



Village of Schaumburg Police Department

Policies and Procedures Manual

<u>Section :</u>	5 Operations Section	Status:	Active
<u>Chapter :</u>	40 Basic Field Operations	Issued:	02/03/2005
<u>Title:</u>	40-130 Domestic Violence	Effective:	02/03/2005

40-130 DOMESTIC VIOLENCE

I. DEFINITIONS

A. Illinois Domestic Violence Act: Chapter 750, Act 60, of the Illinois Compiled Statutes.

B. Abuse: Physical abuse, harassment, intimidation of a dependent, interference with personal liberty, or willful deprivation-but does not include reasonable direction of a minor child by a parent or person IN LOCO PARENTIS.

C. Adult with Disabilities: An elder adult with disabilities or a high-risk adult with disabilities.

- 1. A person may be an adult with disabilities even though he or she has never been adjudicated an incompetent adult.**
- 2. Elder Adult with Disabilities: An adult prevented by advanced age from taking appropriate action to protect himself/herself from abuse by a family or household member.**
- 3. High-Risk Adult with Disabilities: A person aged eighteen (18) or over whose physical or mental disability impairs his/her ability to seek or obtain protection from abuse, neglect or exploitation.**
- 4. No court proceeding may be initiated or continued on behalf of an adult with disabilities over that adult's objection, unless such proceeding is approved by his or her legal guardian.**

D. Domestic Violence: Means abuse as described in Section I. B.

E. Domestic Violence Response Team: A team of two employees selected from a pool of police officers and social workers designed to respond to the victims of domestic violence.

F. Domestic Violence Response Team Coordinator: A supervisor assigned to coordinate the efforts of the Police Department and the Social Services Section in the management of the Domestic Violence Response Team.

G. Family/Household Members :

1. Spouses, former spouses, parents, children, stepchildren, and other persons related by blood or by present or prior marriage.
2. Persons who share or formerly shared a common dwelling.
3. Persons who have or allege to have a child in common.
4. Persons who share or allegedly share a blood relationship through a child.
5. Persons who have or have had a dating or engagement relationship. For purposes of this order, neither a casual acquaintanceship nor an ordinary fraternization between two (2) individuals in business or social contexts shall be deemed to constitute a dating relationship.
6. Persons with disabilities and their personal assistants.

H. Harassment: Knowing conduct which (1) is not necessary to accomplish a purpose which is reasonable under the circumstances; (2) would cause a reasonable person emotional distress; (3) and does cause emotional distress to the petitioner. The following shall be presumed to cause emotional distress:

1. Creating a disturbance at the petitioner's place of employment or school.
2. Repeatedly telephoning petitioner's place of employment, home, or residence.
3. Repeatedly following petitioner in public place/s.
4. Repeatedly keeping petitioner under surveillance by remaining present outside his/her home, school, place of employment, vehicle, or other place occupied by the petitioner or by peering into the petitioner's windows.
5. Repeatedly threatening to, or actually improperly concealing a minor child from the petitioner.
6. Threatening physical force, confinement, or restraint on one or more occasions.

I. Interference with Personal Liberty: Committing or threatening physical abuse, harassment, intimidation or willful deprivation so as to compel another to engage in conduct from which he or she has a right to abstain or to refrain from conduct in which he or she has a right to engage.

J. Intimidation of a Dependent: Subjecting a person who is dependent because of age, health or disability to participation in or the witnessing of:

1. Physical force against another
2. Physical confinement or restraint against another, which constitutes

physical abuse, whether or not the abused person is a family or household member

K. Neglect: The failure to exercise that degree of care toward a high-risk adult with disabilities which a reasonable person would exercise under the circumstances and includes but is not limited to:

- 1. The failure to take reasonable steps to protect a high-risk adult with disabilities from acts of abuse.**
- 2. The repeated, careless imposition of unreasonable confinement.**
- 3. The failure to provide food, shelter, clothing and personal hygiene to a high-risk adult with disabilities who requires such assistance.**
- 4. The failure to provide medical and rehabilitative care for the physical and mental health needs of a high risk adult with disabilities.**
- 5. The failure to protect a high-risk adult with disabilities from health and safety hazards. NOTE: Nothing in this section shall be construed to impose a requirement that assistance be provided to a high-risk adult with disabilities over his or her objection in the absence of a court order, nor to create any new affirmative duty to provide support to a high-risk adult with disabilities.**

