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**Domestic Violence Policy  
Model Training Bulletin for Law  
Enforcement Agencies  
2011**

## TABLE OF CONTENTS

<b>I.</b>	<b>PURPOSE .....</b>	<b>3</b>
<b>II.</b>	<b>AUTHORITY.....</b>	<b>3</b>
	Domestic Violence & Relationship Definitions .....	4
<b>III.</b>	<b>PROCEDURES .....</b>	<b>5</b>
	Public Safety Telecommunicator or Dispatch Procedures .....	5
	Initial Law Enforcement Officer Response Procedures .....	6
	Court Orders .....	8
	The Arrest Decision .....	10
	Arrest Procedures.....	11
	Misdemeanor Cases .....	11
	Felony Cases .....	11
	Incident Documentation Procedures.....	12
	Victim Safety and Protection .....	13
	Information Provided to Victims .....	13
<b>IV</b>	<b>DEFINITIONS .....</b>	<b>14</b>
<b>V.</b>	<b>ENDNOTES.....</b>	<b>17</b>
<b>VI.</b>	<b>APPENDICES.....</b>	<b>19</b>
	Appendix I: Domestic Violence Supplemental Report Form.....	20
	Appendix II: Determining a Domestic Violence Arrest .....	22
	Appendix III: DSOP Analysis Tree .....	25
	Appendix IV: Mandatory On-Scene Victim Information in Domestic Violence Cases .....	26
	Appendix V: Sample Collaboration Agreement between Domestic Violence Advocacy Agencies and Law Enforcement Agencies.....	28
	Appendix VI: Federal Domestic Violence Law Supplement .....	31
	Appendix VII: Kansas Sexual and Domestic Violence Agencies ....	33
	Appendix VIII: Law Enforcement Pocket Card – Investigation Checklist & Strangulation Checklist .....	34
	Appendix IX: Stalking Investigation Checklist.....	35
	Appendix X: Domestic Violence Calls – Dispatch Information .....	37

# STATE OF KANSAS

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## DOMESTIC VIOLENCE MODEL TRAINING BULLETIN

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THIS IS A SUGGESTED DOMESTIC VIOLENCE TRAINING BULLETIN. PLEASE REVIEW ANY QUESTIONS WITH YOUR DEPARTMENTAL LEGAL ADVISOR AND YOUR LOCAL PROSECUTING ATTORNEY. THIS BULLETIN IS BASED ON BEST PRACTICE AND STATE LAW. STATE LAW IS CITED WHERE APPROPRIATE.

### I. PURPOSE

The purpose of this bulletin is to establish guidelines for law enforcement officers in response to domestic violence calls in compliance with K.S.A. § 22-2307, which states “[a]ll law enforcement agencies in this state shall adopt written policies regarding domestic violence calls . . . These policies shall be made available to all officers of such agency.”

Law enforcement officers are expected to do the following:<sup>1</sup>

- Establish arrest and prosecution as a preferred means of response to domestic violence.
- Take appropriate action for any violation of permanent, temporary, or emergency orders of protection.
- Afford protection and support to adult and child victims of domestic violence.
- Promote the safety of law enforcement personnel responding to incidents of domestic violence.
- Provide victims or witnesses of domestic violence with support and assistance through cooperative efforts in order to prevent further abuse and harassment, or both.
- Complete thorough investigations and effect arrest of the person that the officer has probable cause to believe committed a crime or offense involving domestic violence unless the person’s actions were in defense of property, self, or another person.

Agencies shall provide a proactive, proarrest approach in responding to domestic violence. The primary focus shall be on victim safety followed closely by perpetrator accountability. The law enforcement officer should follow the appropriate steps to complete a thorough analysis (see Appendix II & III of this policy) and arrest only the person(s) who were not acting in defense of property, self, or another person.

### II. AUTHORITY

The authority granted under K.S.A. § 22-2401 states:<sup>2</sup>

A law enforcement officer may arrest a person under any of the following circumstances:

- (a) The officer has a warrant commanding that the person be arrested.
- (b) The officer has probable cause to believe that a warrant for the person’s arrest has been issued in this state or in another jurisdiction for a felony committed therein.
- (c) The officer has probable cause to believe that the person is committing or has committed:
  - (1) A felony; or
  - (2) a misdemeanor, and the law enforcement officer has probable cause to believe that:
    - (A) The person will not be apprehended or evidence of the crime will be irretrievably lost unless the person is immediately arrested;
    - (B) the person may cause **injury to self or others** or **damage to property** unless

immediately arrested; or

(C) the person has **intentionally inflicted bodily harm** to another person.

(d) Any crime, except a traffic infraction or a cigarette or tobacco infraction, has been or is being committed by the person in the officer's view.

Furthermore, authority granted under K.S.A. § 22-2307 states:<sup>3</sup>

(a) All law enforcement agencies in this state **shall** adopt written policies **regarding domestic violence calls** as provided in subsection (b). These policies shall be made available to all officers of such agency.

(b) Such written policies **shall** include, but not be limited to, the following:

(1) A statement directing that when a law enforcement officer determines that there is probable cause to believe that a crime or offense involving domestic violence, as defined in K.S.A. 21-5111, and amendments thereto, has been committed, the officer shall, without undue delay, arrest the person for which the officer has probable cause to believe committed the crime or offense if such person's actions were not an act of defense of a person or property...

### **Domestic Violence and Relationship Definitions:**

**Domestic violence** means an act or threatened act of violence against a person with whom the offender is involved or has been involved in a dating relationship, or an act or threatened act of violence against a family or household member by a family or household member. Domestic violence also includes any other crime committed against a person or against property, or any municipal ordinance violation against a person or against property, when directed against a person with whom the offender is involved or has been involved in a dating relationship or when directed against a family or household member by a family or household member.\*

**Dating relationship** means a social relationship of a romantic nature. In addition to any other factors the court deems relevant, the trier of fact may consider the following when making a determination of whether a relationship exists or existed: Nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and time since termination of the relationship, if applicable.\*

**Family or household member** means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or have resided together, in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.\*

**Domestic violence offense** means any crime committed whereby the underlying factual basis includes an act of domestic violence.

### **III. PROCEDURES**

When a law enforcement officer determines that there is probable cause to believe that a crime or offense involving domestic violence, as defined above, has been committed, the officer shall, without undue delay, arrest the person for which the officer has probable cause to believe committed the crime or offense if such person's actions were not in defense of property, self, or another person.

#### **Public Safety Telecommunicator Procedures:**

The Public Safety Telecommunicator who receives a domestic violence call for service can provide the responding law enforcement officers with vital information that can help promote the safety of the victim and the law enforcement officers.

The Public Safety Telecommunicator should do the following:

1. Dispatch a minimum of two law enforcement officers to a domestic violence call, whenever possible.
  2. Assign a priority response to all domestic violence calls, whether or not the assailant is known to be on the premises, including those calls that involve or appear to involve a law enforcement officer of any department.
  3. Immediately notify and dispatch a supervisor to any domestic violence call for service that involves or appears to involve a law enforcement officer, regardless of the involved law enforcement officer's jurisdiction.
  4. Preserve documentation of the facts and circumstances of each call, including 911 tapes, for use in potential administrative and criminal investigations, as requested by the investigating law enforcement officers or supervisors.
  5. Maintain current contact information for local domestic violence agencies that responding law enforcement officers may provide to victims.
  6. Attempt to elicit any and all information from the caller that may help the responding and investigating law enforcement officers assess the situation.
- A. During the initial call for assistance, the Public Safety Telecommunicator will ask the following questions:
1. Where is the location of the emergency?
  2. What is happening/what has happened?
  3. Who am I speaking to?
  4. Are you the victim? If not, are you a witness?
  5. What is the nature of the incident (verbal or physical)?
  6. Are there any injuries and/or needs for medical attention? If yes, is an ambulance needed?
  7. Is the suspect present? If not, can you physically describe the suspect and the expected whereabouts of the suspect? How did the suspect leave the scene (vehicle, foot, etc.)?
  8. Were there weapons involved and/or present at the scene? If yes, what kind?
  9. Is the suspect under the influence of drugs and/or alcohol? If yes, what substance?
  10. Are there children present?
  11. Has law enforcement responded to this address before?

12. Are there any protection orders currently in place?
  13. If possible, keep caller on the line until the responding law enforcement officers arrive.
- B. Cancellation of a Call: Under no circumstances shall the Public Safety Telecommunicator cancel the dispatch of law enforcement officers to the scene of a domestic violence call.
1. If a hang-up occurs, attempt to reconnect the call, but do not state who the original call came from.
  2. Dispatch shall not cancel a call based upon the caller's request.
  3. Always inform the responding law enforcement officers of any call activity including, but limited to, any hang-up calls and/or any requests to cancel the original call.
- C. If possible, the Public Safety Telecommunicator will gather the additional information from the caller as follows:
1. Are there any language barriers and/or cultural barriers that the responding law enforcement officers need be aware?
  2. If the caller is the victim:
    - a. Ask the victim if she/he is able to speak freely. If yes, continue with the following questions. If no, gather as much information as possible using questions that require only "yes" and "no" answers, and/or utilize code words to speak with the victim. (i.e., "On a scale of 1-10, with 10 being the most, how much danger are you in?")
    - b. Is there a history of domestic violence and/or abuse? Identity of past perpetrators.
    - c. What is your relationship to the suspect (spouse, boyfriend, former partner, etc.)?
    - d. What is your current level of fear?
    - e. Have there been any threats of homicide and/or suicide?

**Initial Law Enforcement Officer Response Procedures:**

- A. When dispatched to a domestic violence call, responding law enforcement officers should do the following:
1. Obtain all available information from the Public Safety Telecommunicator and notify the Public Safety Telecommunicator upon arrival at the scene.
  2. Approach the scene with a high degree of caution.
  3. While adhering to departmental policy regarding emergency responses, avoid the use of emergency lights and sirens when it is not essential so as not to alert the suspect to the officers' approach.
  4. Be alert for persons leaving the scene and for the deployment of weapons from doors, windows, or nearby vehicles.
  5. Use recording devices to capture statements made by suspects, victims and witnesses, if possible or available.
- B. Upon arrival at the scene, responding law enforcement officers should do the following:
1. Avoid parking the law enforcement vehicle in front of the residence or in sight of the incident, whenever possible.
  2. Identify yourself as law enforcement officers and explain your presence. Request entry in the event the incident is at a private residence, as necessary, and when exigent

circumstances<sup>5</sup> do not exist. A forced entry is permissible if there is a reasonable, good-faith belief that there is someone in need of immediate aid or assistance.<sup>6</sup> In making this decision, law enforcement officers may take into account everything they personally observe, all physical evidence and all things learned from witnesses or other persons supplying information. In evaluating the information, law enforcement officers should take into account the credibility of the persons supplying the information and whether there is a reasonable basis for believing the information.

3. Make contact with all residents of the house, all potential witnesses, victims and suspects.

C. Upon gaining entry, responding law enforcement officers should do the following:

1. Secure the scene. Identify and secure potential weapons in the surroundings.
2. Separate the parties, if possible and as safety permits.
3. Restrain or remove parties who pose a safety risk, if necessary.
4. Assess for any and all injuries (visible and non-visible), make an inquiry about strangulation or internal injuries, administer first aid and request medical services, as necessary.
5. Identify all people or witnesses on the premises.
6. Separate occupants and witnesses from the victim and the suspect, keeping them out of sight and hearing range from one another, as safety permits.
7. Obtain a comprehensive account of the events from all parties.

