by deputies when investigating domestic abuse cases:

- (a) Calls of reported, threatened, imminent, or ongoing domestic abuse and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, deputies should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.
- (c) Deputies should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Investigation Division in the event that the injuries later become visible.
- (f) Deputies should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, deputies should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (i) When completing an incident or arrest report for violation of a court order, deputies should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting deputy should attach a copy of the order to the incident or arrest report.

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- (j) Deputies should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
1. Whether the suspect lives on the premises with the victim.
 2. Claims by the suspect that the victim provoked or perpetuated the violence.
 3. The potential financial or child custody consequences of arrest.
 4. The physical or emotional state of either party.
 5. Use of drugs or alcohol by either party.
 6. Denial that the abuse occurred where evidence indicates otherwise.
 7. A request by the victim not to arrest the suspect.
 8. Location of the incident (public/private).
 9. Speculation that the complainant may not follow through with the prosecution.
 10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
 11. The social status, community status, or professional position of the victim or suspect.

316.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, deputies should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail (Minn. Stat. § 629.72 Subd. 6).
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

316.4.2 IF NO ARREST IS MADE

If no arrest is made, the deputy should:

- (a) Advise the parties of any options, including but not limited to:
 1. Voluntary separation of the parties.
 2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.

316.5 VICTIM ASSISTANCE

Because victims may be traumatized or confused, deputies should be aware that a victim's behavior and actions may be affected.

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- (a) Victims should be provided with the office's domestic abuse information handout, even if the incident may not rise to the level of a crime.
- (b) Victims should be alerted to any available victim advocates, shelters, and community resources.
- (c) When an involved person requests law enforcement assistance while removing essential items of personal property, deputies should stand by for a reasonable amount of time.
- (d) If the victim has sustained injury or complains of pain, deputies should seek medical assistance as soon as practicable.
- (e) Deputies should ask the victim whether he/she has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for his/her safety or if the deputy determines that a need exists.
- (f) Deputies should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (g) If appropriate, deputies should seek or assist the victim in obtaining an emergency order.

316.6 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic abuse cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by deputies as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

316.6.1 CANADIAN ORDERS FOR PROTECTION

An order for protection issued by Canada or a Canadian province shall be enforced as if it were the order of a court in this state and afforded the same consideration as foreign court orders with respect to proper issuance and registration (Minn. Stat. § 518F.03).

316.7 VERIFICATION OF COURT ORDERS

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, deputies should carefully review the actual order when available, and, where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.

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- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Deputies should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Deputies should contact a supervisor for clarification when needed.

316.8 LEGAL MANDATES AND RELEVANT LAWS

Minnesota law provides for the following:

316.8.1 STANDARDS FOR ARRESTS

Deputies investigating a domestic abuse report should consider the following:

- (a) A deputy has the authority to arrest a person without a warrant, including at the person's residence, if the peace officer has probable cause to believe that the person has, within the preceding 72 hours, exclusive of the day probable cause was established, assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm any person covered by the "family or household member" definition, even if the assault did not rise to the level of a felony or did not take place in the presence of the peace officer (Minn. Stat. § 629.34; Minn. Stat. § 629.341).
- (b) Deputies should generally not make dual arrests but may make an arrest of a primary aggressor. Where there are allegations that each party assaulted the other, the deputy shall determine whether there is sufficient evidence to conclude that one of the parties was the primary aggressor based on the following criteria and the deputy's judgment (Minn. Stat. § 629.342, Subd. 2):
 - 1. Comparative extent of any injuries inflicted
 - 2. Fear of physical injury because of past or present threats
 - 3. Actions taken in self-defense or to protect oneself
 - 4. History of domestic abuse perpetrated by one party against the other
 - 5. Existence or previous existence of an order for protection
- (c) A deputy shall not issue a citation in lieu of arrest and detention to an individual charged with any of the following offenses (Minn. Stat. § 629.72):
 - 1. Stalking
 - 2. Domestic abuse
 - 3. Violation of an order for protection
 - 4. Violation of a domestic abuse no contact order
- (d) The Shift Commander will determine whether a person arrested on a charge of stalking any person, domestic abuse, violation of an order for protection, violation of a domestic abuse no contact order, or violation of a court-ordered transfer of firearms will be held in custody or be issued a citation in lieu of continued detention and released

