

Domestic Violence

311.1 PURPOSE AND SCOPE

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

311.1.1 DEFINITIONS

Definitions related to this policy include:

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

Dating violence - Any criminal offense involving violence or physical harm, threat of violence or physical harm, or any attempt, conspiracy, or solicitation by a person to commit an offense involving violence or physical harm, when committed by a person against a dating partner of the person who is either 18 years of age or older or is emancipated (Utah Code 78B-7-102).

Domestic violence - Includes any crime involving the actual, threatened, or attempted violence or physical harm of a cohabitant. Domestic violence also includes committing or attempting to commit any crime listed in Utah Code 77-36-1 by one cohabitant against another.

311.2 POLICY

The Harrisville Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

311.3 OFFICER SAFETY

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

311.4 INVESTIGATIONS

The following guidelines should be followed by officers when investigating domestic violence cases:

Harrisville Police Department

Harrisville PD UT Policy Manual

Domestic Violence

- (a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Investigation Unit in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
 - 1. This applies to both investigations involving domestic violence or dating violence (Utah Code 77-36-2.1; Utah Code 78B-7-408).
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers shall take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
 - 1. Whether the suspect lives on the premises with the victim.
 - 2. Claims by the suspect that the victim provoked or perpetuated the violence.
 - 3. The potential financial or child custody consequences of arrest.
 - 4. The physical or emotional state of either party.
 - 5. Use of drugs or alcohol by either party.

Harrisville Police Department

Harrisville PD UT Policy Manual

Domestic Violence

6. Denial that the abuse occurred where evidence indicates otherwise.
 7. A request by the victim not to arrest the suspect.
 8. Location of the incident (public/private).
 9. Speculation that the complainant may not follow through with the prosecution.
 10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
 11. The social status, community status, or professional position of the victim or suspect.
- (k) If the offense is alleged against an intimate partner, the officers shall conduct a lethality assessment as required by Utah Code 77-36-2.1. The lethality assessment shall be recorded on the appropriate form and the results submitted to the Department of Public Safety while on scene or as soon as reasonably practicable (Utah Code 77-36-2.1).
- (l) In any investigation of Domestic Violence, department members must pay special attention to and carefully document those instances in which a child is present. A child is defined as any person less than 18 years of age. In the presence of a child means:
- In the physical presence of a child; or
 - Having knowledge that a child is present and may see or hear an act of domestic violence.
- A charge of domestic violence in the presence of a child is separate and distinct from, and is in addition to, a charge of domestic violence where the victim is the cohabitant. Moreover, a person who commits domestic violence in the presence of a child when more than one child is present is guilty of one offense for each child present when the violation occurred.
- (m) In all cases of domestic violence in which a child is present, the department member shall include in their report.
- (a) The full name and date of birth of each child present.
 - (b) The location of each child at the time of the incident and a description of the proximity of that child's location to the actual scene of the violence.
 - (c) If the child is capable, a statement as received from the child of what each saw and/or heard.
 - (d) A statement as to the apparent effect of the violence upon the child.

311.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

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

Harrisville Police Department

Harrisville PD UT Policy Manual

Domestic Violence

311.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

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

311.5 VICTIM ASSISTANCE

Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected. The following applies to domestic violence and dating violence (Utah Code 77-36-2.1; Utah Code 78B-7-408):

- (a) Officers who respond to allegations of domestic violence shall use all reasonable means to protect the victim and prevent further violence.
- (b) Victims shall be provided with the Department's domestic violence information handout, even if the incident may not rise to the level of a crime.
- (c) Victims shall also be alerted to any available victim advocates, shelters, and community resources and advised of the results of the lethality assessment if applicable.
- (d) When an involved person requests law enforcement assistance while removing essential items of personal property, officers shall stand by for a reasonable amount of time.
- (e) If the victim has sustained injury or complains of pain, the officer shall seek medical assistance for the victim as soon as practicable.
- (f) Officers should ask the victim whether the victim has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for the victim's safety or if the officer determines that a need exists.
- (g) Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) If appropriate, officers shall seek or assist the victim in obtaining an emergency order.
- (i) When applicable, the victim should be provided with the required information from the Department of Public Safety regarding the right to voluntarily turn over a firearm to a law enforcement agency for safekeeping.