L. Physical Abuse: Includes sexual abuse and means any of the following,

- 1. Knowing or reckless use of physical force, confinement or restraint.**
- 2. Knowing or reckless conduct which creates repeated and unnecessary sleep deprivation.**
- 3. Knowing or reckless conduct which creates an immediate risk of physical harm.**

II. ORDERS OF PROTECTION

A. Defined as emergency orders, interim orders, or plenary orders granted pursuant to the Illinois Domestic Violence Act (herein referred to as "the Act"), which includes any or all of the remedies authorized by Section 214 of the Act. Orders of Protection are issued by a circuit court judge at a hearing based upon alleged facts.

- 1. Criminal Orders of Protection require criminal complaints to be signed. The victims may be referred to the Investigations Division or Social Services for assistance in obtaining an Order of Protection.**
- 2. Civil Orders of Protection, also known as Independent Orders of Protection, do not require criminal complaints to be signed and may be referred to the Social Worker for assistance.**

- B. Describe what the court has ordered the respondent to do or refrain from doing and the duration of the order.**
- C. Are valid for a fixed period of time not to exceed two (2) years .**
- D. Under 725 ILCS 5/112A-22.10, an officer may serve a respondent with a short form notification (Appendix A) and remedies (Appendix B) in lieu of personal service of an order of protection. Upon verification of the identity of the respondent and the existence of an unserved order of protection against the respondent, the officer may detain the respondent for a reasonable time necessary to complete and serve the short form notification. Any service of an Order of Protection must be documented on a Miscellaneous Incident Report.**
- E. The Police Social Worker or Investigations Division Supervisor may be contacted for assistance in preparations .**

III. DOMESTIC VIOLENCE

A. Arrest Definitions

1. Arrest without warrant

- a. Any law enforcement officer shall make an arrest without a warrant if the officer has probable cause to believe that the person has committed or is committing any crime, even if the crime was not committed in the presence of the officer.**
- b. Failure to make an arrest with probable cause, may result in civil liability against the officer or his/her supervisor or employer.**
- c. Facts exist to indicate that a person has violated a provision of an Order of Protection (written under ILCS 720, 5/12-30), and**
 - i. The officer is aware of previous acts of domestic violence, or**
 - ii. The offender knowingly committed a violation of an Order of Protection, which constitutes a Class A misdemeanor as defined in 750 ILCS, 60/223. Verification must be made as to the existence of a valid order, or**
 - iii. The offender had actual knowledge of or has been served notice of the order, as shown through one (1) of the following:**
 - A. By service, delivery, or notice under Illinois Compiled Statutes (ILCS) 725 ILCS 5/112-10.**
 - B. By notice under 725 ILCS 5/112-11.**
 - C. By service of an Order of Protection under 725 ILCS 5/112- 22.**

D. By other means demonstrating actual knowledge of the contents of the order.

2. Special Arrests Consideration

- a. If probable cause exists, whether the arrest is mandated or discretionary as set forth in Section III.B.1. and 2. of this order, the officer may sign the complaint if the victim is unable or reluctant.**
- b. Additional felony or misdemeanor complaints may be charged if they have been committed during the violation of a specific Order of Protection, utilizing the proper section of ILCS 720.**

3. Entry Into a Residence: Warrantless, nonconsensual entry into the home of an individual for the purposes of an arrest requires a detailed articulation of exigent circumstances.

4. No officer shall decline to arrest an offender because of certain factors, including, but not limited to:

- a. The parties live together.**
- b. The parties have sought civil remedy.**
- c. Verbal assurances that the violence will cease.**
- d. The victim's previous unwillingness to participate in the arrest and prosecution process.**

5. If there is probable cause to believe that particular weapons were used to commit an incident of abuse, subject to constitutional limitations, the officer shall seize and inventory the weapons. In non-arrest situations, when a request is made by a person with standing to remove weapons, all attempts shall be made to remove and inventory such weapons (These weapons may be returned after 72 hours). The officer shall confiscate any weapon that is a condition of a court order and inventory such weapon.

