DOMESTIC ABUSE RESPONSE AND ARREST

Brownsdale Police Department

POLICY

The Brownsdale Police Department recognizes domestic abuse as a serious problem in society. This agency aims to protect victims of domestic abuse by ensuring its peace officers understand domestic abuse statutes and approach domestic abuse situations with sensitivity and understanding. Peace officers will utilize this policy when responding to incidents of domestic abuse. This agency will aggressively enforce the laws without bias or prejudice.

DEFINITIONS

Child: has the meaning given to it in MN Statute 260C.007, subdivision 4.

Complainant: refers to an individual making a complaint or reporting a crime.

Domestic Abuse: has the meaning given to it in MN Statute 518B.01, subdivision 2(a).

Domestic Abuse No Contact Order (DANCO): refers to an order issued by a judge under MN Statute 629.75 in criminal court. DANCOs may be issued as a pretrial condition of release and/or as a condition of probation. Violating a DANCO is a crime.

Domestic Abuse Program: means a public or private intervention project or advocacy program which provides support and assistance to the victims of domestic abuse.

Domestic Call: refers to a call for service or a request for service made to a law enforcement agency regarding a domestic disturbance.

Family or Household Member(s): has the meaning given to it in MN Statute 518B.01, subdivision 2(b).

Harassment: has the meaning given to it in MN Statute 609.749, subdivision 2(c).

Harassment Restraining Order (HRO): refers to an order issued by a judge under MN Statute 609.748 in civil court where a petitioner requests a court order prohibiting another person from having contact with them. The petitioner of an HRO does not have to be a family or household member to the respondent. Violating an HRO is a crime.

Order for Protection (OFP): refers to an order issued by a judge under MN Statute 518B.01, subdivision 5, in civil court. Violating an OFP is a crime.

Petitioner: refers to an individual who initiates legal proceedings by filing a petition with the court.

Primary Aggressor: refers to the person who, based on the totality of the circumstances, is determined to be the primary perpetrator of domestic abuse, as opposed to a person who used force in self-defense or who has been primarily subject to abuse.

Qualified Domestic Violence-Related Offense (QDVRO): has the meaning given to it in MN Statute 609.02, subdivision 16.

Respondent: refers to the person against whom a court action or protective order is sought.

Stalking: has the meaning given to it in MN Statute 609.749, subdivision 5.

PROCEDURE

RECEIVING A DOMESTIC REQUEST FOR SERVICE

Receiving a Domestic Request for Service. Domestic requests for service are considered high priority calls and must be treated accordingly by dispatchers and [officers]. Dispatchers must assign, minimally, two [officers] to a known or suspected domestic abuse call. If only one [officer] is available, reasonable attempts must be made to obtain another [officer]. After receiving a domestic call, [officers] must respond promptly according to the information they received (e.g., is the situation active/ongoing, is the incident being reported several days after the event, or are the victim(s) in a safe location away from the suspect). Domestic requests for service may be received via text message to 911 or by other means.

Information to be Obtained. The dispatcher receiving a domestic request for service should attempt to collect pertinent information from the caller and relay the information to the responding [officers]. The dispatcher receiving a domestic abuse call should attempt to gather the following information:

- the nature of the incident,
- the address of the incident, including apartment number (if applicable),
- the telephone number(s) by which the caller can be reached,
- whether weapons are involved or present in the dwelling,
- whether someone is injured and the nature of the injury,
- whether alcohol or drugs are involved,
- information about the suspect (e.g., presence, description, direction of flight, mode of travel, etc.),
- the relationship between the caller and the suspect,
- whether there have been previous calls involving the caller and suspect,

- whether there is an active order for protection (OFP), harassment restraining order (HRO), or criminal pre-trial or probationary domestic abuse no contact order (DANCO),
- whether children are present, and
- whether there are non-English speaking, mobility impaired, or hearing-impaired individuals present.