311.6 DISPATCH ASSISTANCE

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable.

Domestic Violence

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

311.7 FOREIGN COURT ORDERS

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

311.7.1 CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS

If there is probable cause to believe a valid Canadian domestic violence protection order exists and has been violated, an officer shall enforce the terms of the order as if it were the order of a court in this state (Utah Code 78B-7-1202).

311.8 VERIFICATION OF COURT ORDERS

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

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

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

311.9 LEGAL MANDATES AND RELEVANT LAWS

Utah law provides for the following:

311.9.1 STANDARDS FOR ARRESTS

- (a) Officers responding to a domestic violence call shall arrest or issue a citation to a domestic violence offender if there is probable cause to believe an offense has occurred. The offense need not occur in the officer's presence (Utah Code 77-36-2.2).

Harrisville Police Department

Harrisville PD UT Policy Manual

Domestic Violence

Any citation issued shall note that the offense involved a domestic violence offense (Utah Code 77-7-20).

- (b) An officer shall arrest an alleged perpetrator whenever there is probable cause to believe that the alleged perpetrator has violated any of the provisions of a court order or condition of release agreement and there is evidence the order has been served. The offense need not occur in the officer's presence (Utah Code 77-36-2.4; Utah Code 78B-7-119).
- (c) If the results of an L.A.P. place the victim at "high risk" or if an officer has probable cause to believe there will be continued violence against the victim or if there is evidence that the perpetrator has either recently caused serious bodily injury or used a dangerous weapon in the domestic violence offense, the officer may not utilize the option of issuing a citation (Utah Code 77-36-2.2). Factors that may support the likelihood of a continuing offense include:
 - 1. A prior history of arrests or citations involving domestic violence.
 - 2. The alleged perpetrator is violating a court order.
 - 3. The alleged perpetrator has a prior history of other assaultive behavior (e.g., arrests or convictions for assault and battery or aggravated assaults).
 - 4. The victim states that the alleged perpetrator has a history of physical abuse toward the victim.
 - 5. The victim expresses fear of retaliation or further violence should the alleged perpetrator be released.
 - 6. Any other evidence that would indicate the victim may be subjected to continued violence or abuse.
- (d) In responding to domestic violence incidents, officers should generally be reluctant to make dual arrests. If an officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to identify the predominant physical aggressor. If the officer determines that one person was the predominant physical aggressor, the officer need not arrest the other person alleged to have committed domestic violence. In determining the predominant aggressor, the officer shall consider (Utah Code 77-36-2.2):
 - 1. Any prior complaints of domestic violence.
 - 2. The relative severity of injuries inflicted on each person.
 - 3. The likelihood of future injury to each of the parties.
 - 4. Whether one of the parties acted in self-defense.
- (e) An officer may not threaten, suggest, or otherwise indicate the possible arrest of all parties in order to discourage any party's request for intervention by law enforcement (Utah Code 77-36-2.2).
- (f) Whenever an alleged perpetrator is arrested or issued a citation and subsequently released by this department, the releasing officer shall then make a reasonable effort

Harrisville Police Department

Harrisville PD UT Policy Manual

Domestic Violence

to notify the victim of that release and shall transmit that information to the statewide domestic violence network (Utah Code 78B-7-802).