D. During the on-scene investigation, responding law enforcement officers should do the following:

1. Ask the parties about injuries, including those that may be concealed by clothing or otherwise not readily apparent, and strangulation.
2. After speaking with the victim and making a proactive assessment of the victim's physical condition, determine whether emergency medical services (EMS) should be summoned to the scene. Officers should always summon EMS if the victim requests medical attention, regardless of whether the officer believes EMS should be summoned.
3. With regard to searches, inform the victim in advance of actions to be taken and obtain consent to search the scene or obtain a search warrant as necessary.
4. If the suspect has been arrested prior to the interview, give *Miranda* warnings before questioning the suspect. If the suspect has fled the scene, solicit information about his/her possible whereabouts.
5. Address the victim's safety and privacy by interviewing the victim in an area apart from the suspect and witnesses. Obtain information about previous incidents, including frequency and severity of domestic violence and/or abuse.
6. Ask the victim about the existence of a protection order and, if one exists, ask whether the victim possesses a copy. Check for the existence of a protection order through dispatch or by other means available.
7. While adhering to departmental policy on evidence collection, collect, photograph, preserve and document all physical evidence to support prosecution, including evidence substantiating the victim's injuries, evidentiary articles that substantiate the attack (weapons, torn clothing, phone cords, etc.) and evidence recording the crime scene, such as destroyed or damaged property. Ensure that color photographs are taken of visible

injuries on the victim as well as visible injuries on the suspect. Make arrangements to take follow-up photographs of the victim's injuries 24, 48 and 72 hours later in the event the injuries become more visible and pronounced.

8. Interview all witnesses fully and as soon as circumstances allow. If witnesses provide information about prior incidents, document the information to establish a pattern. Elicit information and document all actual and suspected incidents of abuse including physical and sexual abuse, elder or child abuse, cruelty to animals, etc.
  9. Interview children at the scene in a manner appropriate for their age. Document any signs of trauma and any apparent wounds or healing of wounds on the children and take appropriate action to prevent imminent harm to the children.<sup>7</sup>
  10. Offer to contact the local domestic violence agency to provide support to the victim and provide current contact information for local domestic violence resources.
- E. The responding or investigating law enforcement officers **shall not** do the following:
1. Make any statement that would discourage a victim from reporting an act of domestic violence and/or abuse.
  2. Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel.
  3. Use family members, especially children, as interpreters after exigent circumstances<sup>8</sup> no longer exist.
- F. [If department has a policy on using interpreters, refer to that policy]
- G. Incidents involving a law enforcement officer as the suspect:<sup>9</sup>
1. Upon arrival on the scene of a domestic violence call of an incident involving a law enforcement officer, the primary law enforcement patrol unit should immediately notify dispatch. Request that a supervisor or higher ranking law enforcement officer than the involved law enforcement officer report to the scene, regardless of the involved law enforcement officer's jurisdiction.
  2. Responding law enforcement officers should be aware of the heightened risk that a suspect who is a law enforcement officer will likely possess firearms, other weapons, defensive tactics training, or all three.
  3. Law enforcement officers should be aware that the suspect may attempt to make emotional appeals to fellow law enforcement officers.

### **Court Orders:**

#### **Violation of a Protective Order:**

Violation of a Protective Order is *knowingly or intentionally* violating:<sup>10</sup>

- PFA – Emergency, Temporary and Final Protection from Abuse (PFA) Orders
- PFS – Temporary and Final Protection from Stalking (PFS) Orders
- Criminal Case – Any no contact order issued pre- or post-conviction in a criminal case
- Divorce – Any restraining order issued as part of a divorce proceeding
- CINC Case – Any restraining order issued in a Child in Need of Care (CINC) case
- Out-of-State Order – Any similar order issued by any Indian tribe, or by any state within the U.S., including any municipalities therein (also known as Full Faith and Credit)



*Note: Violation of a PFA is a domestic violence crime. Other protective order violations may constitute a domestic violence crime. Law enforcement officers should refer to the definition of domestic violence in this policy to determine if the crime is a domestic violence crime.*

- A. Law enforcement officers who determine that the named respondent/defendant in such a protective order as listed above is in violation of a protective order under K.S.A. § 21-5924, should arrest the respondent/defendant and proceed with the booking process. If the violation is determined to be a domestic violence crime, law enforcement officers shall arrest the respondent/defendant and proceed with the booking process. The law enforcement officer should turn the information over to the prosecuting attorney. Violation of a protective order is a class A misdemeanor.<sup>11</sup>

### **Protection from Abuse (PFA) and Protection from Stalking (PFS) Orders:**

While the named defendant on a PFA and/or PFS order usually can not be arrested or charged with violation of a protective order under K.S.A. § 21-5924 if the defendant has not been personally served with the order, law enforcement officers should still offer assistance to the victim/plaintiff if a complaint is made and should work to have the defendant personally served with the PFA/PFS order. Law enforcement officers should arrest on other charges, such as criminal trespass K.S.A. § 21-5808, whenever possible. The Clerk of the District Court should send valid orders to the sheriff's office to keep on file. The sheriff's office enters the protection orders into NCIC as they are issued by the District Court.

- A. Law enforcement officers who determine that the defendant named in a PFA and/or PFS order is in violation of a protective order under K.S.A. § 21-5924 shall arrest the defendant and proceed with the booking process. The law enforcement officer should turn the information over to the prosecuting attorney. Violation of a protective order is a class A misdemeanor.<sup>12</sup>
- B. Law enforcement officers who are presented with a situation in which the victim/plaintiff claims a PFA and/or PFS is in existence, but does not possess and/or present a copy to the law enforcement officers, should take steps to verify the existence of a protection order, in good faith including any and all but not limited to:
1. Utilize NCIC to verify the existence of a protection order.
  2. Utilize sheriff/law enforcement records to verify that an order is on file.
  3. Contact the Clerk of the District Court in which the protection order was issued.
  4. Consider other information in determining whether there is reason to believe a valid foreign protection order exists.
- C. Law enforcement officers who make an arrest for violation of a protective order under K.S.A. § 21-5924 should complete an independent standard offense report for the arrest. Any additional charges, such as criminal trespass K.S.A. § 21-5808, should also be made.

### **Full Faith and Credit:**

Any protection order issued by the court of any state or Indian tribe shall be accorded full faith and credit and enforced as if it was issued by a Kansas court.<sup>13</sup>

- A. A foreign order of protection is considered valid if the order:<sup>14</sup>
1. Identifies the protected individual and the respondent;
  2. Is currently in effect;

3. Was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and
  4. Was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an ex parte order, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued in a manner consistent with the rights of the respondent to due process.
  5. If a law enforcement officer determines that an otherwise valid foreign protection order cannot be enforced because the respondent of the order has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent and allow the respondent a reasonable opportunity to comply with the order before enforcing the order.<sup>15</sup>
- B. Law enforcement officers shall, upon a probable cause determination that a foreign order of protection exists, treat the violation of the order as if it were issued by a Kansas court.<sup>16</sup>

### **The Arrest Decision:**

- A. Law enforcement officers shall make a warrantless arrest if they have probable cause to believe that a person has committed or is committing a domestic violence related crime or offense and the person's actions were not an act of defense of self, others, or property.
- A law enforcement officer should not arrest either party involved in an alleged act of domestic violence if the law enforcement officer determines there is no probable cause to believe that a crime or offense has been committed.
- A law enforcement officer should not automatically arrest both parties involved in an alleged act of domestic violence. If a law enforcement officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine if there is probable cause that each accused person committed a crime or offense and their actions were not an act of defense of self, others, or property.
- B. Law enforcement officers shall arrest for violation of protective orders under K.S.A. § 21-5924, when applicable. If the violation is determined to be a domestic violence crime, law enforcement officers shall arrest for violation of the protective order. **A person shall not be arrested for violating a protection order under which that person is the protected party.**
- C. If an arrest is not made, law enforcement officers should provide a detailed explanation in the standard offense report as to why an arrest was not made and the report shall be sent to the KBI.
- D. When an arrest cannot be made due to a lack of probable cause that a crime has been committed, or if an arrest is authorized but not made (explanation to be found in the standard offense report), then the law enforcement officer should do the following:
1. Explain to the victim why an arrest is not being made.
  2. Advise the victim of her or his rights and explain the procedures for filing a criminal complaint.
  3. Encourage the victim to contact the local domestic violence agency for information regarding services available.
- E. If a law enforcement officer has probable cause to believe that two or more persons committed a crime or offense involving domestic violence, or if two or more persons make complaints to the officer, the officer should attempt to determine whether one party acted in

defense of self, others by conducting a thorough investigation and analysis (see Appendix II & III of this policy).

- F. Subsequent to an investigation, an arrest should be made only if the law enforcement officer has probable cause to believe that a crime involving domestic violence is being or has been committed *and* the alleged perpetrator was not acting in defense of self, others or property.
- G. **Dual arrests apply only** where law enforcement officers determine that: (1) there is probable cause that both persons committed a crime involving domestic violence; and (2) neither person acted in defense of property, self, or another person.(see Appendix II & III of this policy). Law enforcement officers should, in this instance, notify a supervisor to review the circumstances leading to the dual arrest.
- H. If the law enforcement officer determines that probable cause exists to arrest both parties, the arresting law enforcement officer should write and file a separate standard offense report for each arrest and include a detailed explanation of the probable cause finding for each arrest.

### **Arrest Procedures:**

#### **Misdemeanor Cases:**

In domestic violence cases where the law enforcement officer has probable cause to believe that a misdemeanor is being or has been committed:

- A. The law enforcement officer shall arrest the suspect, if present, with authority under K.S.A. § 22-2401 and K.S.A. § 22-2307, in domestic violence misdemeanor cases. The arresting law enforcement officers should take the suspect into custody as soon as it is determined that a warrantless arrest is appropriate.
- B. If the law enforcement officer has probable cause and the suspect has fled the scene, law enforcement officers should:
  - 1. Attempt to locate and apprehend the suspect as well as have dispatch broadcast the suspect information and prepare a suspect bulletin for distribution.
  - 2. In consultation with a supervisor, initiate procedures to obtain a warrant for the suspect as soon as practical if the suspect has not been located.
  - 3. Inform the victim that the agency will request a warrant to arrest the suspect.

#### **Felony Cases:**

In domestic violence cases where the law enforcement officer has probable cause to believe that a felony is being or has been committed:

- A. The law enforcement officer shall arrest the suspect, if present, with authority under K.S.A. § 22-2401 and K.S.A. § 22-2307, in all domestic violence felony cases. The arresting law enforcement officers should take the suspect into custody as soon as it is determined that a warrantless arrest is appropriate.
- B. If the law enforcement officer has probable cause and suspect has fled the scene, the law enforcement officer should:
  - 1. In consultation with a supervisor, the law enforcement officer should actively search for the fleeing suspect without a warrant until supervisor deems it necessary to ask for a warrant.
  - 2. Inform the victim that the agency will request a warrant to arrest the suspect.
  - 3. Have dispatch broadcast the suspect information and prepare a suspect bulletin for distribution.