If the caller is the victim, the dispatcher should attempt to keep the caller on the telephone for as long as possible and tell the caller when they can expect the peace officers to arrive. If the caller is a witness to an incident in progress, the dispatcher should attempt to keep the caller on the phone and should relay ongoing information provided by the caller to the responding [officers]. Dispatchers should ask callers if it is safe for them to talk and if so, for how long.

If, for any reason, the dispatcher is unable to remain on the line with the caller and the responding [officers] are some distance away from the call location, the dispatcher should attempt to periodically call the complainant back, if the caller said it is okay to do so, to check on their well-being. If the complainant was available by telephone, but later becomes unreachable or the dispatcher encounters a persistent busy signal, that information should be relayed to the responding [officers].

RESPONDING TO A DOMESTIC CALL

Driving to the Scene. Peace officers must respond directly and without unreasonable delay to the scene. [Officers] should evaluate tactical considerations related to the use of emergency lights and sirens when responding.

Initial Contact. Upon arriving at the scene of a domestic abuse call, the responding [officers] must identify themselves as peace officers, explain their presence, and request entry into the home. The [officers] must ask to speak with the individuals involved in the situation. When reasonable, practical, and safe to do so, [officers] should separate (sight/sound) all individuals involved prior to taking any statements. If the person who called the law enforcement agency is someone other than the subject of the call, the [officer] should not reveal the caller's name. The [officer] must ensure all occupants inside or at the call location are safe to the extent they are able.

Entry. If refused entry, the [officers] should be persistent about seeing and speaking alone with the complainant. If access to the complainant is refused the [officers] should request dispatch contact the caller via phone. If access is still refused and the [officers] have reason to believe someone is in imminent danger, [officers] are permitted to force entry. If the [officers] are refused entry, and have no legal grounds to force entry, but have reasonable grounds to believe a crime has been committed, the [officers] may apply for a search warrant.

First Aid. After securing the scene, responding peace officers shall provide first aid and offer EMS (as applicable). [Officers] may preemptively request EMS and put them on standby while responding to the scene in an effort to minimize medical personnel response time.

INVESTIGATION

After securing the scene and providing any necessary first aid, peace officers must begin an investigation and assess the evidence to determine if there is probable cause that evidences a crime has been committed. During the investigation, when feasible, [officers] must attempt to interview the parties directly involved as well as any witnesses to the incident as necessary for the investigation. If the witness, victim, or suspect is a child, [officers] should consider whether an interview should take place at another location or be handled by another organization. [Officers] must collect and/or document any evidence at that scene. As part of the evidence collection process, [officers] must consider:

- taking photos of the scene,
- photographing the condition of clothing of the individuals involved,
- photographing any property damage,
- photographing physical injuries or the presence of petechiae (peace officers should be aware that injuries appear differently on different complexions and under flash photography),
- completing a lethality assessment (as applicable),
- recording and documenting excited utterances made by the victim and/or the suspect,
- documenting the demeanor of the victim and/or the suspect,
- collecting medical records including the victim's statements to paramedics, nurses and doctors,
- recording interviews with witnesses including children who may have been present,
- documenting evidence of any prior domestic abuse related incidents,
- documenting any existing OFPs, HROs or DANCOs, and
- documenting any other existing court order restricting contact between the suspect and victim.

When establishing probable cause, peace officers may consider their observations as well as any statements made by the parties/witnesses involved.

Suspect Gone on Arrival. If there is probable cause to make an arrest, [officers] should make reasonable attempts to locate and arrest the suspect. [Officers] should consider checking the suspect's place of employment and residences the suspect is known to frequent (e.g., the residences of family/friends or other properties the suspect may own).

ARREST CONSIDERATIONS

Arrest determinations must be based on probable cause that evidences a crime has been committed. [Officers] shall not base arrest determinations on the following factors:

- the ownership/tenancy rights of either party or the fact the incident occurred in a private place,
- belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction,
- verbal assurances that the abuse will stop,
- disposition of previous police calls or criminal cases involving the same victim or suspect,
- denial by either party that the abuse occurred when there is evidence of domestic abuse and probable cause has been established,
- lack of a court order restraining or restricting the suspect,
- concern about reprisals against the victim,
- adverse financial consequences that might result from the arrest, or
- chemical dependency or intoxication of the parties.