- (g) An officer who does not make an arrest shall notify the victim of their right to initiate a criminal proceeding and of the importance of preserving evidence (Utah Code 77-36-2.2).
- (h) Whenever a complainant advises of the existence of a court order, the officer shall determine if a valid court order exists and use every reasonable means to enforce the order. The officer should determine whether the order is in the statewide domestic violence network (Utah Code 78B-7-113) and/or:
 - 1. Whether a court order is on file with a law enforcement agency or whether the complainant has a copy of the court order in their possession.
 - 2. Whether proof of service or prior notice exists, whether the alleged perpetrator was in court when the order was made, or it was provided by a court ex parte.
 - 3. The terms of the court order that may be enforced against the alleged perpetrator.
- (i) In the event the alleged perpetrator is no longer at the scene, officers shall document the incident for follow-up investigation.
- (j) If an arrest is made or a citation is issued, the arresting officer shall provide both the arrestee and the victim with written notice containing the following information regarding a Jail Release Agreement (Utah Code 78B-7-802):
 - 1. The individual may not telephone, contact, or otherwise communicate directly or indirectly with the victim before being released.
 - 2. The individual may not be released except by court order or a written jail release agreement.
 - 3. Notification of the penalties for violation of the court order or any jail release agreement executed and that the individual must appear in court on the next business day after arrest.

311.9.2 REPORTS AND RECORDS

- (a) Reports on all incidents of domestic violence shall include (Utah Code 77-36-2.2):
 - 1. The officer's disposition of the case.
 - 2. The appropriate crime classification for domestic violence.
 - 3. If no arrest was made, the report shall detail the grounds for not arresting.
 - 4. If two parties are arrested, the report shall detail the grounds for arresting both parties.
 - 5. The results of a lethality assessment when required by Utah Code 77-36-2.1. The report, however, shall not reflect information about a referral to a domestic violence organization if one is made as a result of the lethality assessment.
- (b) The officer creating the report should provide the victim with the case number of the report. The case number may be placed in the appropriate space on the victim

Harrisville Police Department

Harrisville PD UT Policy Manual

Domestic Violence

information handout provided to the victim. If the case number is not immediately available, the officer should explain to the victim how the victim can obtain the information at a later time.

- (c) The report shall be made available to the victim, upon request, at no cost (Utah Code 77-36-2.2(6)(d)).
- (d) The Records Manager shall forward a copy of the incident report to the appropriate prosecuting attorney within five days after the complaint of domestic violence occurred (Utah Code 77-36-2.2(6)(c)).
- (e) The officer completing a domestic violence report should include information regarding whether the victim would like the court to impose release restrictions upon the arrestee, including prohibiting the arrestee from having personal contact with the victim or from entering the victim's residence or other premises temporarily occupied by the victim (Utah Code 78B-7-802).
- (f) The Records Manager or the authorized designee shall update the statewide domestic violence network when a person is released upon a written jail release agreement (Utah Code 78B-7-802; Utah Code 78B-7-113).

311.10 LETHALITY ASSESSMENT

PURPOSE:

To establish protocol and implement the use of the Lethality Assessment Program—Maryland Model (LAP) at domestic violence calls for service.

POLICY:

It is the policy of the Harrisville Police Department to use the Lethality Screen at the scene of a domestic violence incident to identify victims of domestic violence in potentially lethal situations, and follow the established criteria to place those victims in immediate and direct contact with a domestic violence service program hotline advocate. Officers administering the Lethality Screen shall ask the victim the Lethality Screen and, when a victim is assessed as being in High-Danger, call YCC Family Crisis Center and ask the victim to speak with a hotline advocate.

Definitions:

A. Lethality Screen.

The evidence-based field instrument used by trained practitioners to assess a person who is a victim of intimate partner violence for her/his risk of being killed by an intimate partner.

B. Intimate relationship.

An "intimate relationship" is one in which heterosexual or homosexual partners have, or have had, a sexual or emotionally intimate relationship

C. Intimate Partners.

Intimate partners are persons who are, or have been involved, in an intimate relationship who:

Harrisville Police Department

Harrisville PD UT Policy Manual

Domestic Violence

1. Are married, separated, or divorced;
2. Live or have lived together;
3. Have children in common; or
4. Date, or have dated, but do not live, or never have lived together
5. Is or was in a consensual sexual relationship with the other party

D. High Danger.

A term used for a victim who has been assessed through use of the LAP and the Lethality Screen as being at the greatest risk of being killed. The victim is said to be at "High Danger."