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after booking. The person shall be held in custody whenever the Shift Commander determines that it reasonably appears the release of the person (Minn. Stat. § 629.72):

1. Poses a threat to the alleged victim or another family or household member.
 2. Poses a threat to public safety.
 3. Involves a substantial likelihood that the arrested person will fail to appear at subsequent proceedings.
- (e) Deputies shall arrest and take into custody, without a warrant, a person whom the peace officer has probable cause to believe has violated a court order issued pursuant to Minn. Stat. § 518B.01 or Minn. Stat. § 629.75. Such an arrest shall be made even if the violation of the order did not take place in the presence of the peace officer, if the deputy can verify the existence of the order. If the person is not released on citation in lieu of continuing detention, the person shall be held in custody for these violations for at least 36 hours unless released by a court (Minn. Stat. § 518B.01; Minn. Stat. § 629.75).
- (f) An arrest for a violation of an order of protection may be made regardless of whether the excluded party was invited back to the residence (Minn. Stat. § 518B.01, Subd. 18).
- (g) Following an arrest, a deputy should contact the local domestic abuse program by phone as soon as possible and provide the name and address of the victim and a brief factual account of events associated with the action.
- (h) A deputy shall arrest and take into custody a person whom the deputy has probable cause to believe has violated a harassment restraining order, pursuant to Minn. Stat. § 609.748, if the deputy can verify the existence of the order.
- (i) Deputies are authorized to make an arrest without a warrant when there is probable cause to believe the person has violated the provisions of any other no contact or restraining order issued by a court, even if the offense did not rise to the level of a felony (Minn. Stat. § 629.34). While conducting a domestic abuse investigation deputies shall attempt to verify whether there has been a court order issued.
- (j) Deputies should consider whether other offenses have been committed that may not qualify as a domestic abuse including, but not limited to, burglary, felony assault, other threats of violence, kidnapping, false imprisonment, witness tampering, trespassing, criminal damage to property, disorderly conduct, or assault.

316.8.2 REPORTS AND RECORDS

- (a) Deputies should include information related to the following in a report, as applicable (Minn. Stat. § 629.341):
1. Names, addresses, and telephone numbers of all involved persons
 2. Condition of clothing
 3. Description of the scene, including any property damage
 4. Evidence of physical injury, including strangulation
 5. Presence of elderly victims or persons with disabilities

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6. Facts related to any person who may have been a primary aggressor
 7. Excited utterances of the victim and the suspect
 8. Demeanor of the victim and the suspect
 9. Medical records, including the victim's statements to paramedics, nurses, and doctors
 10. Detailed statements of interviews of witnesses, including children, who may have been present, noting any language barriers
 11. A detailed explanation of the reasons for the deputy's decision not to arrest or seek an arrest warrant
 12. Evidence of any prior domestic abuse or related convictions, including dates
 13. Any existing orders for protection, harassment restraining order, or no contact orders
 14. Identifying information of a specific court order violated, including county of origin, the file number, and the provision allegedly violated
- (b) Domestic abuse reports should be forwarded to the appropriate prosecutor for review and consideration of criminal charges, even when no arrest is made or warrant requested.
- (c) If a child was present at the scene of a domestic abuse incident or was the victim of domestic abuse, the deputy should determine whether the child has been subjected to physical abuse, sexual abuse, or neglect, and comply with the mandatory reporting requirements of Minn. Stat. § 260E.06 et seq.
1. The deputy shall also attempt to verify whether there has been an order for protection issued under Minn. Stat. § 260C.201 and take appropriate action.
- (d) Fees will not be charged for the release of reports related to domestic abuse, as directed in Minn. Stat. § 13.82.

316.8.3 SERVICE OF COURT ORDERS

Deputies, when reasonably safe and in a position to do so, shall serve copies or short forms of court orders as directed in Minn. Stat. § 518B.01 and Minn. Stat. § 609.748.

316.8.4 COURT-ORDERED FIREARM SURRENDERS

This office will accept firearms surrendered by a court order from an abusing party or defendant consistent with Minn. Stat. § 629.715 Subd. 2. A decision to refuse a surrendered firearm should be approved by a supervisor.