Primary Aggressor and Dual Arrests. The (*name of law enforcement agency*) discourages dual arrest, however, such arrests are not explicitly prohibited. When there are allegations that each party assaulted the other, the peace officer shall determine whether there is sufficient evidence to conclude one of the parties is the primary aggressor. Such a determination should be based on, minimally, the following:

- the comparative extent of the injuries inflicted,
- the presence of fear of physical injury because of past or present threats,
- were actions taken in self-defense or to protect oneself,
- patterns of power of control (financial/technological/psychological),
- the history of domestic abuse perpetrated by one party against the other, or
- the existence or previous existence of an order for protection.

In situations where the primary aggressor is identifiable, but charges also seem appropriate for the other individual involved, a report should be sent for consideration of charges to the prosecutor's office in lieu of a physical (dual) arrest. In their report, [officers] should explain how the [officer] identified a specific individual as the primary aggressor. In extreme cases or for instances in which a primary aggressor cannot be identified, a dual arrest may be made. In the event a dual arrest is made, when feasible, [officers] should transport the individuals in separate vehicles.

Victims Declining Arrest or Prosecution. If [an officer] establishes probable cause and determines a domestic abuse crime has been committed, they may make an arrest. The

arrest may be made regardless of a victim's request not to arrest or prosecute the suspect. When [an officer] encounters a victim who wishes to decline charges, the [officer] should explain to the victim that arrest and prosecutorial determinations are given to law enforcement and prosecutors by state statute. [Officers] can offer to include a victim's request to decline charges in their report, however, victims should be made aware prosecutorial determinations will be made by the prosecuting attorney's office based on evidence.

Warrantless Probable Cause Arrest for Fifth Degree Assault or Domestic Assault. In general, [officers] cannot effect probable cause arrests for misdemeanors that did not occur in their presence. This is not the case for crimes of domestic assault. According to MN Statute 629.341, peace officers are immune from civil liability when making a domestic abuse arrest so long as they act in good faith and exercise due care when making the arrest determination. For misdemeanor offenses, according to MN Statute 629.341, peace officers may arrest a person anywhere, without a warrant, if the [officer] has probable cause to believe that, within the preceding 72 hours excluding the day probable cause was established, the individual assaulted, threatened (with a dangerous weapon), or committed an act intended to cause fear in another of immediate body harm or death if the victim is a "family or household member."

According to MN Statute. 629.72, notwithstanding any other law or rule, an arresting [officer] may not issue a citation in lieu of effecting the arrest of an individual being charged or arrested for harassing or stalking, domestic abuse, a violation of an order for protection, or a violation of a domestic abuse no contact order.

Level of Arrest for Fifth Degree Assault and Domestic Assault: Misdemeanor, Gross Misdemeanor and Felony. [Officers] should be aware there are many domestic abuse related crimes that are eligible for enhancement based on an individual's previous criminal convictions. Fifth Degree Assault and Domestic Assault are deemed misdemeanor offenses. When enhancement factors are present, these offenses may be charged as a gross misdemeanor or felony.

- *Gross Misdemeanors*
  - MN Statute 609.224, subdivision 2(a), Assault in the Fifth Degree provides for an enhancement to a gross misdemeanor violation when the offense is against the same victim within ten years of a qualified domestic violence-related offense (QDVRO) conviction or adjudication of delinquency in Minnesota, or any similar law of another state.
  - If the charge is Domestic Assault (MN Statute 609.2242) and the victim is a family or household member and the crime occurs within ten years of a QDVRO conviction or adjudication of delinquency of any of the above offenses against any family or household member, the same gross misdemeanor enhancement applies. The prior conviction need not be against a member of the same family or household.

    - If there is a prior conviction for assault or threats of violence against any person within two years, a gross misdemeanor may also be charged.