4. The supervisor should ensure that the suspect information is transmitted to law enforcement officers coming on duty for the succeeding shift, particularly those law enforcement officers whose district contains the scene of the incident and/or the location where the victim is presently located.
  5. If a law enforcement officer subsequently arrests the suspect following the issuance of a felony bulletin, the suspect should be booked and the bulletin cleared.
- C. The law enforcement officer or follow-up detective assigned to the case should expedite an application for a warrant, regardless of whether the suspect has been taken into custody.
1. If a warrant is obtained, the law enforcement officer or detective should, immediately following the law enforcement officer's presentation of the case to the prosecutor's office, ensure that bulletins issued for the suspect who is in custody have been cancelled.
  2. If a warrant is denied, the law enforcement officer or detective should, immediately following the law enforcement officer's presentation of the case to the prosecutor's office, cancel bulletins issued for the suspect not in custody. The victim should be notified as to whether the suspect was apprehended and/or the warrant not issued, if possible.

**Factors that will not be considered in making an arrest:**

1. Sexual orientation, race, and cultural, social, political, or professional positions.
2. Ownership, tenancy rights of either party, or whether the incident occurred on private property.
3. Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to conviction.
4. Verbal assurances that the domestic violence will stop.
5. Denial by either party that domestic violence occurred when there is probable cause to make an arrest.
6. Lack of a court order.
7. Chemical dependency or intoxication of the parties.

Domestic violence calls involving prominent citizens, public officials, or law enforcement personnel may present particular difficulties for the responding law enforcement officers. In such circumstances, the responding law enforcement officers should request that a supervisor respond to the scene and should ensure that this incident be handled the same as any other domestic violence incident.

**Incident Documentation Procedures:**

- A. Law enforcement officers should complete, in addition to the standard offense report, a domestic violence supplemental report form, following response to or the investigation of an allegation of domestic violence, regardless of whether an arrest is made.
- B. Law enforcement officers shall fully document the response to every domestic violence call on the standard offense report regardless of whether a crime has been committed or an arrest has been made.<sup>17</sup>
- C. A copy of the standard offense report shall be sent to the Kansas Bureau of Investigation (KBI) in Topeka.<sup>18</sup>

### **Victim Safety and Protection:**

Law enforcement officers should make victim safety and protection a priority, recognizing the important role law enforcement officers play in supporting the safety of victims and enabling them to make informed decisions.

A. Law enforcement officers responding to cases involving domestic violence should:

1. If suspect is arrested, inform the victim of the procedure for contacting jail personnel in order to determine when the suspect may be released from custody, in addition to requesting that jail personnel notify the victim prior to the suspect's release.
2. In the event that the victim wants to leave the premises to ensure safety:
  - a. Remain at the scene while the victim packs essentials.
  - b. Upon the victim's request, transport the victim to the Law Enforcement Center to wait for someone to pick up the victim (i.e., domestic violence advocate, family member, friend, etc.).
  - c. Upon the victim's request, transport the victim to a safe place within reasonable distance. A safe shelter, regardless of the distance, should be deemed an appropriate transport.
3. Provide the victim with the investigating officer's name and contact information.

### **Information Provided to Victims:**

A. Law enforcement officers shall, in compliance with K.S.A. § 22-2307, provide the following information to victims of domestic violence (see Appendix IV of this policy):

1. Availability of emergency and medical telephone numbers, if needed;
2. The law enforcement agency's report number;
3. The address and telephone number of the prosecutor's office the victim should contact to obtain information about victims' rights pursuant to K.S.A. § 74-7333 and K.S.A. § 74-7335 and amendments thereto;
4. The name and address of the crime victims' compensation board and information about possible compensation benefits;
5. Advise the victim that the details of the crime may be made public;
6. Advise the victim of such victims' rights under K.S.A. § 74-7333 and K.S.A. § 74-7335 and amendments thereto; and
7. Advise the victim of known available resources which may assist the victim (i.e., domestic violence agencies, sexual assault agencies, shelters, prosecutor's office, mental health agencies, medical doctors, legal assistance services, social services, etc.).

#### IV. DEFINITIONS

***Domestic violence and/or sexual assault agency:*** a nonprofit organization whose primary purpose is to provide free and confidential services to victims of domestic violence and/or sexual assault, including, but not limited to, emergency housing, crisis hotlines, advocacy, community education and referral services for victims of domestic violence and/or sexual assault.

***Domestic violence advocate:*** someone who specializes in domestic violence, assists and works to promote the safety of a victim of domestic violence.

***Sexual assault advocate:*** someone who specializes in sexual assault, assists and works to promote the safety of a victim of sexual violence.

***Prosecutor Based Victim-Witness Coordinator:*** someone who is based in the prosecuting attorney's office who works on behalf of the prosecuting attorney to assist the victim and/or witness of a criminal case through the criminal process.

***Self-defense; Defense of Others; Defense of Property:*** A person is justified in the use of force against another when and to the extent it appears to such person and such person reasonably believes that such use of force is necessary to defend such person or a third person against such other's imminent use of unlawful force. A person is justified in the use of deadly force under circumstances described above if such person reasonably believes that such use of deadly force is necessary to prevent imminent death or great bodily harm to such person or a third person. Nothing shall require a person to retreat if such person is using force to protect such person or a third person.<sup>19</sup>

***Use of Force to Prevent/Terminate Unlawful Entry/Dwelling, Place of Work, Occupied Vehicle:*** A person is also justified in the use of force against another when and to the extent that it appears to such person and such person reasonably believes that such use of force is necessary to prevent or terminate such other's unlawful entry into or attack upon such person's dwelling, place of work, or occupied vehicle. A person is justified in the use of deadly force to prevent or terminate unlawful entry into or attack upon any dwelling, place of work, or occupied vehicle if such person reasonably believes that such use of deadly force is necessary to prevent imminent death or great bodily harm to such person or another. Nothing shall require a person to retreat if such person is using force to protect such person's dwelling, place of work, or occupied vehicle.<sup>20</sup>

***Use of Force to Prevent/Terminate Unlawful Interference with All Other Property:*** A person in lawful possession of property other than a dwelling, place of work, or occupied vehicle can use force against another to prevent/terminate an unlawful interference with the property. However, only the use of force that a reasonable person would deem necessary to prevent/terminate the interference may be used.

***Immunity:*** A person who uses force which, subject to the provisions of K.S.A. 21-5526 and amendments thereto, is justified pursuant to K.S.A. 21-5222, 21-5223 or 21-5225, and amendments thereto, is immune from criminal prosecution and civil action for the use of such force, unless the person against whom force was used is a law enforcement officer who was acting in the performance of such officer's official duties and the officer identified the officer's self in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, "criminal prosecution" includes arrest, detention in custody and charging or prosecution of the defendant. A law enforcement agency may use standard procedures for investigating the use of force, but the agency shall not arrest the person for using force unless it determines that there is probable cause for the arrest. A county or district attorney or other prosecutor may commence a criminal prosecution upon a determination of probable cause.<sup>21</sup>

***Defense of Self, Others, or Property Analysis (see Appendix II & III of this training bulletin):***

A thorough analysis is determined based upon the totality of circumstances, including, but not limited to:

- A prior history of domestic violence, perpetrated by which party against the other.
- The relative fear of one party to the other.
- The size, strength and bulk of the parties and the ability of one party to be more able to physically dominate the other party.
- Physical and circumstantial evidence that any of the parties acted in defense of self, others, or property.
- Relative severity and extent of the injuries, and whether injuries are offensive or defensive injuries.
- Statements from participants or witnesses, current or previous filed protection orders and any other evidence available to the officer.

***Protection from Abuse Order (PFA):*** A civil order issued to protect victims of domestic violence from bodily injury or threats of bodily injury.<sup>23</sup> A final PFA order can provide the following relief for a victim:

- Restraining the defendant from abusing, molesting or interfering with the privacy or rights of the plaintiff or of any minor children;<sup>24</sup>
- Granting possession of the residence or household to the plaintiff to the exclusion of the defendant, and further restraining the defendant from entering or remaining upon or in such residence or household;<sup>25</sup>
- Restraining the defendant from canceling utility service to the residence or household for 60 days from the date the order is issued;<sup>26</sup>
- Requiring the defendant to provide suitable, alternate housing for the plaintiff and any minor children of the parties;<sup>27</sup>
- Awarding temporary custody and residency and establishing temporary parenting time with regard to minor children;<sup>28</sup>
- Ordering a law enforcement officer to evict the defendant from the residence or household;<sup>29</sup>
- Ordering support payments for the support of the party's minor child, if the party is the mother or the father of the child, or the plaintiff, if the plaintiff is married to the defendant;<sup>30</sup>
- Awarding costs and attorney fees to either party;<sup>31</sup>
- Making a provision for the possession of personal property of the parties and ordering a law enforcement officer to assist in securing possession of that property;<sup>32</sup>
- Requiring any person against whom an order is issued to seek counseling to aid with the cessation of abuse;<sup>33</sup>
- Ordering or restraining any other acts deemed necessary to promote the safety of the plaintiff or of any other minor children of the parties.<sup>34</sup>

***Protection from Stalking Order (PFS):*** A civil order issued to protect victims of stalking.<sup>35</sup> A final PFS order can provide the following relief for a victim:

- Restraining the defendant from following, harassing, telephoning, contacting or otherwise communicating with the victim.<sup>36</sup>
- Restraining the defendant from abusing, molesting or interfering with the privacy rights of the victim.<sup>37</sup>
- Restraining the defendant from entering upon or in the victim's residence or the immediate vicinity thereof.<sup>38</sup>
- Any other order deemed necessary by the court to protect the victim.<sup>39</sup>

**Temporary protection order:** If good cause is shown in the petition, the court may issue an order before the other side receives notice.<sup>40</sup> This order is issued *ex parte*<sup>41</sup> and is temporary. Both parties will have a chance to be heard before the court prior to the issuance of a final order. A temporary protection order may remain in effect until the final protection order is issued and served on the defendant, or this order may be extended.

**72-hour no contact order:** a condition of release, if the person is being bonded out for a person felony or a person misdemeanor, the bond shall be conditioned on the person being prohibited from having any contact with the alleged victim of such offense for a period of at least 72 hours. The magistrate has authority to make a specific finding otherwise.<sup>42</sup>

**Petitioner:** A party who presents a petition to a court or other official body.<sup>43</sup> Referred to as *plaintiff* in the Protection from Stalking and Protection from Abuse Act.

**Respondent:** The party against whom a motion or petition is filed.<sup>44</sup> Referred to as *defendant* in the Protection from Stalking and Protection from Abuse Act.

**Full Faith and Credit:** Article 4, Section 1 of the United States Constitution requires states to give effect to the acts, public records and judicial decisions of other states.<sup>45</sup> The Violence Against Women Act specifically requires that states give full faith and credit to protection orders issued by other states, Indian tribal governments or territories.<sup>46</sup>

**Evidence-based prosecution:** preparing for a domestic violence case as though the victim may not participate in the trial of the offender.

**Proarrest response:** the expectation that officers shall arrest a person for committing a domestic violence offense unless there is a clear and compelling reason not to arrest (such as lack of probable cause or defense of self, others, or property).

**Domestic violence supplemental report:** a law enforcement reporting form designed to thoroughly capture evidence crucial to the successful prosecution of domestic violence cases.

**Community stakeholders:** entities in the community responsible for joining together to foster effective intervention in and prevention of domestic violence. Community stakeholders include, but are not limited to: law enforcement agencies, prosecutors, parole and probation officers, domestic violence agencies, social service agencies, adult and child protective services, mental health agencies, schools, clergy, educators, government agencies, animal welfare organizations, businesses and employers.

**Public Safety Telecommunicator:** someone who answers the initial 911 call. May also be referred to as *dispatch*, *call-taker* and/or *911 operators*.