Firearms will normally be surrendered at the Washington County Sheriff's Office; however, when encountering someone in the field who wishes to surrender a firearm, deputies should make reasonable efforts to accommodate the request.

Surrendered firearms should be collected and submitted to the Property and Evidence Office in accordance with the Property and Evidence Policy.

Attachments

Instructions for MN Standard Consent Form (PDF)

Instructions for Minnesota Standard Consent Form to Release Health Information

Important: Please read all instructions and information before completing and signing the form.

An incomplete form might not be accepted. Please follow the directions carefully. If you have any questions about the release of your health information or this form, please contact the organization you will list in section 3.

This standard form was developed by the Minnesota Department of Health as required by the Minnesota Health Records Act of 2007, Minnesota Statutes, section 144.292, subdivision 8. The form must be accepted by a Minnesota provider as a legally enforceable request under the Minnesota Health Records Act. If completed properly, this form must be accepted by the health care organization(s), specific health care facility(ies), or specific professional(s) identified in section 3.

A fee may be charged for the release of the health information.

The following are instructions for each section. Please type or print as clearly and completely as possible.

1 Include your full and complete name. If you have a suffix after your last name (Sr., Jr., III), please provide it in the “last name” blank with your last name. If you used a previous name(s), please include that information. If you know your medical record or patient identification number, please include that information. All these items are used to identify your health information and to make certain that only your information is sent.

2 If there are questions about how this form was filled out, this section gives the organization that will provide the health information permission to speak to the person listed in this section.

Completing this section is optional.

3 In this section, state who is sending your health information. **Please be as specific as possible.** If you want to limit what is sent, you can name a specific facility, for example Main Street Clinic. Or name a specific professional, for example chiropractor John Jones. Please use the specific lines. Providing location information may help make your request more clear. Please print “All my health care providers” in this section if you want health information from all of your health care providers to be released.

4 Indicate where you would like the requested health information sent. It is best to provide a complete mailing address as not everyone will fax health information. A place has been provided to indicate a deadline for providing the health information.

Providing a date is optional.

5 Indicate what health information you want sent. If you want to limit the health information that is sent to a particular date(s) or year(s), indicate that on the line provided.

For your protection, it is recommended that you initial instead of check the requested categories of health information.

This helps prevent others from changing your form.

EXAMPLE:  All health information

If you select **all health information**, this will include any information about you related to mental health evaluation and treatment, concerns about drug and/or alcohol use, HIV/AIDS testing and treatment, sexually transmitted diseases and genetic information.

Important: There are certain types of health information that require special consent by law.

Chemical dependency program information comes from a program or provider that specifically assesses and treats alcohol or drug addictions and receives federal funding. This type of health information is different from notes about a conversation with your physician or therapist about alcohol or drug use. To have this type of health information sent, mark or initial on the line at the bottom of page 1.

Psychotherapy notes are kept by your psychiatrist, psychologist or other mental health professional in a separate filing system in their office and not with your other health information. **For the release of psychotherapy notes, you must complete a separate form noting only that category. You must also name the professional who will release the psychotherapy notes in section 3.**

6 Health information includes both written and oral information. If you do not want to give permission for persons in section 3 to talk with persons in section 4 about your health information, you need to indicate that in this section.

7 Please indicate the reason for releasing the health information. If you indicate marketing, please contact the organization in section 4 to determine if payment or compensation is involved. If payment or compensation to the organization is involved, indicate the amount.

8 This consent will expire one year from the date of your signature, unless you indicate a different date or event. Examples of an event are: “60 days after I leave the hospital,” or “once the health information is sent.”

9 Please sign and date this form. If you are a legally authorized representative of the patient, please sign, date and indicate your relationship to the patient. You may be asked to provide documents showing that you are the patient or the patient’s legally authorized representative.

MN Standard Consent Form Page (PDF)

Minnesota Standard Consent Form to Release Health Information

Patient's name _____

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6 Health information includes written and oral information

By indicating any of the categories in section 5, you are giving permission for written information to be released **and** for a person in section 3 to talk to a person in section 4 about your health information.