- *Felonies*
    - If a person commits Fifth Degree Assault against the same victim within ten years of the first of any combination of two or more QDVRO convictions or adjudications of delinquency, the assault becomes a felony. The same enhancement applies to Fifth Degree Assault against any victim occurring within three years of the first of two or more of these convictions.
    - Domestic assault against a family or household member is also enhanceable under the same circumstances except that the prior convictions may be against any family or household member.
    - According to MN Statute 609.2247, subdivision 2, whoever assaults a family or household member by strangulation is guilty of a felony.

REPORTS AND FORMS

Peace officers must write a report after responding to a domestic call. If the [officer] did not arrest or seek an arrest warrant even though an arrest was authorized, a detailed explanation of the reasons for the [officer's] decision not to arrest must be documented. The report must then be forwarded to the prosecutor's office for consideration of formal charges. Domestic abuse related reports must, when feasible or applicable, include the following information:

- detailed statements from the victim, suspect, and any witnesses,
- a description of injuries,
- information about past abuse,
- a summary of the lethality assessment,
- a description of the scene,
- identification of the primary aggressor if applicable,
- information on the existence of any language barriers,
- the identification of elderly victims or those with disabilities,
- a summary of prior convictions relevant to charging enhancements,
- a general summary of the suspect's criminal history, and
- a list of evidence.

If necessary, a domestic call must be turned over to the appropriate investigator for further follow-up when needed. If an arrest is made, the [officer] must examine the defendant's criminal history record and, if there is evidence of a QDVRO conviction, advise the prosecutor's office of any potential charging enhancements. If there is probable cause to warrant charges on an individual not determined to be the primary aggressor, the peace officer must thoroughly document all relevant information in the report and refer it to the prosecutor for review and consideration of criminal charges.

LETHALITY/RISK ASSESSMENT

Domestic abuse situations often involve heightened emotional responses from the individuals involved because of not only the present circumstances, but the historical context. Historical context is especially important for assessing the potential risk of future domestic violence against an individual victim. Lethality/risk assessments are a tool [officers] can use to explore a victim's/suspect's abuse history and gauge the risk of future abuse. [Officers] should complete a lethality/risk assessment, approved by the agency, and include the assessment with their report. The assessment should be sent to the prosecuting attorney's office for review. Minimally, the following questions should be included in the agency's assessment.

- Does the suspect have access to a firearm, or is there a firearm in the home?
- Has the suspect ever used or threatened to use a weapon against you or your children/family members?
- Has the suspect ever attempted to strangle you, cut off the circulation in your neck, or impede your breathing in any way. This may include covering your mouth and/or nose.
- Has the suspect ever threatened or tried to kill you?
- Has physical violence increased in frequency or severity in recent months?
- Has the suspect ever forced or coerced you to have sexual relations against your will?
- Does the suspect control or try to control most or all your daily activities?
- Does the suspect monitor or surveil most or all your daily activities?
- Is the suspect constantly or violently jealous?
- Has the suspect ever threatened to commit suicide?
- Do you believe the suspect will assault you again?
- Has the suspect assaulted you in the past?
- Do you believe the suspect will try to kill you?
- Are there any pending or prior OFPs, HROs, or other criminal or civil cases involving the suspect?
- Has the suspect previously violated an OFP, HRO, DANCO, or other order in which you were the petitioner or protected party?

The questions included in the agency's assessment should be evidence informed – meaning that the questions are derived from practical experience and/or research. Agencies are encouraged to develop an assessment referral protocol. Minimally, the protocol, should include referring the assessment to the prosecuting attorney's office and a local advocacy program. After an assessment is completed, [officers] should inform the victim of the outcome, or score, of the assessment. [Officers] should ask the victim if they would like assistance contacting a victim's rights advocacy center for assistance.

OTHER DOMESTIC ABUSE RELATED CRIMES

STALKING

It is a felony to engage in stalking with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim. Stalking charges should be considered when, within a 5-year period, an individual commits or attempts to commit two or more of the criminal acts described in MN Statute 609.749, subdivision 5(b)(1) through (17).