## V. ENDNOTES

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<sup>1</sup> INT'L ASS'N OF CHIEFS OF POLICE, DOMESTIC VIOLENCE: MODEL POLICY (2006).

<sup>2</sup> KAN. STAT. ANN. § 22-2401.

<sup>3</sup> KAN. STAT. ANN. § 22-2307.

<sup>4</sup> KAN. STAT. ANN. § 60-3102(c).

<sup>5</sup> Triggered when the police, with probable cause but no warrant, enter a dwelling in the reasonable belief that the delay necessary to obtain a warrant threatens the destruction of evidence, or when they have a reasonable belief that a crime is in progress or has just been committed in a dwelling and the delay attendant to obtaining a warrant endangers the safety or life of a person therein. *State v. Jones*, 947 P.2d 1030, 1037 (Kan. 1997).

<sup>6</sup> *Id.*

<sup>7</sup> KAN. STAT. ANN. § 38-2223.

<sup>8</sup> Triggered when the police, with probable cause but no warrant, enter a dwelling in the reasonable belief that the delay necessary to obtain a warrant threatens the destruction of evidence, or when they have a reasonable belief that a crime is in progress or has just been committed in a dwelling and the delay attendant to obtaining a warrant endangers the safety or life of a person therein. *State v. Jones*, 947 P.2d 1030, 1037 (Kan. 1997).

<sup>9</sup> INT'L ASS'N OF CHIEFS OF POLICE, DOMESTIC VIOLENCE: LAW ENFORCEMENT INVOLVED DOMESTIC VIOLENCE MODEL POLICY (2003).

<sup>10</sup> KAN. STAT. ANN. § 21-5924 (2011).

<sup>11</sup> KAN. STAT. ANN. § 21-5924(c).

<sup>12</sup> KAN. STAT. ANN. § 21-5924(c).

<sup>13</sup> KAN. STAT. ANN. § 60-31b01 to 31b10.

<sup>14</sup> KAN. STAT. ANN. §§ 60-31b03(d)(1) to (4).

<sup>15</sup> KAN. STAT. ANN. § 60-31b04(a).

<sup>16</sup> *Id.*

<sup>17</sup> KAN. STAT. ANN. § 22-2307(b)(9).

<sup>18</sup> KAN. STAT. ANN. § 22-2307(b)(9).

<sup>19</sup> KAN. STAT. ANN. § 21-5222 (2011).

<sup>20</sup> KAN. STAT. ANN. § 21-5223 (2011).

<sup>21</sup> KAN. STAT. ANN. § 21-5231 (2011).

<sup>22</sup> INT'L ASS'N OF CHIEFS OF POLICE, DOMESTIC VIOLENCE: CONCEPTS AND ISSUES PAPER TO ACCOMPANY MODEL POLICY (2006).

<sup>23</sup> KAN. STAT. ANN. §§ 60-3101 TO -3112.

<sup>24</sup> KAN. STAT. ANN. § 60-3107(a)(1).

<sup>25</sup> KAN. STAT. ANN. § 60-3107(a)(2).

<sup>26</sup> *Id.*

- <sup>27</sup> KAN. STAT. ANN. § 60-3107(a)(3).
- <sup>28</sup> KAN. STAT. ANN. § 60-3107(a)(4).
- <sup>29</sup> KAN. STAT. ANN. § 60-3107(a)(5).
- <sup>30</sup> KAN. STAT. ANN. § 60-3107(a)(6).
- <sup>31</sup> KAN. STAT. ANN. § 60-3107(a)(7).
- <sup>32</sup> KAN. STAT. ANN. § 60-3107(a)(8).
- <sup>33</sup> KAN. STAT. ANN. § 60-3107(a)(9).
- <sup>34</sup> KAN. STAT. ANN. § 60-3107(a)(10).
- <sup>35</sup> KAN. STAT. ANN. §§ 60-31a01 to -31a09.
- <sup>36</sup> KAN. STAT. ANN. § 60-31a06(a)(1).
- <sup>37</sup> KAN. STAT. ANN. § 60-31a06(a)(2).
- <sup>38</sup> KAN. STAT. ANN. § 60-31a06(a)(3).
- <sup>39</sup> KAN. STAT. ANN. § 60-31a06(a)(4).
- <sup>40</sup> For Protection from Abuse: KAN. STAT. ANN. § 60-3106. For Protection from Stalking: KAN. STAT. ANN. § 60-31a05.
- <sup>41</sup> Done or made at the instance and for the benefit of one party only, and without notice to, or argument by, any person adversely interested; of or relating to court action taken by one party without notice to the other, usually for temporary or emergency relief. BLACK'S LAW DICTIONARY 616 (8th ed. 2004).
- <sup>42</sup> For municipal courts: KAN. STAT. ANN. § 12-4301. For district courts: KAN. STAT. ANN. § 22-2802.
- <sup>43</sup> BLACK'S LAW DICTIONARY 1182 (8th ed. 2004).
- <sup>44</sup> BLACK'S LAW DICTIONARY 1338 (8th ed. 2004).
- <sup>45</sup> BLACK'S LAW DICTIONARY 695 (8th ed. 2004).
- <sup>46</sup> Violence Against Women Act, 18 U.S.C.A. § 2265(a).

## **VI. APPENDICES**

Appendix I: Domestic Violence Supplemental Report Form

Appendix II: Determining a Domestic Violence Arrest

Appendix III: DSOP Analysis Tree

Appendix IV: Mandatory On-Scene Victim Information in Domestic Violence Cases

Appendix V: Sample Collaboration Agreement between Domestic Violence Advocacy Agencies and Law Enforcement Agencies

Appendix VI: Federal Domestic Violence Law Supplement

Appendix VII: Kansas Sexual and Domestic Violence Agencies


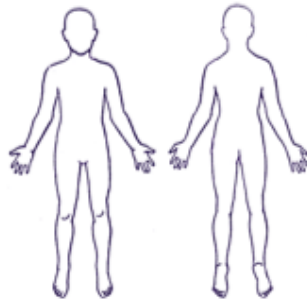
Appendix VIII: Law Enforcement Pocket Card – Investigation Checklist & Strangulation Checklist

Appendix IX: Stalking Investigation Checklist

Appendix X: Domestic Violence Calls – Dispatch Information

## Appendix I

DOMESTIC VIOLENCE SUPPLEMENTAL REPORT FORM						
CASE NUMBER:	TIME:	DATE OCCURRED:				
LOCATION:						
CALLER: <input type="checkbox"/> VICTIM <input type="checkbox"/> SUSPECT <input type="checkbox"/> HOSPITAL <input type="checkbox"/> NEIGHBOR <input type="checkbox"/> FAMILY MEMBER <input type="checkbox"/> OTHER: _____						
CALLER'S NAME:						
<b>CONDITION OF VICTIM UPON ARRIVAL:</b> <input type="checkbox"/> ANGRY <input type="checkbox"/> APOLOGETIC <input type="checkbox"/> CRYING <input type="checkbox"/> FEARFUL <input type="checkbox"/> HYSTERICAL <input type="checkbox"/> CALM <input type="checkbox"/> AFRAID <input type="checkbox"/> IRRATIONAL <input type="checkbox"/> NERVOUS <input type="checkbox"/> THREATENING <input type="checkbox"/> OTHER: _____	<input type="checkbox"/> COMPL. OF PAIN <input type="checkbox"/> BRUISE(S) <input type="checkbox"/> ABRASION(S) <input type="checkbox"/> MINOR CUT(S) <input type="checkbox"/> BITE(S) <input type="checkbox"/> FRACTURE(S) <input type="checkbox"/> CONCUSSION(S) <input type="checkbox"/> GUNSHOT(S) <input type="checkbox"/> DEEP CUT(S) <input type="checkbox"/> STRANGULATION <input type="checkbox"/> SEXUAL ASSAULT <input type="checkbox"/> OTHER: _____	<b>VICTIM NAME (L,F,M):</b> _____ <b>DOB:</b> _____ <b>GENDER:</b> <input type="checkbox"/> M <input type="checkbox"/> F  <b>HOME ADDRESS:</b> _____  <b>HOME PHONE:</b> _____ <b>WK PHONE:</b> _____  <b>SPONTANEOUS STATEMENTS:</b> _____ _____ <b>ALCOHOL/DRUG USE?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>TYPE OF SUBSTANCE:</b> _____	<b>CONDITION OF SUSPECT UPON ARRIVAL:</b> <input type="checkbox"/> ANGRY <input type="checkbox"/> APOLOGETIC <input type="checkbox"/> CRYING <input type="checkbox"/> FEARFUL <input type="checkbox"/> HYSTERICAL <input type="checkbox"/> CALM <input type="checkbox"/> AFRAID <input type="checkbox"/> IRRATIONAL <input type="checkbox"/> NERVOUS <input type="checkbox"/> THREATENING <input type="checkbox"/> OTHER: _____	<input type="checkbox"/> COMPL. OF PAIN <input type="checkbox"/> BRUISE(S) <input type="checkbox"/> ABRASION(S) <input type="checkbox"/> MINOR CUT(S) <input type="checkbox"/> BITE(S) <input type="checkbox"/> FRACTURE(S) <input type="checkbox"/> CONCUSSION(S) <input type="checkbox"/> GUNSHOT(S) <input type="checkbox"/> DEEP CUT(S) <input type="checkbox"/> STRANGULATION <input type="checkbox"/> SEXUAL ASSAULT <input type="checkbox"/> OTHER: _____	<b>SUSPECT NAME (L,F,M):</b> _____ <b>DOB:</b> _____ <b>GENDER:</b> <input type="checkbox"/> M <input type="checkbox"/> F  <b>HOME ADDRESS:</b> _____  <b>HOME PHONE:</b> _____ <b>WK PHONE:</b> _____  <b>ON PROBATION?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>WHERE:</b> _____ <b>PROB. OFFICER:</b> _____ <b>ON PAROLE?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>WHERE:</b> _____ <b>PAROLE OFFICER:</b> _____ <b>CURRENT DIVERSION?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>CHARGE DIVERTED:</b> _____  <b>SPONTANEOUS STATEMENTS:</b> _____ _____ <b>ALCOHOL/DRUG USE?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>TYPE OF SUBSTANCE:</b> _____	<b>SUSPECT PRESENT?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>ARRESTED?</b> <input type="checkbox"/> YES <input type="checkbox"/> ON-SCENE <input type="checkbox"/> WARRANT IF <input type="checkbox"/> NO <b>WARRANT ISSUED?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>CHARGE:</b> _____ <i>IF NO ARREST, EXPLAIN FULLY IN REPORT NARRATIVE.</i>
RELATIONSHIP						
<b>CHECK ALL THAT APPLY:</b> <input type="checkbox"/> SPOUSE <input type="checkbox"/> FORMER SPOUSE <input type="checkbox"/> DATING <input type="checkbox"/> FORMER DATING <input type="checkbox"/> CHILD IN COMMON <input type="checkbox"/> OTHER: _____						
<b>LENGTH OF RELATIONSHIP:</b> YRS    MTHS <b>RELATIONSHIP ENDED?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>END DATE:</b> _____						

