
Domestic Violence

307.1 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 the Montgomery County Sheriff's Office to take enforcement action when appropriate, to provide assistance to victims and to guide deputies in the investigation of domestic violence.

307.1.1 DEFINITIONS

Definitions related to this policy include:

Domestic Violence Protection Order - All forms of orders related to domestic violence that have been issued by a court of this State or another, whether civil or criminal, regardless of whether service has been made.

All court orders that exclusively address child custody are handled separately from this policy.

Domestic Violence - The commission of one or more of the following acts upon an individual (or upon a minor child who is residing with or is in the custody of the individual) by a person with whom the individual has or has had a personal relationship, not including acts of self-defense:

- (a) Attempting to cause bodily injury or intentionally causing bodily injury
- (b) Placing the individual or a member of the individual's family or household in fear of imminent, serious bodily injury or continued harassment that rises to such a level as to inflict substantial emotional distress
- (c) Committing other sexual acts such as Rape, Rape of a Child or Sexual Battery.

Personal Relationship - A relationship where the parties involved are:

- Current or former spouses.
- Persons who live together or who have lived together.
- Related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren.
- Have a child in common.
- Current or former household members.

Persons who are in a dating relationship or have been in a dating relationship. A dating relationship is one where the parties are romantically involved over time and on a continuous basis during the course of the relationship. A casual acquaintance or ordinary fraternization between persons in a business or social context is not a dating relationship.

Montgomery County Sheriff's Office

Policy Manual

Domestic Violence

307.2 POLICY

The Montgomery County Sheriff's Office'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 office to facilitate victims access to appropriate civil remedies and community resources whenever feasible.

307.3 OFFICER SAFETY

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

307.4 INVESTIGATIONS

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

- (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, deputies should obtain and document statements from the victim, the suspect and any witnesses, including children, in or around the household or location of occurrence.
- (c) Deputies should list the full name and date of birth 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) 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 Criminal Investigative Services in the event that the injuries later become visible.
- (e) Deputies should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (f) If the suspect is no longer at the scene, deputies should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement and make an arrest or seek an arrest warrant if appropriate.

Montgomery County Sheriff's Office

Policy Manual

Domestic Violence

- (g) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. This may be a discretionary issue in which a shift supervisor needs to be consulted.
- (h) When completing an incident or arrest report for violation of a court order, deputies shall 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.
- (i) Deputies should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
 - 1. Marital status of suspect and victim.
 - 2. Whether the suspect lives on the premises with the victim.
 - 3. Claims by the suspect that the victim provoked or perpetuated the violence.
 - 4. The potential financial or child custody consequences of arrest.
 - 5. The physical or emotional state of either party.
 - 6. Use of drugs or alcohol by either party.
 - 7. Denial that the abuse occurred where evidence indicates otherwise.
 - 8. A request by the victim not to arrest the suspect.
 - 9. Location of the incident (public/private).

307.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested and this office is conducting the investigation, deputies shall, as soon as practicable:

- a. Advise the victim that there is no guarantee the suspect will remain in custody.
- b. Advise the victim whether any type of court order will be in effect when the suspect is released from jail.
- c. Provide the victim with information about the suspect's opportunity for pretrial release.

Montgomery County Sheriff's Office

Policy Manual

Domestic Violence

307.4.2 IF NO ARREST IS MADE

If no arrest is made, the deputy should:

- (a) Provide the parties with information, 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 magistrate).
- (b) In cases of assault, communicating threats, and violation of 50B, the Deputy should document the resolution in a report.

307.5 VICTIM RIGHTS AND ASSISTANCE

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

- (a) If this office is the investigating agency, as soon as practicable the Office shall provide victims in cases investigated by this office with the following information:
 - 1. The availability of medical services, if needed.
 - 2. The availability of crime victims' compensation funds and the address and telephone number of the agency responsible for dispensing the funds.
 - 3. The address and telephone number of the District Attorney's office that will be responsible for prosecuting the victim's case.
 - 4. Information about the suspect's opportunity for pretrial release.
- (b) Victims may also be informed of any available victim advocates, shelters and community resources, including the North Carolina Victim Assistance Network (NCVAN), the Statewide Automated Victim Assistance and Notification system (SAVAN) and the State's Address Confidentiality Program.
- (c) When a deputy responds to a call for service regarding a domestic situation, the deputy may stand by while one or both parties removes minor personal items, such as clothing, toiletries and tools of trade. The Montgomery County Sheriff's Office shall not assist with the picking up of belongings after one party has removed themselves from the situation without obtaining a court order. In the event that an involved person requests law enforcement assistance after obtaining a court order to remove essential items of personal property, deputies shall stand by for a reasonable amount of time to allow them to do so.
- (d) If the victim has sustained injury or complains of pain, deputies shall seek medical assistance for the victim as soon as practicable.

Montgomery County Sheriff's Office

Policy Manual

Domestic Violence

- (e) Deputies should ask the victim whether he/she has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for his/her safety or if the deputy determines that a need exists.
- (f) Deputies should make efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (g) If appropriate, deputies should inform the victim about resources available to aid in obtaining an emergency court order.

307.6 DISPATCH ASSISTANCE

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

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

307.7 OUT-OF-STATE/FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any court order properly issued by a court of another state, Indian tribe or territory shall be enforced by deputies as if it were the order of a court in this State. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued. An otherwise valid out-of-state domestic violence protection order shall be enforced, regardless of whether the order has been properly registered with this State. When an out-of-state or foreign court order directs a law enforcement officer to assist with the picking up of children in regards to child custody, a deputy from this office shall direct the involved party to the clerk's office to have the court order registered with the clerk and certified.

307.8 VERIFICATION OF COURT ORDERS

A valid protective order shall be enforced by deputies without further order of the court.

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

Montgomery County Sheriff's Office

Policy Manual

Domestic Violence

- (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, including the Division of Criminal Information (DCI) and the National Crime Information Center (NCIC).
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

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

307.9 STANDARDS FOR ARRESTS

Deputies investigating a domestic violence report should consider the following:

- (a) A deputy is authorized to make an arrest with an arrest warrant or for a crime committed in his/her presence.
- (b) A deputy is authorized to make an arrest without a warrant for a crime not committed in his/ her presence if:
 - 1. The crime is a felony.
 - 2. The crime is a misdemeanor and the suspect will not be apprehended unless he/she is arrested immediately, or the suspect may cause injury to him/herself or others, or may damage property unless immediately arrested.
 - 3. The suspect has committed a misdemeanor, when the offense was committed by a person with whom the alleged victim has a personal relationship.
- (c) A deputy shall arrest and take a person into custody, with or without a warrant, if the deputy has probable cause to believe that the person knowingly violated a valid protective order.

307.10 REPORTS AND RECORDS

- (a) Copies of court orders issued pursuant to incidents of domestic violence shall be retained by the law enforcement agency in the city or county of the victim's residence.
- (b) Domestic violence orders shall be promptly entered into the NCIC registry by the Sheriff or his designee of the County where the Domestic Violence Protective Order (DVPO) is entered using the process currently agreed upon by the county clerk and the Sheriff. Access to such orders shall be provided to magistrates at all times. Modifications, terminations, renewals and dismissals of the order shall also be promptly entered.

Montgomery County Sheriff's Office

Policy Manual

Domestic Violence

307.11 SERVICE OF COURT ORDERS

Deputies are required to serve court orders on domestic violence defendants within the jurisdiction of the Montgomery County Sheriff's Office.