Reports on incidents of stalking must include historical information about/between the individuals involved as well as the emotions the conduct stirred, if any, in the victim(s). This information is necessary to demonstrate patterns of behavior and to satisfy the elements of the crime. Such information is especially important when one of the acts being used to bring forth a charge of stalking was previously attempted but not charged or, possibly, previously reported. Examples of stalking behaviors include, but are not limited to:

- Surveillance
  - Waiting for the victim outside of their office, gym, or other frequented locations.
  - Using tracking software on the victim's devices.
  - Going through the victim's mail or trash.
  - Attaching a tracking device on the victim's vehicle or home.
- Life Invasion
  - Repeated unwanted contact via telephone, text messages, emails, etc.
  - Sending or leaving unwanted gifts.
  - Initiating contact through third parties.
  - Harassing the victim's friends or family.
- Intimidation
  - Using a weapon as a threat.
  - Forcing confrontations.
  - Threatening to harm or kill the victim, themselves, friends, family, pets, or others the victim cares about.
  - Threatening to share or post private information, photos, or videos of the victim.
- Interference
  - Spreading rumors about the victim.
  - Ruining or attempting to ruin the victim's reputation.
  - Taking and/or sharing photos or videos of the victim without their consent.
  - Posting deepfake photos or videos online of the victim.

For additional information regarding stalking behaviors, [officers] can refer to the Stalking Prevention Awareness and Resource Center's (SPARC) website and law enforcement information sheet.

HARASSMENT

A person commits a harassment crime if they:

- directly or indirectly, or through third parties, manifest a purpose or intent to injure the person, property, or rights of another by the commission of an unlawful act;
- follow, monitor, or pursue another, whether in person or through any available technological or other means;
- return to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;
- repeatedly make telephone calls, send text messages, or induce a victim to make telephone calls to the actor, whether or not conversations ensue;
- make or cause the telephone of another repeatedly or continuously to ring;
- repeatedly mail or deliver or causes the delivery by any means, including electronically, of letters, telegrams, messages, and packages, through assistive devices for people with vision impairments or hearing loss, or any communication made through any available technologies or other objects;
- knowingly make false allegations against a peace officer concerning the [officer's] performance of official duties with intent to influence or tamper with the [officer's] performance of official duties; or
- use another's personal information, without consent, to invite, encourage or solicit a third party to engage in a sexual act with the person.

Harassment crimes are elevated to a gross misdemeanor if the conduct was committed with the intent to kill, injure, harass, or intimidate another person if the conduct 1) places the other person in reasonable fear that the person's family or household members will be subject to substantial bodily harm, 2) places the person in reasonable fear that the person's family or household members will be subject to substantial bodily harm, or 3) causes or would reasonably be expected to cause substantial emotional distress to the other person. Harassment crimes may also be elevated to a felony if the provisions of MN Statute 609.749, subdivision 3 or 4 are met.

Acts constituting a violation of harassment or stalking, when committed in two or more counties, may be prosecuted in any county in which one of the acts was committed for all acts in violation of MN Statute 609.749.

VIOLATION OF COURT ORDERS

Peace officers must verify whether any of the following orders discussed herein exist before, during, or after an arrest (OFP, HRO, or DANCO). Methods of verification include

visually inspecting a paper or digital copy of the order or obtaining verification from the court or law enforcement agency that issued or served the order. If there is an active court order and the suspect violated the order, the [officer's] incident report must include information regarding the order, such as the name of the county where the order was originally issued and the court file number. In the report, [officers] should explicitly identify what provision the suspect violated in the court order.

Order for Protection (OFP). A peace officer must arrest and take into custody, without a warrant, any person who the peace officer has probable cause to believe violated a condition of an OFP granted by the court pursuant to MN Statute 518B.01. Such an arrest must be made even if the violation of the order did not take place in the presence of the peace officer. A violation of an OFP is a misdemeanor but the charge is enhanceable to a gross misdemeanor if the offense occurred within ten years of a previous QDVRO conviction or adjudication. OFP violation charges are enhanceable to a felony if 1) the individual violated the OFP within ten years of the first of two or more previous QDVRO conviction/adjudication or 2) the individual violated the OFP while possessing a dangerous weapon as defined in MN Statute 609.02, subdivision 6.