HISTORY																			
PRIOR HISTORY OF DOMESTIC VIOLENCE? <input type="checkbox"/> YES <input type="checkbox"/> NO		NUMBER OF PRIOR INCIDENTS: _____																	
PRIOR HISTORY DOCUMENTED <input type="checkbox"/> YES <input type="checkbox"/> NO																			
POLICE REPORTS? <input type="checkbox"/> YES <input type="checkbox"/> NO		CASE #: _____																	
INVESTIGATING AGENCY: _____																			
PROTECTIVE ORDER EVER ISSUED? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> CURRENT <input type="checkbox"/> EXPIRED																			
TYPE OF ORDER: <input type="checkbox"/> EX PARTE <input type="checkbox"/> 1-YR PFA/PFS		DEFENDANT SERVED? <input type="checkbox"/> YES <input type="checkbox"/> NO																	
IF NO, DID OFFICER SERVE?																			
CONFIRMED BY: <input type="checkbox"/> VICTIM'S COPY <input type="checkbox"/> DEPARTMENT <input type="checkbox"/> OTHER: _____																			
INCIDENT INFORMATION																			
<b>MARK APPROPRIATELY, DESCRIBE WHAT OCCURRED:</b> <input type="checkbox"/> DESTROYING PROPERTY <input type="checkbox"/> BITING <input type="checkbox"/> THROWING OBJECTS <input type="checkbox"/> KICKING <input type="checkbox"/> PUSHING/SHOVING <input type="checkbox"/> SLAPPING <input type="checkbox"/> HITTING WITH FIST <input type="checkbox"/> STRANGULATION <input type="checkbox"/> THREAT W/ WEAPON <input type="checkbox"/> BEATING <input type="checkbox"/> RESTRAINED <input type="checkbox"/> BURNING <input type="checkbox"/> THREAT OF PHYS. VIOLENCE <input type="checkbox"/> STALKING <input type="checkbox"/> THREAT OF SEXUAL VIOLENCE <input type="checkbox"/> USED WEAPON <input type="checkbox"/> SEXUAL ASSAULT <input type="checkbox"/> HOMICIDE <input type="checkbox"/> GRABBING <input type="checkbox"/> OTHER: _____		<b>WEAPONS USED BY:</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">SUSPECT</th> <th style="width: 50%;">VICTIM</th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/> NONE</td> <td><input type="checkbox"/> NONE</td> </tr> <tr> <td><input type="checkbox"/> KNIFE</td> <td><input type="checkbox"/> KNIFE</td> </tr> <tr> <td><input type="checkbox"/> BLUNT</td> <td><input type="checkbox"/> BLUNT</td> </tr> <tr> <td><input type="checkbox"/> OBJECT</td> <td><input type="checkbox"/> OBJECT</td> </tr> <tr> <td><input type="checkbox"/> FIREARM</td> <td><input type="checkbox"/> FIREARM</td> </tr> <tr> <td><input type="checkbox"/> BODY</td> <td><input type="checkbox"/> BODY</td> </tr> <tr> <td><input type="checkbox"/> OTHER</td> <td><input type="checkbox"/> OTHER</td> </tr> </tbody> </table>		SUSPECT	VICTIM	<input type="checkbox"/> NONE	<input type="checkbox"/> NONE	<input type="checkbox"/> KNIFE	<input type="checkbox"/> KNIFE	<input type="checkbox"/> BLUNT	<input type="checkbox"/> BLUNT	<input type="checkbox"/> OBJECT	<input type="checkbox"/> OBJECT	<input type="checkbox"/> FIREARM	<input type="checkbox"/> FIREARM	<input type="checkbox"/> BODY	<input type="checkbox"/> BODY	<input type="checkbox"/> OTHER	<input type="checkbox"/> OTHER
SUSPECT	VICTIM																		
<input type="checkbox"/> NONE	<input type="checkbox"/> NONE																		
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<input type="checkbox"/> OTHER	<input type="checkbox"/> OTHER																		
		<b>PHOTOS TAKEN OF:</b> <input type="checkbox"/> VICTIM <input type="checkbox"/> SUSPECT <input type="checkbox"/> CHILDREN <input type="checkbox"/> CRIME SCENE <input type="checkbox"/> WEAPON(S)	<b>TYPE OF FILM:</b> <input type="checkbox"/> 35 MM <input type="checkbox"/> POLAROID <input type="checkbox"/> DIGITAL <input type="checkbox"/> VIDEO <b># OF PHOTOS:</b> _____																
<b>WEAPON SEIZED FOR EVIDENCE?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>DOES SUSPECT HAVE ACCESS TO WEAPONS/FIREARMS?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>DOES SUSPECT OWN FIREARMS?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>HELD FOR SAFE-KEEPING?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>ADDITIONAL INFORMATION:</b> _____ _____ _____		<b>PHOTOS TAKEN BY:</b> _____ <b>MUST INFORM VICTIM:</b> <input type="checkbox"/> DOMESTIC VIOLENCE AGENCY <input type="checkbox"/> ER & MEDICAL NUMBERS <input type="checkbox"/> REPORT NUMBER <input type="checkbox"/> PROSECUTOR CONTACT INFO. <input type="checkbox"/> VICTIM'S COMPENSATION <input type="checkbox"/> CRIME AS PUBLIC INFORMATION <input type="checkbox"/> VICTIM'S RIGHTS <input type="checkbox"/> STATEWIDE HOTLINE <input type="checkbox"/> OTHER AVAILABLE RESOURCES																	
MEDICAL TREATMENT																			
<input type="checkbox"/> NONE <input type="checkbox"/> WILL SEEK DOCTOR <input type="checkbox"/> FIRST AID <input type="checkbox"/> EMS <input type="checkbox"/> HOSPITAL <input type="checkbox"/> REFUSED		<b>EMS AT SCENE?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <b>EMS AGENCY:</b> _____ <b>NAME/ID #'S:</b> _____																	
		<b>HOSPITAL:</b> _____ <b>ATTENDING PHYSICIANS:</b> _____																	
																			
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<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <b>DRAW ON DIAGRAMS NOTING THE LOCATION OF INJURIES WITH AN "X" FOR THOSE SEEN AND AN "O" FOR THOSE REPORTED BY VICTIM/SUSPECT.</b> </div> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 5px auto;"> <b>DESCRIBE INJURIES FULLY IN SOR</b> </div>																			
STANDARD OFFENSE REPORT #:		SUPERVISOR APPROVAL: _____																	

## Appendix II:

# Determining a Domestic Violence Arrest

## I. Defense of Self, Others & Property (DSOP)

Law enforcement officers should *conduct a Defense of Self, Others and Property Analysis* to determine whether self-defense was used and by whom.

To determine whether self-defense was used legally, law enforcement officers shall determine whether the victim believes that they, ~~or~~ another person (for instance, a child), *or their property* were in imminent danger *and this belief* is based on reasonable grounds. The victim's belief is the primary consideration in determining self-defense, not the perception of the investigating law enforcement officer.

### Kansas Law:

K.S.A. 21-5222: A person is justified in the use of force against another when and to the extent it appears to such person and such person reasonably believes that such use of force is necessary to defend such person or a third person against such other's imminent use of unlawful force. A person is justified in the use of deadly force under circumstances described above if such person reasonably believes that such use of deadly force is necessary to prevent imminent death or great bodily harm to such person or a third person. Nothing in this section shall require a person to retreat if such person is using force to protect such person or a third person.

K.S.A. 21-5223: A person is also justified in the use of force against another when and to the extent that it appears to such person and such person reasonably believes that such use of force is necessary to prevent or terminate such other's unlawful entry into or attack upon such person's dwelling, place of work, or occupied vehicle. A person is justified in the use of deadly force to prevent or terminate unlawful entry into or attack upon any dwelling, place of work, or occupied vehicle if such person reasonably believes that such use of deadly force is necessary to prevent imminent death or great bodily harm to such person or another. Nothing in this section shall require a person to retreat if such person is using force to protect such person's dwelling, place of work, or occupied vehicle.

K.S.A. 21-5225: A person who is lawfully in possession of property other than a dwelling, place of work or occupied vehicle is justified in the use of force against another for the purpose of preventing or terminating an unlawful interference with such property. Only such use of force as a reasonable person would deem necessary to prevent or terminate the interference may intentionally be used.

K.S.A. 21-5230: A person who is not engaged in an unlawful activity and who is attacked in a place where such person has a right to be has no duty to retreat and has the right to stand such person's ground and use any force which such person would be justified in using under article 32 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

K.S.A. 21-5231: A person who uses force which, subject to the provisions of K.S.A. 21-5226, and amendments thereto, is justified pursuant to K.S.A. 21-5222, 21-5223 or 21-5225, and amendments thereto, is immune from criminal prosecution and civil action for the use of such force, unless the person against whom force was used is a law enforcement officer who was acting in the performance of such officer's official duties and the officer identified the officer's self in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, "criminal prosecution" includes arrest, detention in custody and charging or prosecution of the defendant. A law enforcement agency may use standard procedures for investigating the use of force, but the agency shall not arrest the person for using force unless it determines that there is probable cause for the arrest. A county or district attorney or other prosecutor may commence a criminal prosecution upon a determination of probable cause.

## II. Factors Used to Determine Appropriate Arrest

A thorough self-defense analysis is determined based upon the totality of circumstances.

Officers should consider the following questions. This list contains some common factors to be considered in the analysis of defense of self, others, or property, but it is not an exhaustive list. Officers should consider all relevant factors.

### Reasonableness:

- Who isolates his or her partner?
- Who is emotionally abusive?
- Who minimizes, denies and blames in the relationship?
- Who uses children to get his or her way in the relationship?
- Who engages in economic abuse?
- Who has a history of committing violent crimes?
- Who has a protection order in effect against him or her or a history of protection orders against him or her?
- Who appears to be more capable of assaulting the other?
- What does the premise history tell you about calls for service to the residence?
- Is there a history of domestic violence between the parties?
- Is there a physical size difference between the parties? Who is more likely to be able to harm the other based on physical size difference?
- What is the severity of injuries to the parties?
- What types of injuries do the parties have? Are they offensive or defensive in nature?
- Who fears whom?
- Is there a likelihood of further abuse? If so, by whom?
- What type of evidence has been gathered from witness accounts?

### Imminence of Threat to Self, Others or Property:

- Who uses threats and intimidation most often to control the relationship?
- Who is sexually abusive?
- Who uses coercion or threats?
- Who has carried out any threats (if any have been made)?
- Is there a history of domestic violence between the parties?
- What is the severity of injuries to the parties?
- Is there a likelihood of further abuse? If so, by whom?
- What type of evidence has been gathered from witness accounts?

### Additional Factors

- Who has carried out any threats (if any have been made)?
- Who has a history of committing violent crimes?
- Is there a history of domestic violence between the parties?

- What is the severity of injuries to the parties?
- Is there a likelihood of further abuse? If so, by whom?
- What type of evidence has been gathered from witness accounts?

### **III. Dual Arrest**

After a thorough investigation of all the factors involved, if the law enforcement officer determines that in fact both parties have used equal violence, and that no defense of self, others, or property was involved, then the law enforcement officer should notify a supervisor to review the circumstances leading to the dual arrest. Dual arrest cases should be rare.