6. Whenever a suspect is arrested on a charge other than a domestic battery, and the suspect has or has had a relationship with the victim, the incident is domestic related (CDTP), and the following shall apply:

- a. The bonding officer shall keep in consideration any applicable restrictions that can be checked on the bond receipt, i.e., not to return to the residence, etc; and**
- b. The case shall be set on the officer's appropriate State court date, at the Domestic Violence Court Room.**

B. Investigations Procedures:

- 1. Whenever an officer responds to a bona fide incident and has reason to believe that a person has been abused, neglected or exploited by a family or household member, the officer shall immediately use all reasonable means to prevent further abuse, including:**
 - a. Arresting the abusing party, where appropriate.**
 - b. If there is probable cause to believe that particular weapons were used to commit the incident of abuse, subject to constitutional limitations, seizing and taking inventory of the weapons.**
 - c. Accompanying the victim to his/her residence for a reasonable amount of time to remove necessary personal items.**
 - d. Providing a copy of the Illinois Domestic Violence Act Rights of Victims Form, containing the reporting officer's name and star number to the victim/s or a responsible party acting on the victim's behalf.**
 - e. Providing the victim with one (1) referral to an accessible service agency.**
 - f. Advising the victim to seek medical attention and to preserve all evidence, including photographs of injury or damage to persons or property.**
 - g. Determining if an Order of Protection is in force and its provisions by viewing the victim's copy or through LEADS inquiry via the Communications Section. NOTE: Computer inquiries should be made under both the petitioner and respondents name and date of birth. Officers must determine if the offender has been served with a copy or has actual knowledge of the order.**
- 2. The Patrol Division shall work in cooperation with the Investigations Division and the Social Services Section and, when requested, transport the victim including any minors or dependents in the victim's care to a medical facility, a nearby shelter, a place of safety, or, after the close of court business hours, provide or arrange for transportation to the nearest available circuit or associate judge for the purposes of filing a petition for an emergency Order of Protection.**
 - a. When a victim of abuse chooses to leave the scene of the offense, it shall be presumed that it is in the best interests of any minors or dependents in the victim's care to remain with the victim or a person designated by the victim rather than to remain with the abusing party.**
 - b. The Patrol Division will remain on the scene until transportation has been provided for the victim and any minors or dependents in the victim's care.**
- 3. The Investigations Division shall:**
 - a. Conduct a thorough follow-up investigation and prepare the necessary**

complaints and documentation for obtaining an Emergency Order of Protection.

- b. Obtain an Emergency Order on the next business day unless more expedient action is deemed necessary by either the Patrol Division Watch Commander or an Investigations Division Supervisor.**
- c. Adhere to the Guidelines for Domestic Violence Waiver (Appendix C) and obtain a properly executed, signed Waiver of Rights (Appendix D) whenever a victim voluntarily decides not to pursue a criminal complaint.**

C. Notifications

- 1. The reporting officer shall advise the victim of available advocacy services by:**
 - a. Issuance of a completed, authorized Case Number Card or suitable substitute.**
 - b. Advising the victim that the services are confidential, free of cost, and not dependent on an arrest being made.**
 - c. Assurance that involvement with any Social Service Advocate is strictly voluntary and not a prerequisite for further support or court services.**
- 2. The Social Services Section shall be advised:**
 - a. In emergency cases, during immediate victim contact as deemed necessary by the Investigating Officer.**
 - b. In non-emergency cases, by receiving a copy of all Domestic Violence Reports from the Records Section.**

D. The Domestic Violence Response Team (DVRT) is a team of police officers and social workers trained to respond to victims of domestic violence.