According to MN Statute 518B.01, subdivision 18(a)(2), an OFP is not voided if the respondent was invited by the petitioner to the petitioner's residence. Likewise, an OFP is not void if the petitioner initiates contact with the respondent. There is not a time limitation to effect a warrantless arrest for a violation of an OFP.

Harassment Restraining Order (HRO). A peace officer must arrest and take into custody a person who the peace officer has probable cause to believe has violated a harassment restraining order granted by the court pursuant to MN Statute 609.748, subdivisions 4 and 5, if the [officer] can establish probable cause and verify the existence of the order. A person who violates an HRO is guilty of a misdemeanor. This offense is enhanceable to a gross misdemeanor if the violation occurs within ten years of a QDVRO conviction. Per MN Statute 609.748, subdivision 6(d), the offense is enhanceable to a felony if the person knowingly violates the order:

- within 10 years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications;
- because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability (as defined in MN Statute 363A.03, subdivision 12), age, or national origin;
- by falsely impersonating another;
- while possessing a dangerous weapon;
- with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in MN Statute 609.415, subdivision 3, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

- against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

Domestic Abuse No Contact Order (DANCO). A peace officer must arrest, without a warrant, and take into custody a person who the peace officer has probable cause to believe has violated a DANCO issued pursuant to MN Statute 629.75. The arrest must be made even if the violation did not occur in the presence of the peace officer. A pretrial DANCO is sometimes continued at the time of sentencing with a new DANCO issued as a condition of probation. This DANCO may be valid for the full probationary period indicated in the order. The court may rescind a DANCO at any time. A victim's production of a copy of a court order, that appears valid, absent contrary evidence, provides a prima facie basis for arrest whenever there is probable cause to believe a violation of the order has occurred.

When investigating a domestic abuse incident, peace officers must, when applicable, consider whether additional crimes have been committed. Other crimes that should be considered are trespassing, criminal damage to property, disorderly conduct, witness tampering, burglary, and/or assault.

CRIME VICTIM RIGHTS AND SERVICES

If for some reason it is not possible to effect the arrest of a suspect during a domestic abuse incident (for example, the suspect fled the scene), [officers] should, when feasible, consider staying at the scene until the likelihood for further violence has been substantially reduced or eliminated. If the suspect is gone on arrival, [officers] are encouraged to talk to the victim about how to safely contact law enforcement if the suspect returns or their whereabouts are determined. [Officers] are encouraged to provide guidance to victims on how to ensure their own immediate safety (e.g. staying with a family member or friend, having a family member stay with them, or staying at a shelter). If a domestic advocacy program exists in the area, the responding [officer] should initiate contact on behalf of the victim with their permission. MN Statute 629.342 provides that when a peace officer does not make an arrest, the peace officer must provide immediate assistance to the victim, which includes obtaining any necessary medical treatment, and provide the victim a notice of rights pursuant to MN Statute 629.341, subdivision 3.

Assistance to Non-English-Speaking Victims or Victims with Communication Disabilities. The peace officer shall use the resource list established by this law enforcement agency to contact a person to assist in cases where the individuals involved in the domestic call, including the witnesses, are non-English-speaking, hearing-impaired, or have other communication limitations. The [officer] should avoid the use of friends, family, or neighbors as the primary interpreter for the investigation. Consideration: Is there a bilingual speaking [officer] who could assist?

Notice of Crime Victim's Rights. The peace officer must give the victim of a domestic abuse incident a copy of the agency's crime victim notification form. [Officers] are

encouraged to verify the victim understands the victim's rights information they have been provided. The agency will routinely review the form to ensure it is current and in compliance with all applicable MN laws. The Department of Public Safety, Office of Justice Programs, produces the crime victim's rights notice and serves as the contact for victim's rights information.