### **IV. Factors Not Used in Determining Domestic Violence Arrest**

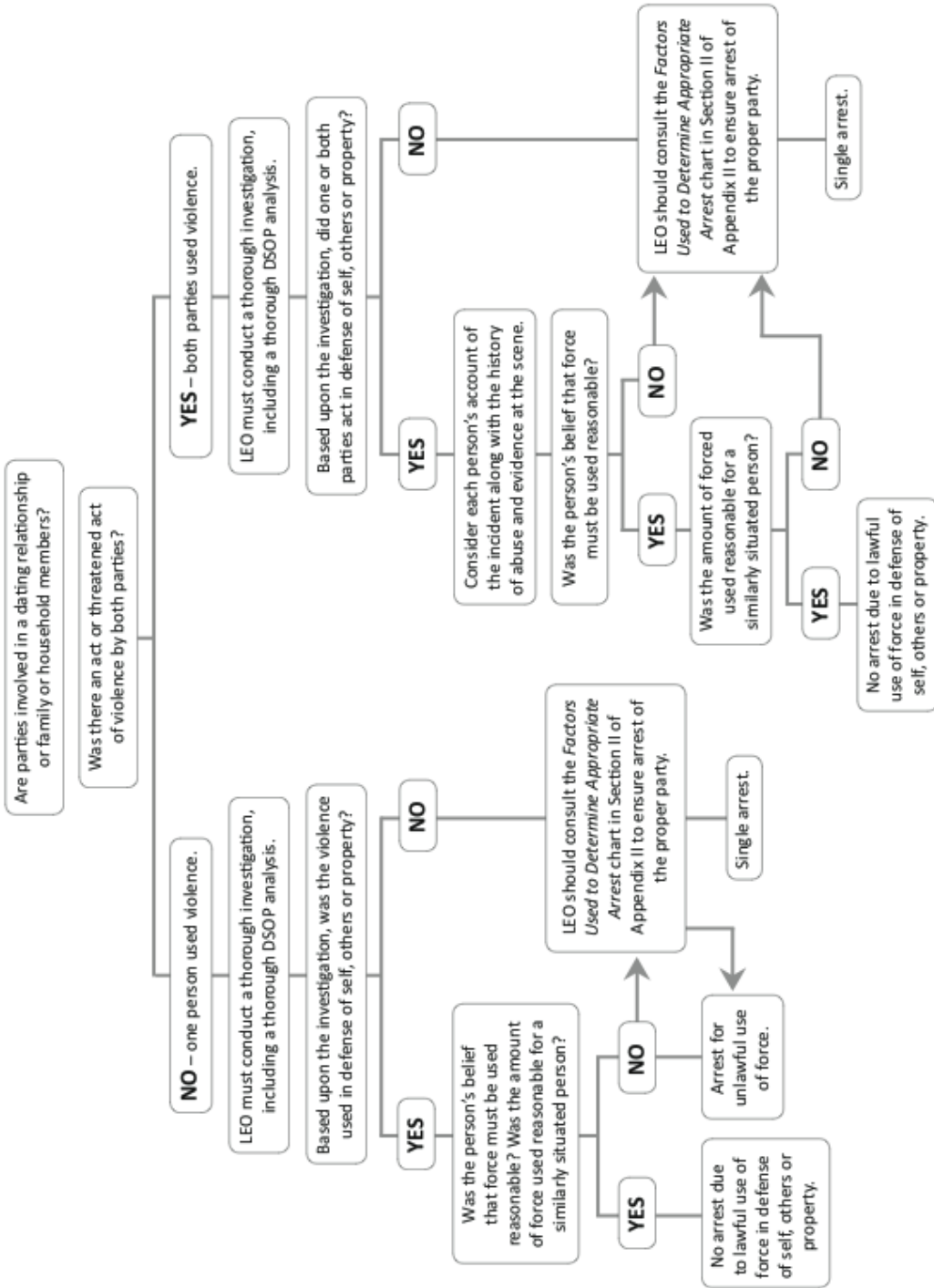
Although the following facts may be used as background information to complete a domestic violence investigation for prosecution, the investigating law enforcement officers should not consider the following factors in making arrest decisions:

- Belief that the arrest may not lead to conviction
- Perception of the willingness of any party to testify or participate in a judicial proceeding
- Reluctance of the victim to have the suspect arrested
- Denial of domestic violence by either party
- Verbal assurances that the violence will stop
- Emotional status of the victim
- Financial consequences of an arrest
- Marital status
- Ownership or tenancy rights
- Location where incident occurred
- Racial, cultural, social, political or professional status, or the sexual orientation of either the victim or the suspect
- Use of alcohol or drugs or both, by either the victim or the suspect



### Appendix III: DSOP Analysis Tree

#### Defense of Self, Others and Property Analysis



**Appendix IV:**

**Mandatory On-Scene Victim Information in Domestic Violence Cases**

**Law Enforcement Agency's Case Number:** \_\_\_\_\_

**Investigating Officer's Name:** \_\_\_\_\_

**Prosecutor's Office:**

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone:

\_\_\_\_\_

**Local Domestic Violence and/or Sexual Assault Agency:**

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

**Kansas Statewide Crisis Hotline:**

1-888-END-ABUSE (1-888-363-2287)

The Kansas Crisis Hotline is a toll-free, 24-hour statewide crisis hotline developed to link victims of domestic violence and sexual assault to crisis programs across Kansas. The Hotline offers:

- Confidential, non-judgmental support
- Crisis intervention to help you identify problems and possible solutions, including safety plans for emergencies
- Referral to community programs or women's shelters for long term support
- Information about domestic violence, sexual assault, child abuse, and intervention programs

**Emergency and Medical Telephone Numbers:**

Emergency: 911

**Other Available Resources:**

**Crime Victims Compensation Board:**

120 SW 10<sup>th</sup> Ave, 2<sup>nd</sup> Floor  
Topeka, KS 66612-1597  
Telephone: (785) 296-2359 or 1-800-828-9745  
Fax: (785) 296-0652

The Kansas Crime Victims Compensation Board provides victims with financial assistance for loss of earnings and out-of-pocket loss for injuries sustained as a direct result of violence crime. This includes reasonable medical care, mental health counseling or other services necessary as a result of the injury. In the event of death of the victim, reasonable medical expenses and the partial cost of funeral, burial or cremation is reimbursable.

Personal property loss is not covered, with the exception of clothing and bedding seized as evidence.

**Crime Victims Bill of Rights K.S.A. § 74-7333:**

1. Victims should be treated with courtesy, compassion and with respect for their dignity and privacy and should suffer the minimum of necessary inconvenience from their involvement with the criminal justice system.
2. Victims should receive, through formal and informal procedures, prompt and fair redress for the harm which they have suffered.
3. Information regarding the availability of criminal restitution, recovery of damages in a civil cause of action, the crime victims' compensation fund and other remedies and the mechanisms to obtain such remedies should be made available to victims.
4. Information should be made available to victims about their participation in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings.
5. The views and concerns of victims should be ascertained and the appropriate assistance provided throughout the criminal process.
6. When the personal interests of victims are affected, the views or concerns of the victim should, when appropriate and consistent with criminal law and procedure, be brought to the attention of the court.
7. Measures may be taken when necessary to provide for the safety of victims and their families and to protect them from intimidation and retaliation.
8. Enhanced training should be made available to sensitize criminal justice personnel to the needs and concerns of victims and guidelines should be developed for this purpose.
9. Victims should be informed of the availability of health and social services and other relevant assistance that they might continue to receive the necessary medical, psychological and social assistance through existing programs and services.
10. Victims should report the crime and cooperate with law enforcement authorities.

**Notification of Public Hearing K.S.A. § 74-7335**

1. The victim of a crime or the victim's family shall be notified of the right to be present at any public hearing or any juvenile offender proceeding concerning the accused or the convicted person or the respondent or the juvenile offender.
2. The victim of a crime or the victim's family shall be notified of the right to be present at any proceeding or hearing where probation or parole is considered or granted by a judge whether or not a public hearing is conducted or required.
3. The city, county or district attorney or municipal court clerk shall notify any victim of the crime who is alive and whose address is known to the city, county or district attorney or municipal court clerk or, if the victim is deceased, to the victim's family if the family's address is known to such attorney or clerk.
4. Costs of transportation for the victim to appear shall be borne by the victim unless the appearance is required pursuant to a subpoena or other order of the court.

**Please note that the details of the crime may be made public**

## Appendix V:

# SAMPLE COLLABORATION AGREEMENT

between

Domestic Violence Advocacy Agencies  
and Law Enforcement Agencies

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## I. PURPOSE

The purpose of this agreement is to enhance safety for victims of domestic violence by establishing a working relationship between [law enforcement agency] and [advocacy agency]. Specifically, this agreement seeks to increase safety for victims of domestic violence by expanding options and services for victims when they have been identified as domestic violence crime victims.

## II. PRINCIPLES

- [Law enforcement agency] and [advocacy agency] are committed to working together to ensure that victims of domestic violence are aware, and when appropriate, receive domestic violence services that seek to enhance victim safety and reduce the effects of the violence.
- [Law enforcement agency] and [advocacy agency] recognize that [law enforcement agency] identifies a victim of domestic violence based on who is the victim of a domestic violence crime, whereas [advocacy agency] identifies the victim of domestic violence based on a screening process that considers the contextual nature of the relationship.
- [Law enforcement agency] and [advocacy agency] understand that the identified victim of a crime may not always be consistent with [advocacy program]’s identification of the victim of domestic violence in the relationship.
- [Law enforcement agency] and [advocacy agency] understand that [advocacy agency] reserves the right to refuse, deny and/or terminate services to people it believes do not meet the criteria of being the victim of domestic violence in the context of the relationship. [Advocacy agency] may or may not disclose the reason for denying or terminating services due to confidentiality. In addition, [advocacy agency] may provide services to the victim without regard to whether or not her/his perpetrator/batterer has attempted to or has received services from [advocacy agency].

- [Law enforcement agency] and [advocacy agency] recognize and understand that the roles of [law enforcement agency] and [advocacy agency] differ, and that both are necessary to ensure that the victim is receiving the best possible services available in order to increase the safety of the victim.
- [Law enforcement agency] and [advocacy agency] recognize and understand that the confidentiality policies of [law enforcement agency] and [advocacy agency] differ, and that both policies should be respected and followed in order to enhance the safety of the community and victim.

### **III. PROCEDURES**

#### **[Law enforcement agency] agrees to:**

- Act in the interest of community and victim safety. This includes taking steps throughout the criminal justice process that will promote the safety of the community and the victim.
- Disclose the nature, extent and limitations of [law enforcement agency]'s confidentiality policy to domestic violence crime victims.
- Discuss services available through [advocacy agency], in addition to discussing the confidential nature of [advocacy agency]'s services.
- Provide contact information for [advocacy agency] and for the statewide crisis hotline. Where appropriate, offer to assist the victim, if she/he chooses, in contacting [advocacy agency] for safety planning, resources, advocacy and/or ongoing services.
- Provide contact information for [advocacy agency] and for the statewide crisis hotline, when someone other than the identified domestic violence crime victim seeks or requests victim services from [advocacy agency].
- Provide domestic violence response policy training and local criminal procedure training to [advocacy agency] upon request by [advocacy agency].
- Maintain contact and a working relationship with [advocacy agency] in order to ensure continued access in services to victims of domestic violence.
- Review annually, with [advocacy agency], community resources available to victims and this collaboration agreement to ensure its effectiveness.