- 1. The Team has the following responsibilities:**
 - a. To respond within 24 to 72 hours of the incident with the goal of providing a support system to the victim.**
 - b. To provide a specialized team more capable of preparing victims for the rigors of the criminal court proceedings.**
 - c. To provide a resource for patrol officer responding to incidents of domestic violence**
- 2. The Team shall consist of a two people selected from a pool of police officers and social workers.**
- 3. Immediate Response Procedures**

- a. **After receiving notification, the Social Services Section shall evaluate each individual case and offer the services of the Domestic Violence Response Team.**
- b. **If the offer is accepted, the Team Coordinator shall select a two person team to respond to the victim.**
- c. **The Team shall meet with the victim and:**
 - i. **apprise the victim of their rights under the existing laws.**
 - ii. **document/collect/inventory any evidence, new or old, i.e., photographs of injuries, etc.**
 - iii. **if an arrest was made, shall keep the victim current on all court dates.**
 - iv. **at the request of the victim, meet prior to and after each court date**
 - v. **shall file a supplementary report with the Team Coordinator.**
4. **The Social Services Section shall maintain domestic violence documentation on all notifications, follow-ups, and other related involvement.**
 - a. **When records indicate that the police department has responded three or more times in a six month period the Social Services Section shall:**
 - i. **make telephone contact with the victim and offer the services of the Domestic Violence Response Team.**
 - ii. **make notification to the Team Leader with the results of the offer.**
 - b. **If the services are accepted, the team will proceed as above in 3.c. and d.**
 - c. **If the Team develops any evidence justifying an arrest, they shall proceed as per Department policy.**
 - d. **All supplemental police reports shall be submitted to the Team Coordinator.**

E. Police Report Preparation

1. **The officer shall prepare the appropriate reports in ALL assigned cases of domestic violence and/or violations of orders of protections as defined in this order. These reports shall include:**
 - a. **The victim's statement as to the frequency and severity of prior incidents of abuse by the same offender.**
 - b. **The number of previous calls for police service to prevent such abuse.**
 - c. **The domestic relationship of the victim and the offender.**

- d. **The names and ages of ALL children at the scene regardless of age. This should be noted in block form at the end of the report.**
- e. **Once an incident has been classified as domestic violence or a violation of an order of protection, the primary classification shall be "Domestic Violence". The incident CANNOT be reclassified at any time.**
2. **When the incident involves a criminal offense and a violation of an Order of Protection, the primary and secondary classifications of the report forms shall correspond to the criminal offense that has occurred. In addition, the primary classification shall be prefaced with the word "DOMESTIC", i.e., Domestic Battery.**
3. **When the incident involves only a violation of an Order of Protection, the primary classification shall be "Domestic Violence" and secondary classification will be "Violation of an Order of Protection."**
4. **All incident reports must be completed by the end of the officer's tour of duty, and approved by any available supervisor. Copies of reports must be placed in the designated DVRT receptacle.**
5. **Incidents involving child abuse shall also be reported to the Department of Children and Family Services via the hotline (1-800-252- 2873), as mandated by state statute.**
6. **When deemed appropriate, the officer will contact the Victim/Witness Advocate (Policy 40-50/Violent Crime Victims Notification).**

By order of:

Director of Police

SERVICE OF AN ORDER OF PROTECTION

APPENDIX A

Schaumburg Police Department

- SHORT FORM NOTIFICATION (Complete Section A)**
- LONG FORM NOTIFICATION (Complete Sections A and B)**

Section A

Respondent Name _____ **Respondent DOB** _____

Petitioner's Name _____

Names of other protected parties _____

Date and County in which the OP was filed _____ **Court File No.** _____

Next Hearing Date and Time, if known _____

Conditions that apply to the Respondent: List Numbers (Attached) _____

_____ **LEADS No.** _____

Name of Judge that signed the order, if known _____

“The order of protection is now enforceable. You must report to the office of the sheriff or the office of the circuit court in _____ County to obtain a copy of the order of protection. You are subject to arrest and may be charged with a misdemeanor or felony if you violate any of the terms of the order of protection.”

For Additional Information, Contact the Court Listed Above.