INITIATING A LETHALITY ASSESSMENT

A. General

1. In addition to the procedures outlined in this policy, the responding officer shall complete the Lethality Screen when he/she responds to a domestic violence complaint involving intimate partners and one or more of the following conditions exist:
 - a. There is reason to believe an assault or an act that constitutes domestic violence has occurred, whether or not there is an arrest.
 - b. There is a belief or sense on the part of the responding officer that once the victim is no longer in the care or presence of the responding officer the potential for assault or danger is high.
 - c. Repeated calls for domestic violence complaints at the same location or involving the same parties.
 - d. The responding officer believes one should be administered based on his/her experience and training and instinct.
2. The LAP is intended to be used only on the primary victim, never on multiple people.
 - a. If Predominant Aggressor isn't identified, do not screen both people – still make referrals to DV Service Provider

B. Lethality Screen Questions

Harrisville Police Department

Harrisville PD UT Policy Manual

Domestic Violence

1. To initiate the Lethality Screen and corresponded LAP response protocol, the responding officer should:
 - a. Advise the victim in a positive, supportive tone that she/he will be asked a series of questions to help the officer determine the immediate potential for danger to the victim.
 - b. Administer the Lethality Screen outside the presence, hearing and awareness of the abusive partner.
 - c. Ask the questions in the order they are listed on the form and in the manner they are written.
 - d. Ask all the questions in assessing the victim. The more questions the victim responds to positively, the clearer and more immediate the potential for danger is to the victim.

C. Assessing the Responses to the Lethality Questions

1. After the responding officer asks the questions on the Lethality Screen, he/she shall handle the information as follows:
 - a. A **single** "yes" or positive response by the victim to questions #1, 2 or 3 reflects a High-Danger situation and automatically triggers the hotline call. Officers shall still ask the remaining questions, as they will help the officer gather a more comprehensive understanding of the victim's situation before calling the hotline. Doing so will also allow the victim to assimilate lethality predictors that indicate that she/he is at risk of being killed by her/his intimate partner.
 - b. If the victim gives negative responses to questions #1-3, but positive responses to four or more of questions #4 thru 11, this reflects a High-Danger situation and triggers the hotline call.
 - c. "No" or negative responses to all of the assessment questions, or positive responses to less than four of questions #4 thru 11, may still trigger the hotline call if the responding officer believes it is appropriate. The officer should ask the victim the following question: "Is there anything else that worries you about your safety? If yes, what worries you?" The response to the question may aid the officer in his/her assessment.
 - d. Similar to the subsection above, the officer may also assess a victim as High-Danger if the officer believes it is appropriate when:

Domestic Violence

- i. The victim declines to answer all the questions on the Lethality Screen, or
- ii. The victim does not answer one or several of the questions so that the victim does not respond "yes" to enough questions to be assessed at High Danger according to the protocol.
- iii. If the victim's responses do not reflect High-Danger, but the officer's "read" of the situation indicates High-Danger, the officer should make the hotline call.

D. Assessing the Responses to the Lethality Questions – non-High Danger

1. If the victim is not assessed as High-Danger after the Lethality Screen is completed, the officer shall:
 - a. Advise the victim that "domestic violence is dangerous and sometimes fatal."
 - b. Inform the victim to watch for the signs listed in the assessment because they may convey to the victim that she/he is at an increased level of danger.
 - c. Refer the victim to YCC. The officer should volunteer to call the hotline for the victim if the victim would like to speak with the hotline. If the victim agrees, the officer does not need to remain on the scene during the victim-advocate conversation.
 - d. Provide the victim with the case number, the officer's contact information or the number of another agency contact if the officer would not be available, in case the victim wants to talk further or needs help.