Services. The peace officer or agency should contact the local domestic abuse program as soon as possible on all domestic abuse situations for which there is probable cause for an arrest and provide the name, phone number, and address of the victim and a brief factual account of the events that transpired. This section shall not apply if the dissemination of certain data is prohibited by the Minnesota Government Data Practices Act.

Child Victims. If a child is present during a domestic abuse incident or if the child is the victim of domestic abuse, the responding [officer] must determine whether the child has been subject to physical abuse, psychological abuse, sexual abuse, or neglect as defined by MN Statute 260E.03. If a peace officer finds a child in an environment which endangers the child's health or welfare or which will endanger the child's welfare, the child should be taken into protective custody pursuant to MN Statute 260C.175. When cases involve children, [officers] must comply with the reporting requirements of MN Statute 260E, Reporting of Maltreatment of Minors. If the child has been injured, the [officer] must escort the child to the nearest hospital for treatment. This can be accomplished by following EMS transport, riding with EMS transport, or by the [officer] transporting the child as appropriate.

STATUTORY REFERENCES

- CHAPTER 13 – Government Data Practices
- CHAPTER 260E – Reporting of Maltreatment of Minors
- MN STATUTE 260C.175 – Taking Child Into Custody
- MN STATUTE 518B.01 – Domestic Abuse Act
- MN STATUTE 609.185 – Murder in the First Degree
- MN STATUTE 609.19 – Murder in the Second Degree
- MN STATUTE 609.195 – Murder in the Third Degree
- MN STATUTE 609.20 – Manslaughter in the First Degree
- MN STATUTE 609.205 – Manslaughter in the Second Degree
- MN STATUTE 609.221 – Assault in the First Degree
- MN STATUTE 609.222 – Assault in the Second Degree
- MN STATUTE 609.223 – Assault in the Third Degree
- MN STATUTE 609.2231 – Assault in the Fourth Degree
- MN STATUTE 609.224 – Assault in the Fifth Degree
- MN STATUTE 609.2242 – Domestic Assault
- MN STATUTE 609.2245 – Female Genital Mutilation; Penalties
- MN STATUTE 609.2247 – Domestic Assault by Strangulation

- MN STATUTE 609.25 – Kidnapping
- MN STATUTE 609.255 – False Imprisonment
- MN STATUTE 609.342 – Criminal Sexual Conduct in the First Degree
- MN STATUTE 609.343 – Criminal Sexual Conduct in the Second Degree
- MN STATUTE 609.344 – Criminal Sexual Conduct in the Third Degree
- MN STATUTE 609.345 – Criminal Sexual Conduct in the Fourth Degree
- MN STATUTE 609.3451 – Criminal Sexual Conduct in the Fifth Degree
- MN STATUTE 609.3458 – Sexual Extortion
- MN STATUTE 609.377 – Malicious Punishment of a Child
- MN STATUTE 609.3775 – Child Torture
- MN STATUTE 609.582 – Burglary
- MN STATUTE 609.713 – Threats of Violence
- MN STATUTE 609.748 – Harassment; Restraining Order
- MN STATUTE 609.749 – Harassment; Stalking; Penalties
- MN STATUTE 609.78 – Emergency Telephone Calls and Communications
- MN STATUTE 617.261 – Nonconsensual Dissemination of Private Sexual Images
- MN STATUTE 617.262 – Nonconsensual Dissemination of a Deep Fake Depicting Intimate Parts or Sexual Acts
- MN STATUTE 629.341 – Allowing Probable Cause Arrests for Domestic Violence; Immunity from Liability
- MN STATUTE 629.75 – Domestic Abuse no Contact Order
- ADMINISTRATIVE RULE 6700.1615 – Required Agency Policies

CHARGING TABLE

The table below was created to assist [officers] with their probable cause arrest determinations. The table identifies which crimes a previous QDVRO conviction acts as an enhancement for. To determine the offense level and corresponding statute, start on the left side of the table by identifying the offense, then move to the right. [Officers] should confirm the information in this table with statute to verify the statute.