Officer's Name _____ **Badge No.** _____

Date _____ **Time** _____ **Signature** _____

Signature _____

Section B

Place of Service _____

Type of Notification to Respondent (Check all that apply):

Copy of Order of Protection _____ **Certified Copy/Original Copy of Order of Protection** _____

Petition for Order of Protection _____ Summons _____

The Reporting Officer must give a copy of Appendix A and the original of Appendix B to the Respondent, FAX the original of Appendix A to the County of Issuance, and attach it to the M.I. Report.

LEADS ADD-ON COMPLETED

If applicable, Cook County Fax: 847-818-2091

APPENDIX B

PETITIONER REQUESTS THAT THE COURT FIND THAT THE FOLLOWING ARE PROTECTED PERSONS:

WHEREFORE, PETITIONER REQUESTS THE ENTRY OF AN ORDER OF PROTECTION SETTING FORTH THE FOLLOWING REMEDIES:

- 1. With respect to Petitioner and other Protected Persons, Respondent should be prohibited from committing the following:
 - Physical abuse Harassment Interference with personal liberty Intimidation of a dependent
 - Willful deprivation Neglect Exploitation Stalking

- 2. Petitioner should be granted exclusive possession of the residence and Respondent should be prohibited from entering or remaining at such premises:
(Address) _____

- 3. a. Respondent should be ordered to stay away from Petitioner and other protected persons; and/or
- b. Respondent should be prohibited from entering or remaining at _____

_____ while any Protected Person is present; and/or

- c. Respondent should be allowed access to the residence on (date) _____ at (time) _____ in the presence of _____ (name) _____ to remove items of clothing, personal adornments, medications used exclusively by the Respondent and other items, as follows: _____

- 4. Respondent should be ordered to undergo counseling for a period of time to be determined by this court. (Not available in Emergency Order)

- 5. a. Petitioner should be granted physical care and possession of the minor child/ren; and/or
- b. Respondent should be ordered to:

Return the minor child/ren _____ to the physical care of _____

_____ ; and/or

Not remove the minor child/ren _____ from _____ the physical care of Petitioner

or _____

- 6. Petitioner should be granted temporary legal custody of the minor child/ren _____

- 7. a. Respondent should be awarded visitation rights on the following dates and times or under the following conditions or parameters:

(No order shall merely refer to the term "reasonable visitation")

b. Respondent's visitation should be restricted as follows:

c. Respondent's visitation should be denied.

8. Respondent should be prohibited from removing the minor child/ren from Illinois or concealing them within Illinois.

9. Respondent should be ordered to appear in this Court with/without the child/ren on a date certain.

10. Petitioner should be granted exclusive temporary possession of the following personal property and the Respondent should be ordered to deliver to Petitioner said property that is in Respondent's possession or control, to wit:

11. Respondent should be ordered not to take, encumber, conceal, damage or otherwise dispose of any of the following real or personal property, to wit:

12. Respondent should be ordered to pay temporary support for Petitioner and/or the minor child/ren of the parties as follows: \$ _____ per _____, starting _____ payable through the Clerk of the Circuit Court, or directly to petitioner. (Not available in Emergency Order)

13. Respondent should be ordered to pay \$ _____ respecting losses and expenses within the scope of Sec. 214 (b)(13) of the IDVA to _____ on or before _____ (Not available in Emergency Order)

14. Respondent should be prohibited from entering or remaining at the household or residence located at _____

while under _____ the influence of alcohol or drugs and so constituting a threat to the safety and well-being of any Protected Person.

14.5 Respondent must be ordered to surrender any and all firearms to the local law enforcement agency (i.e., police department). If the Respondent is a law enforcement officer, any and all firearms must be surrendered to Respondent's employer. (All surrendered firearms shall remain confiscated for a period not to exceed two (2) years).

15. Respondent should be denied access to school or any other records of the minor child/ren and prohibited from inspecting, obtaining, or attempting to inspect or obtain such records.

16. Respondent should be ordered to pay \$ _____ to the following shelter _____ on or before _____ (Not available in Emergency Order).

17. Respondent should be further enjoined as follows:

18. The relief requested in paragraph(s) _____ of the petition is (DENIED) (RESERVED), because:

APPENDIX C



Guidelines for Domestic Violence Wavier.doc

APPENDIX D



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