E. High-Danger Victims and the Hotline Call

1. If a High-Danger assessment is made the hotline call shall be implemented as follows:
 1. Advise the victim that her/his situation has indicated to the officer that the victim is at an increased level of danger, and that people in the victim's situation have been killed or seriously injured. Convey this information in an understanding manner.
 - b. Advise the victim that you would like to call YCC and invite the victim to speak with a hotline advocate. In communicating with the victim, be encouraging and supportive.

Harrisville Police Department

Harrisville PD UT Policy Manual

Domestic Violence

1) If the victim initially declines to speak with the hotline advocate, the officer shall:

- a. Tell the victim that the officer will still contact the domestic violence hotline to receive guidance on how to proceed with the situation;
- b. Tell the victim that she/he may decline to speak with the hotline, but that the officer would like the victim to reconsider speaking with the hotline advocate; and
- c. While the officer is still on the phone with the hotline advocate, the officer asks the victim if she/he has reconsidered and would now like to speak with the hotline advocate.

2) If the victim continues to decline to speak with the hotline advocate, the officer should do the same thing he/she would do for a victim who was not assessed as High-Danger, including conveying information that the hotline advocate has suggested about safety planning and requesting a safe phone number for an advocate to follow up with the victim.

3) If the victim agrees to speak with a hotline advocate, the officer shall call the hotline number, introduce him/herself, and advise the hotline advocate that he/she has made a High Danger assessment. The officer shall provide responses to a brief set of questions prompted by the hotline advocate.

a. During the conversation between the hotline advocate and the victim, the officer shall stay on the scene and allow the victim privacy while she/he speaks with the hotline.

b. At the appropriate time during the conversation between the victim and the hotline advocate, the hotline advocate will ask to speak with the officer to conclude the call.

c. The officer shall be guided by the discussion with the hotline advocate for further assistance. Officers shall provide reasonable assistance to the victim if help is requested, such as transporting the victim to a safe place.

F. Filing of the Lethality Screen

1. Officers who have completed Lethality Screens shall submit the results of a lethality assessment to the Department of Public Safety while on scene.

- (a) Lethality assessments shall be reported to the Department of Public Safety through the online submission form available through UCJIS.

Harrisville Police Department

Harrisville PD UT Policy Manual

Domestic Violence

2. If a law enforcement officer is not reasonably able to submit the results of a lethality assessment while on scene, the law enforcement officer shall submit the results of the lethality assessment to the Department of Public Safety as soon as practicable.
3. The agency LAP Agency Representative shall:
 - a. Maintain a file of all Lethality Screens,
 - b. Prepare a report as provided in Section I below, and
 - c. Submit the report to the LAP team coordinator by January 15th and July 15th each year for the previous six-month periods.

G. LAP Agency Representative

The LAP agency representative shall:

1. Facilitate training;
2. Maintain and report data;
3. Serve as a liaison, communicate, and meet with participating LAP agency representatives and agencies; and
4. Generally oversee and monitor progress of the LAP.

H. Training

1. LAP training shall be provided by LAP-trained staff to all new entry-level officers who have not received it in the training academy before the conclusion of their field-training period.
2. In-service LAP training shall be provided to officers at least every two years.

E. Records Reporting

1. The agency shall prepare and forward reports to the LAP team coordinator by the 15th of:
 - a. January
 - b. July
2. The reports shall contain the following information:

Harrisville Police Department

Harrisville PD UT Policy Manual

Domestic Violence

- a. How many Lethality Screens were attempted?
- b. How many victims were assessed as being at High-Danger?
- c. How many victims were not assessed as being at High-Danger?
- d. How many victims did not respond to all of the screening questions?
- e. How many victims assessed as being at high-Danger spoke to a hotline advocate?

311.11 SERVICE OF COURT ORDERS

When an officer serves an individual with a protective order which causes the individual to be a restricted person under Utah Code 76-11-302 or Utah Code 76-11-303, the officer shall verbally provide the individual with the appropriate firearm restriction notifications in accordance with Utah Code 76-11-309 and request the individual's signature on the acknowledgment contained within the protective order document.

311.12 SECTION TITLE