"Qualified domestic violence-related offense" refers to a violation of or an attempted violation of an order for protection, first-degree murder, second-degree murder, third-degree murder, first-degree manslaughter, second-degree manslaughter, first-degree assault, second-degree assault, third-degree assault, fourth-degree assault, fifth-degree assault, domestic assault, female genital mutilation, domestic assault by strangulation, kidnapping, false imprisonment, first-degree criminal sexual conduct, second-degree criminal sexual conduct, third-degree criminal sexual conduct, fourth-degree criminal sexual conduct, sexual extortion, malicious punishment of a child, burglary in the first degree, threats of violence, violation of harassment restraining order, harassment, stalking, interference with an emergency call, nonconsensual dissemination of private sexual images, violation of domestic abuse no contact order, and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

Offense	Victim	Conviction Look Back Period	Previous Conviction w/in Look Back Period or Qualifying Element	Offense Level	Statute
5th Degree Assault	Any Victim			Misdemeanor	609.224, sub. 1
		w/in previous 3 years	QDVRO	Gross Misdemeanor	609.224, sub. 2(b)
		w/in previous 3 years	QDVRO (x2)	Felony	609.224, sub. 4(b)
	Same Victim	w/in previous 10 years	QDVRO	Gross Misdemeanor	609.224, sub. 2(a)
		w/in previous 10 years	QDVRO (x2)	Felony	609.224, sub. 4(a)
Domestic Assault	Family or Household Member			Misdemeanor	609.2242, sub. 1
		w/in previous 10 years	QDVRO	Gross Misdemeanor	609.2242, sub. 2
		w/in previous 10 years	QDVRO (x2)	Felony	609.2242, sub. 4

Violation of an Order for Protection	Family or Household Member			Misdemeanor	518B.01, sub. 14(b)
		w/in previous 10 years	QDVRO	Gross Misdemeanor	518B.01, sub. 14(c)
		w/in previous 10 years	QDVRO (x2)	Felony	518B.01, sub. 14(d)(1)
			*** commits act while possessing a dangerous weapon ***	Felony	518B.01, sub 14(d)(2)
Violation of a Harassment Restraining Order	Any Victim			Misdemeanor	609.748, sub. 6(b)
		w/in previous 10 years	QDVRO	Gross Misdemeanor	609.748, sub. 6(c)
		w/in previous 10 years	QDVRO (x2)	Felony	609.748, sub. 6(d)(1)
			because of actual or perceived protected class status	Felony	609.748, sub. 6(d)(2)
			by falsely impersonating another	Felony	609.748, sub. 6(d)(3)
			while possessing a dangerous weapon	Felony	609.748, sub. 6(d)(4)
			intent to affect juror, judicial proceeding, etc.	Felony	609.748, sub. 6(d)(5)
	Victim under 18 and respondent is more than 36 months older			Felony	609.748, sub. 6(d)(6)

Malicious Punishment of a Child	A Child		***less than substantial bodily harm***	Gross Misdemeanor	609.377, sub. 2
		w/in previous 5 years	1st – 5th Degree Assault, Domestic Assault, 1st – 4th Degree Criminal Sexual Conduct, or Threats of Violence	Felony	609.377, sub. 3
			substantial bodily harm	Felony	609.377, sub. 5
			great bodily harm	Felony	609.377, sub. 6
	A Child Under 4 Years Old		***harm to head, eyes, neck, or multiple bruises to the child's body***	Felony	609.377, sub. 4
Harassment	Any Victim			Gross Misdemeanor	609.749, sub. 2(c)(1-8)
		w/in previous 10 years	QDVRO	Felony	609.749, sub. 4(a)
			because of actual or perceived protected class status	Felony	609.749, sub. 3(a)(1)
			by falsely impersonating another	Felony	609.749, sub. 3(a)(2)
			while possessing a dangerous weapon	Felony	609.749, sub. 3(a)(3)
			intent to affect juror, judicial proceeding, etc.	Felony	609.749, sub. 3(a)(4)
	Victim Under 18 and actor is more than 36 months older			Felony	609.749, sub. 3(a)(5)
			sexual or aggressive intent	Felony	609.749, sub. 3(b)