**[Advocacy agency] agrees to:**

- Screen and assess at every initial intake or request for services whether or not a person is eligible for services provided by [advocacy agency].
- In circumstances where someone referred by [law enforcement agency] is deemed not eligible for services provided by [advocacy agency] for whatever reason, [advocacy agency] will talk with the referred person by phone and offer appropriate community resources which may include the statewide crisis hotline number.
- Provide immediate, face-to-face safety planning for victims of domestic violence that are referred by [law enforcement agency]. In special circumstances, where a face-to-face meeting is not feasible, safety planning will occur over the phone. A face-to-face follow-up meeting will also be offered to the victim at this time.
- Provide confidential, voluntary and free emergency and support services to victims of domestic violence and also assist them in accessing other resources, services and remedies that reduce the effects of the violence.
- Provide domestic violence training to [law enforcement agency] upon request by [law enforcement agency].
- Make reasonable efforts to relay information, upon request by [law enforcement agency], to victims when serving a victim in common with [law enforcement agency]. [Advocacy agency] will not confirm or deny if and/or when they are serving a client in common with [law enforcement agency], and will not disclose whether or not the information was successfully relayed to the victim unless the victim has signed a release with [advocacy agency].
- Maintain contact and a working relationship with [law enforcement agency] in order to ensure continued access in services to victims of domestic violence.
- Review annually, with [law enforcement agency], community resources available to victims and this collaboration agreement to ensure its effectiveness.

## Appendix VI:

# Federal Domestic Violence Law

## Federal Firearm Prohibitions

**Interstate Shipping of Firearms** [18 U.S.C. § 922 (g)(8)]. It is unlawful for persons subject to qualifying protection orders to possess any firearm or ammunition in or affecting commerce, or to receive any firearm or ammunition that has been shipped or transported in interstate or foreign commerce.

### **What protection orders qualify under 18 U.S.C. § 922 (g)(8)?**

The following criteria must be met for a protection order to qualify under 18 U.S.C. § 922 (g)(8):

1. The person protected by the order is (1) an intimate partner of the respondent; (2) a child of the respondent; *or* (3) a child of an intimate partner of the respondent;

**What is intimate partner?** An intimate partner includes a spouse, former spouse, person with whom the respondent is cohabiting or has cohabited, or a parent of a child in common.

2. The order was issued after a hearing and the respondent was provided with notice and opportunity to be heard;
3. The order restrains the respondent from harassing, stalking, or making threats against the intimate partner or child that would place the intimate partner in reasonable fear of bodily injury to the intimate partner or child; and
4. The order includes the terms that explicitly prohibit the use, attempted use, or threatened use of physical force against an intimate partner or child that would reasonably be expected to cause bodily injury *or* includes a finding that the respondent represents a credible threat to the physical safety of the intimate partner or child.

### **Features of 18 U.S.C. § 922 (g)(8):**

- Applies to all firearms and ammunition.
- Provides an exemption for official use of firearms by military and law enforcement personnel while on duty.

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**Possession of a Firearm** [18 U.S.C. § 922 (g)(9)]. The Domestic Violence Offender Gun Ban, enacted September 10, 1996, prohibits any individuals, including law enforcement officers, convicted of qualifying misdemeanor domestic violence offenses from buying or possessing a firearm.

### **What crimes qualify as misdemeanor crimes of domestic violence under 18 U.S.C. § 922 (g)(9)?**

The following criteria must be met for a crime to qualify as a misdemeanor crime of domestic violence under 18 U.S.C. § 922 (g)(9):

1. The offense was committed by a (1) current or former spouse; (2) parent or guardian of the victim; (3) a person with whom the victim shares a child in common; (4) a person who is cohabitating or has cohabitated with the victim as spouse, parent, or guardian of the victim; *or* (5) a person similarly situated to the spouse, parent, or guardian of the victim *18 U.S.C. § 921 (a)(33)(A)(ii)*;
2. The crime constituted a violation of either federal or state law;
3. The crime had *as* an element ~~of~~ the use or attempted use of physical force or, *the* threatened use of deadly force, *18 U.S.C. § 921 (a)(33)(A)(ii)*;
  - *K.S.A. 21-5414(a)(1) would qualify while (a)(2) would not.*
4. The accused was represented by counsel or made a knowing and intelligent waiver; and
5. If entitled to a jury trial, the case was tried by a jury or the defendant made a knowing and intelligent waiver.

**Features of 18 U.S.C. § 922 (g)(9):**

- Applies to qualifying convictions that occurred both before and after the statute's effective date.
- Provides no official-use exemption for law enforcement or military personnel.

*The Bureau of Alcohol, Tobacco and Firearms and Explosives should be contacted in such cases.*

**Federal Domestic Violence Crimes**

The Safe Homes for Women Section of the Violence Against Women Act (VAWA) outlines federal crimes related to domestic violence in the following circumstances:

1. **Crossing State Lines to Injure Spouse or Intimate Partner** [18 U.S.C. § 2261(a)(1)]. The suspect crosses state lines with the intent to kill, injure, harass, or intimidate a spouse or intimate partner, and such action results in suspect committing or attempting to commit a crime of violence against that spouse or intimate partner.
2. **Forcing Spouse or Intimate Partner to Cross State Lines** [18 U.S.C. § 2261(a)(2)]. The suspect causes a spouse or intimate partner to cross state lines by force, coercion, duress or fraud, and such actions results in the suspect committing or attempting to commit a crime of violence against that spouse or intimate partner.
3. **Interstate Protection Order Violation** [18 U.S.C. § 2262(a)(1)]. The suspect crosses state lines with the intent to violate a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, and thereafter acts to violate a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct.

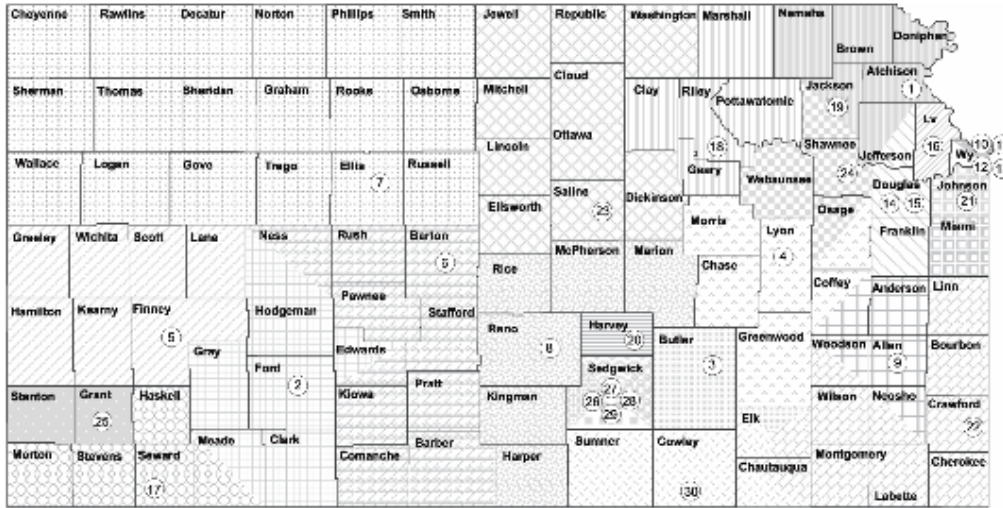
*The FBI and/or the U.S. Attorney's Office should be contacted in instances in which one of these federal crimes are committed against a victim as defined above.*



# Appendix VII:

3/10

## Kansas Sexual and Domestic Violence Programs



DV = domestic violence services provided SA = sexual assault services provided DV/SA = both services provided

CITY	SERVICES	KCSDV MEMBER PROGRAM	CRISIS HOTLINE NUMBER
1. Atchison	DV/SA	DoVES	800-367-7075 or 913-367-0363
2. Dodge City	DV/SA	Crisis Center of Dodge City	620-225-6510
3. El Dorado	DV/SA	Family Life Center of Butler County	800-870-6967 or 316-321-7104
4. Emporia	DV/SA	SOS, Inc.	800-825-1295 or 620-342-1870
5. Garden City	DV/SA	Family Crisis Services	620-275-5911
6. Great Bend	DV/SA	Family Crisis Center	866-792-1885 or 620-792-1885
7. Hays	DV/SA	Northwest Kansas Domestic and Sexual Violence Services	800-794-4624 or 785-625-3055
8. Hutchinson	DV/SA	Sexual Assault/Domestic Violence Center	800-701-3630 or 620-663-2522
9. Iola	DV/SA	Hope Unlimited	620-365-7566
10. Kansas City, KS	DV	El Centro, Inc. ¡Si Se Puede!	913-281-1186
11. Kansas City, KS	DV	Friends of Yates Joyce Williams Center	913-321-0951
12. Kansas City, MO	DV/SA	KCAVP	816-561-0550
13. Kansas City, MO	SA	MOCSA	816-531-0233
14. Lawrence	SA	GaDuGi Safe Center	785-841-2345
15. Lawrence	DV	The Willow Domestic Violence Center	800-770-3030 or 785-843-3333
16. Leavenworth	DV/SA	Alliance Against Family Violence	800-644-1441 or 913-682-9131
17. Liberal	DV/SA	Liberal Area Rape Crisis and DV Services	620-624-8818
18. Manhattan	DV/SA	The Crisis Center, Inc.	800-727-2785 or 785-539-2785
19. Mayetta	DV/SA	Prairie Band Potawatomi Family Violence Prevention Program	866-966-0173 or 785-966-2932
20. Newton	DV/SA	Harvey County DV/SA Task Force	800-487-0510 or 316-283-0350
21. Overland Park	DV/SA	Safehome	888-432-4300 or 913-262-2868
22. Pittsburg	DV/SA	Crisis Resource Center of Southeast Kansas, Inc.	800-794-9148 or 620-231-8251
23. Salina	DV/SA	Domestic Violence Assoc. of Central Kansas	800-874-1499 or 785-827-5862
24. Topeka	DV/SA	YWCA Center for Safety and Empowerment	888-822-2963 or 785-354-7927
25. Ulysses	DV/SA	DoVES of Grant County	888-229-8812 or 620-356-2608
26. Wichita	DV	Catholic Charities Harbor House	866-899-5522 or 316-263-6000
27. Wichita	DV	StepStone	316-265-1611
28. Wichita	SA	Wichita Area Sexual Assault Center	316-263-3002 o español: 316-263-2044
29. Wichita	DV	YWCA Women's Crisis Center	316-267-7233
30. Winfield	DV/SA	Safe Homes, Inc.	800-794-7672 or 620-221-4357

## Appendix VIII:

### Front

#### Domestic Violence Arrest/Incident Report Writing Checklist

1. State times (incident, dispatch, arrival, statement).
2. Identify parties present.
3. Describe emotional state of victim and suspect.
4. Describe injury to victim.
5. Describe injury to suspect.
6. Describe scene.
7. State relationship of victim and suspect.
8. State if children present, not present, witnessed, or involved. Describe.
9. Take pictures, log photos & document photos.
10. Collect evidence, log evidence & document evidence.
11. Describe medical attention & identify facility.
12. Note the presence of any of the following: PFA, PFS, probation, substance use.
13. List where suspect lived during past 7 years.
14. State witnesses' names, addresses, phones, workplace.
15. State how victim can be contacted during next 24 hours.
16. Include in narrative: victim statement, suspect statement, witness statement, probable cause for each party arrested. Self-defense used?
17. List witnesses who victim has confided in on incidents of past abuse.
18. Evidence should include a written or recorded statement of/by the victim and witnesses and suspect.
19. Use verbatim quotes in your report.
20. Get full parental information of all children present.
21. If there are bite marks, take pictures and swab for DNA.
22. Ask the victim if their pet(s) has been abused, injured, or threatened.