If you do not want to give your permission for a person in section 3 to talk to a person in section 4 about your health information, indicate that here (check mark or initials) _____

7 Reason(s) for releasing information

- Patient's request
- Review patient's current care
- Treatment/continued care
- Payment
- Insurance application
- Legal
- Appeal denial of Social Security Disability income or benefits
- Marketing purposes (payment or compensation involved? NO YES, amount _____)
- Sale (payment or compensation to entity maintaining the information? NO YES)
- Other (please explain) _____

8 I understand that by signing this form, I am requesting that the health information specified in Section 5 be sent to the third party named in section 4.

I may stop this consent at any time by writing to the organization(s), facility(ies) and/or professional(s) named in section 3.

If the organization, facility or professional named in section 3 has already released health information based on my consent, my request to stop will not work for that health information.

I understand that when the health information specified in section 5 is sent to the third party named in section 4, the information could be re-disclosed by the third party that receives it and may no longer be protected by federal or state privacy laws.

I understand that if the organization named in section 4 is a health care provider they will not condition treatment, payment, enrollment or eligibility for benefits on whether I sign the consent form.

If I choose not to sign this form and the organization named in section 4 is an insurance company, my failure to sign will not impact my treatment; I may not be able to get new or different insurance; and/or I may not be able to get insurance payment for my care.

This consent will end one year from the date the form is signed unless I indicate an earlier date or event here:

Date / / Or specific event _____
MM DD YYYY

9 Patient's signature _____ Date / /

OR legally authorized representative's signature _____ Date / /

Representative's relationship to patient (parent, guardian, etc.) _____
MM DD YYYY

PRINT FORM

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of any individual or family member of the individual, except as specifically allowed by this law.



LAP Form 06-28-11.jpg



DOMESTIC VIOLENCE LETHALITY SCREEN FOR FIRST RESPONDERS



Officer:	Date:	Case #:
Victim:		Offender:
<input type="checkbox"/> Check here if victim did not answer any of the questions.		
▶ A "Yes" response to any of Questions #1-3 automatically triggers the protocol referral.		
1. Has he/she ever used a weapon against you or threatened you with a weapon?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Answered
2. Has he/she threatened to kill you or your children?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Answered
3. Do you think he/she might try to kill you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Answered
▶ Negative responses to Questions #1-3, but positive responses to at least four of Questions #4-11, trigger the protocol referral.		
4. Does he/she have a gun or can he/she get one easily?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Answered
5. Has he/she ever tried to choke you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Answered
6. Is he/she violently or completely jealous or does he/she control most of your daily activities?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Answered
7. Have you left him/her or separated after living together or being married?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Answered
8. Is he/she unemployed?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Answered
9. Has he/she ever tried to kill himself/herself?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Answered
10. Do you have a child that he/she knows is not his/hers?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Answered
11. Does he/she follow or spy on you or leave threatening messages?	<input type="checkbox"/> Yes	<input type="checkbox"/> No <input type="checkbox"/> Not Answered
▶ An officer may trigger the protocol referral, if not already triggered above, as a result of the victim's response to the below question, or whenever the officer believes the victim is in a potentially lethal situation.		
a. Is there anything else that worries you about your safety? (if "yes") What worries you?		
Check one: <input type="checkbox"/> Victim screened in according to the protocol		
<input type="checkbox"/> Victim screened in based on the belief of officer		
<input type="checkbox"/> Victim did not screen in		
If victim screened in: After advising he/she of a high danger assessment, did the victim speak with the hotline counselor? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Note: The questions above and the criteria for determining the level of risk a person faces is based on the best available research of factors associated with lethal violence by a current or former intimate partner. However, each situation may present unique factors that influence risk for lethal violence that are not captured by this screen. Although most victims who screen "positive" or "high danger" would not be expected to be killed, these victims face much higher risk than that of other victims of intimate partner violence.

LAW ENFORCEMENT TURBMAN CONTACT NUMBER: 661-770-8964

**PLEASE FAX THIS FORM TO TURBMAN AT 661-770-8966
WASHINGTON COUNTY PROBATION FAX: 661-630-8961 ATTN: MERCY ADAMS**