### Back

#### Domestic Violence Strangulation Checklist

##### Ask about and fully document non-visible injuries:

1. Sore throat
2. Difficulty swallowing
3. Neck pain
4. Hoarseness
5. Light headedness
6. Fainting
7. Losing consciousness
8. Nausea or vomiting
9. Incontinence
10. Ringing ears

##### Ask about and fully document visible injuries:

1. Discolored tongue
2. Bruising behind ears
3. Finger impressions, scratches, bruising, other impression marks, etc.
4. Petechial hemorrhaging
5. Neck swelling

##### Evidence/Report Writing:

1. Take pictures of all injuries, scene & evidence. Log & document photos.
2. When describing injuries in report, use the phrase "consistent with strangulation."
3. Collect object(s) used to strangle victim, if applicable, & collect all evidence.
4. Ask the victim what the offender said while strangling her. Use quotes.
5. Ask the victim what she thought was going to happen. Use quotes.
6. Ask the victim to describe the offender's demeanor and facial expressions during the strangulation. Use quotes.
7. Ask about prior incidents of strangulation.
8. Listen for coughing.

## **Appendix IX:**

### **STALKING INVESTIGATION CHECKLIST**

1. Note the time of your dispatch and arrival.
2. Ask the victim if they know the suspect, if so how, how long and the circumstances of their acquaintance.
3. Describe the demeanor and emotions of the victim.
4. Use verbatim quotes in your report.
5. Ask the victim, "How long has this been going on?"
6. Ask the victim the number of times they've seen the suspect around them or their property.
7. Note the details of the prior contact such as dates, specific actions of the suspect and the victim's concerns/reaction.
8. Document the report number of all prior police contacts between the parties.
9. Collect all evidence having to do with the incident.
10. Obtain handwritten statements from the victim and all witnesses, including the suspect and children when appropriate to their age.
11. Ask the victim if they are or have been afraid for their safety, the safety of any of their family members and if so if the fear is a result of the suspect's actions.
12. Ask the victim if they have a protective order or an order against stalking against the suspect.
13. Ask the victim if any law enforcement officer has ever directed the suspect to stay away from them.
14. Ask the victim if the suspect has ever been by, close to, in or around their home or the home of a family member.
15. Ask the victim if the suspect has ever been by, close to, in or around their job or the job of a family member.
16. Ask the victim if the suspect has ever been by, close to, in or around their school or the school of a family member.
17. Ask the victim if the suspect has ever damaged any of their property or any property of a family member.

18. Ask the victim if the suspect has ever left something (note, letter, flower, etc) on their property, or a family member's property, or had an item left on behalf of the suspect.

19. Ask the victim if the suspect has injured or threatened a pet that belonged to them or a family member.

20. Always record your interviews of victims, witnesses and the suspect by video and audio.

**Ask the victim if the suspect has tried to communicate through electronic means with him or her (i.e. cell phones/social network sites). Preserve any such evidence and pursue appropriate search warrants.**

## APPENDIX X

YOU  
MAY BE  
THE  
FIRST  
LINK  
TO  
SAFETY

### DOMESTIC VIOLENCE CALLS: DISPATCH INFORMATION

1. Has anyone been injured? What happened?
2. Are weapons involved? If yes, what kind?
3. Has there been alcohol or drug use? If yes, what substance?
4. Is the suspect present? If not, did suspect leave on foot? By vehicle? Description of suspect? Description of vehicle?
5. Are children present? Are other persons present? If yes, their whereabouts?
6. Have officers been to this address before? If yes, when?
7. Is there a history of domestic violence? Identify the perpetrator of abuse.
8. Does the victim have a current protection order from Kansas or another state?
9. Document any threats that you hear during the time of the call.
10. Document noises heard during call (i.e., items being broken, doors slammed, children crying).
11. Document the victim's fears and words at the time of the call.

THIS INFORMATION MAY BE THE ONLY EVIDENCE WE HAVE.

# SUPPLEMENT TO THE DOMESTIC VIOLENCE LAW ENFORCEMENT RESPONSE MODEL POLICY TRAINING BULLETIN

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## I. Introduction

This document was created to accompany the *Kansas Domestic Violence Law Enforcement Response Model Policy* for law enforcement agencies, 2011, through the efforts of the Kansas Governor's Advisory Council on Domestic Violence Training, Attorney General Derek Schmidt, the Kansas Law Enforcement Training Center, Kansas County and District Attorney's Association, Assistant Shawnee County District Attorney Jacquie Spradling and Ed Klumpp. This paper provides background information and supporting documentation to enhance understanding of the philosophy and implementation requirements for the *Model Policy*. This document will be of value to law enforcement executives in their efforts to tailor the *Model Policy* to the requirements and circumstances of their communities and their law enforcement agencies.

The *Model Policy* is based on best practice in responding to domestic violence calls for service, and state law is cited appropriately throughout the *Model Policy*. As with any policy, it is recommended that the *Model Policy* be reviewed with legal counsel and your prosecuting attorney prior to its implementation.

Domestic violence crimes are unlike most other crimes due to the intimate relationship between the victim and the suspect. Traditionally, this distinction led authorities to treat these crimes as though they were not crimes, but private family matters. Through education, awareness and training, society now has a greater understanding of the dynamics and issues involved in domestic violence, and therefore fully recognize domestic violence as a crime.

It is recognized that the *Model Policy* will not address every specific need of all Kansas law enforcement agencies. The *Model Policy* is intended to be tailored and adapted by the Chief/Executive Officer/Policy Director to meet the specific needs of the individual law enforcement agency implementing the *Model Policy*. In tailoring the *Model Policy* to meet your agency's needs, note that state law is cited appropriately throughout and should not be altered.

The *Model Policy* is available in electronic format at [<http://www.ksag.org/page/model-domestic-violence-policy>] so that the document can be downloaded for tailoring and implementation purposes.

## II. K.S.A. 22-2307, Domestic violence calls; written policies to be adopted by law enforcement agencies; contents.

Kansas law states that all law enforcement agencies *shall* adopt written policies regarding domestic violence calls.<sup>1</sup> This policy *shall* be made available to all officers of the agency,<sup>2</sup> and state law dictates what must be contained within this policy. The *Model Policy* meets the standards as outlined in K.S.A. 22-2307.

The *Model Policy* includes the statutory definition of domestic violence. ***Model Policy domestic violence definition:***

**Domestic violence:** means an act or threatened act of violence against a person with whom the offender is involved or has been involved in a dating relationship, or an act or threatened act of violence against a family or household member by a family or household member. Domestic violence also includes any other crime committed against a person or against property, when directed against a person with whom the offender is involved or has been involved in a dating relationship or when directed against a family or household member by a family or household member.

**Dating relationship:** a social relationship of a romantic nature. In addition to any other factors, the court deems relevant, the trier of fact may consider the following when making a determination of whether a relationship exists or existed: Nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and time since termination of the relationship, if applicable.

**Family or household member:** means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or have resided together, in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time. Family or household member also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.

**Domestic violence offense:** means any crime committed whereby the underlying factual basis includes an act of domestic violence.

Among other things, law enforcement agencies' domestic violence response policies must include a statement directing that officers shall, without undue delay, arrest the person for which there is probable cause to believe committed the crime or offense if such person's actions were not an act of defense of self, others, or property. Nothing shall be construed to require a law enforcement officer to; (1) arrest either party involved in an alleged act of domestic violence when the officer determines there is no probable cause to believe that a crime or offense has been committed; or (2) arrest both parties involved in an alleged act of domestic violence when both claim to have been victims of such domestic violence.

Domestic battery, K.S.A. 21-5414(a), has long been equated as domestic violence across the state. Domestic battery is a crime that addresses the relationship of the individuals involved, but it is not the only crime that may be a domestic violence crime and therefore is not the only crime where the "mandatory arrest" law may apply. Law enforcement officers should refer to the definition of "domestic violence offense" to determine if a crime is a domestic violence crime.

### **III. Mandatory Arrest, Thorough Investigation, and Defense of Self, Others, or Property Analysis**

A "mandatory arrest," policy does not mean that an arrest must be made for every domestic violence call. It applies only when a law enforcement officer has determined that: (1) probable cause exists to believe that a crime involving domestic violence is being committed or has been committed;<sup>5</sup> and (2) the alleged perpetrator was not engaged in defense of property, self, or another person. These determinations are crucial to law enforcement officers' response to domestic violence to ensure that the appropriate person is being arrested.

## **IV. Dual Arrest**

Law enforcement officers should avoid dual arrest as a response to domestic violence whenever possible. A probable cause finding for a dual arrest in domestic violence cases is rare, and these cases are seldom prosecuted. A dual arrest suggests that equal violence was used between the parties, or that it was an “equal playing field.” Oftentimes in domestic violence cases, one party is the aggressor and one party is acting in defense of self, another person, or property. Officers must do a thorough analysis to determine whether any of these defenses apply.

## **V. Domestic Violence Supplemental Report Form**

Appendix I of the *Model Policy* is the Domestic Violence Supplemental Report Form. This form is intended to be used as a supplement to the Standard Offense Report (SOR). The purpose of this form is to assist law enforcement officers in capturing a complete picture of what happened during the domestic violence incident and to assist officers in their investigative questioning and evidence gathering. This form also provides prosecuting attorneys with specific details of the case, often enhancing the prosecution of domestic violence cases.

## **VI. Victim Safety and Protection**

*Note: Different professions may understand different meanings of the term “victim.” Law enforcement officers often use the term “victim” to refer to the victim of a crime. It is important to note that the term “victim” may also be used by domestic violence advocates to refer to the victim of domestic violence in the context of the relationship, and not necessarily the victim of a specific crime.*

A discouraging aspect for law enforcement officers when handling a domestic violence call for service is seeing victims stay with, or return to, the abusive partner. Understanding the dynamics of domestic violence, trauma response and barriers to victims’ safety in abusive relationships can help law enforcement officers provide the best possible response at each call for service. It also can improve officer morale and job satisfaction. Failing to understand these issues can lead to less empathy for victims who make repeated calls for emergency assistance, and can lead to officers treating crimes of domestic violence far less seriously than other crimes.

Law enforcement officers are in a unique position to assist and empower victims of domestic violence with information on their rights and with referrals to appropriate services in the community. Although law enforcement officers are required to provide victims of domestic violence with certain information when responding to a domestic violence call for service<sup>7</sup> (see Appendix IV of the *Model Policy*), organizing ahead of time with the local domestic violence agency may provide for an advocate to assist the victim with safety planning and safety needs, while the law enforcement officer is allowed to focus full attention on the investigation.

Domestic violence agencies provide supportive services to victims of domestic violence, and can be an asset for law enforcement officers when responding to a domestic violence call for service. Safety planning, safe shelter, advocacy, community resources, referrals and assistance with the criminal justice system are just a few of the services that a domestic violence agency may provide.

Appendix V of the *Model Policy* is a sample collaboration agreement between law enforcement agencies and domestic violence advocacy agencies. It is important that a relationship and collaboration agreement be established between the law enforcement agency and the local domestic violence agency prior to there being a need for services. This may help alleviate any confusion as to the services provided by the local domestic violence agency, and may provide for a more streamlined process when an officer at the crime scene is faced with a victim who is needing services provided by the local domestic violence agency. The sample collaboration agreement provided in Appendix V of the *Model Policy* is intended to be tailored together by the local law enforcement agency and the local domestic violence agency to ensure that community needs and both agencies’ needs are met through this agreement. To find the domestic violence agency in your area, see Appendix VII of the *Model Policy*.



## Endnotes

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<sup>1</sup> KAN. STAT. ANN. § 22-2307(a).

<sup>2</sup> *Id.*

<sup>3</sup> KAN. STAT. ANN. § 22-2307(b)(2).

<sup>4</sup> KAN. STAT. ANN. § 22-2307(b)(1).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> KAN. STAT. ANN. § 22-2307(b)(8).