SOUTH TEXAS COLLEGE POLICE DEPARTMENT

Domestic Abuse Protocols

"The mission of the South Texas College Police Department is to provide a safe educational environment for students, faculty, staff, and campus visitors".

I. INTRODUCTION

Domestic violence and violence at South Texas College is a serious crime against the individual and the community. The failure of a law enforcement officer to properly respond to a domestic call, no matter how frequent, will expose individuals and the community to danger. Because domestic and college violence can and has resulted in death, every response to a domestic call must be treated seriously.

Every response to a domestic call in which violence occurred shall include a substantive investigation of the incident including the gathering of background information, physical evidence including pictures, clothing, and statements from direct and indirect witnesses.

Every response to a domestic call, no matter how frequent, requires that every step possible be taken to insure the safety of the victim including providing a safety plan to the victim and, if necessary, transporting the victim and children to another site for safekeeping.

II. PURPOSE

This domestic violence procedure is designed to provide officers and support personnel with clear definitions, direction, and guidelines for providing and promoting a consistent, effective response to domestic violence crime in order to accomplish the following goals:

Make an arrest for any violation of an Emergency Protective Order, Domestic Violence Order, Foreign Protective Order or any violation of a condition of release or bond when authorized by state law; reduce the incidence and severity of domestic violence crime; afford maximum protection and support to adult and child victims of domestic violence through coordinated services of law enforcement and victim assistance; and reduce the risk of civil liability for officers, supervisors, administrators, and the college.

III. DEFINITIONS

A. General Definitions

1. "Domestic Disturbance or Dispute Call" - a call involving an argument or disagreement between family members, unmarried couples, or household members.

2. "Domestic Violence Call" - a call in which an adult, child, or a family member or member of an unmarried couple is alleged to be the victim of physical injury or fear of imminent physical injury (explicit or implied threats) sexual

abuse or in fear of imminent sexual abuse, or unlawful imprisonment/kidnapping.

3. "Victim or Complainant" - any person who has been subjected to threats of or actual domestic violence and abuse. This includes persons who, at that time, may be reluctant to see the perpetrator arrested, file charges, or see the perpetrator prosecuted.

4. "Exigent Circumstances" - those circumstances or emergencies which authorize officers to enter a dwelling without consent or a warrant. Examples of such emergencies are:

(a) Hot pursuit of a fleeing felon.

(b) The risk of danger to the police or others.

(c) Reasonable belief that a person inside is in need of immediate protection or assistance.

5. "Probable Cause" - facts and circumstances within the officer's knowledge that are sufficient to warrant a prudent person, or one of reasonable caution, to believe that the suspect has committed, is committing, or is about to commit an offense. Probable cause means more than a simple suspicion or a hunch. The officer must have concrete facts or reliable information giving the officer a reasonable belief that the suspect probably committed the crime. Probable cause is frequently referred to in cases and statutes as "Reasonable Grounds".

B. Domestic Violence and Abuse Definitions

1. "Domestic Violence and Abuse" - causing physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple or causing fear of such imminent physical injury, serious physical injury, sexual abuse, or assault.

2. "Physical Injury" - substantial physical pain or any impairment of physical condition.

3. "Family Member" - a spouse, including a former spouse, a parent, a child, a stepchild, or any other person related by blood or marriage within the second degree.

4. "Member of an Unmarried Couple" - each member of an unmarried couple which allegedly has a child in common,

any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

C. Protective Orders

1. "Emergency Protective Order" - an ex parte court order (an order issued at the request of one party without a hearing) issued against a family member or a member of an unmarried couple who has been determined to present an immediate and present danger.

2. "Mutual Protection Order" is an order of protection against both the Petitioner and Respondent.

D. Adult Abuse or Neglect/Exploitation Definitions

1. "Abuse or Neglect" - the infliction of physical pain, injury or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain the services which are necessary to maintain health or welfare, or a situation in which a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services necessary to maintain the health and welfare of the spouse.

2. "Adult" - a person eighteen (18) years of age or older or a married person without regard to age, who because of mental or physical problems or who is the victim of abuse or neglect inflicted by a spouse, is unable carry out the activities of daily living, or be protect from neglect, hazardous or abusive situations without assistance from others and may be in need of protective services.

3. "Exploitation" - the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person.

E. Abused or Neglected/Dependent Child Definitions

1. "Abused or Neglected Child" - a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child, inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created

a risk that an act of sexual abuse, sexual exploitation, or prostitution committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being.

2. "Dependent Child" - any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child.

3. "Person Exercising Custodial Control or Supervision" - a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child.

F. Stalking Definitions

1. "Stalking" - an intentional course of conduct directed at a specific person that seriously alarms, annoys, intimidates or harasses; which serves no legitimate purpose; and which would cause a reasonable person to suffer substantial mental distress.

2. "Course of Conduct" - a pattern of conduct composed of two or more acts, evidencing a continuity of purpose that does not include constitutionally protected activity.

G. Other Definitions

1. "Self-Protection" or "Protection of Another"- a person's justifiable use of physical force upon another person when the person believes such force is necessary to defend himself or a third person from the use, or imminent use, of unlawful physical force by such other person.

2. "Imminent" - impending danger and belief that danger is imminent can be inferred from a past pattern of repeated serious abuse.

IV. PROCEDURE

A. South Texas College police officers will respond with the same protection and sanctions for every domestic violence incident, regardless of race, religion, creed, national origin, gender, sexual orientation, disability, and socio-economic status, including cases where any of the alleged parties may be a law enforcement officer, public official or prominent citizen; and immediately

report all known or suspected cases of domestic violence and abuse, adult abuse, or child abuse as required by state law.

B. The following shall not be considered as an independent compelling reason not to arrest the perpetrator and may be used as background information to complete a domestic violence investigation for prosecution.

1. The marital status of the suspect and the victim.

2. Whether or not the suspect lives on the premises with the victim (except as may be necessary to qualify the parties as "members of an unmarried couple").

3. Whether the victim has not obtained a protective order against the perpetrator.

4. The potential financial consequences of arrest.

5. Whether there have been previous law enforcement responses to domestic calls at the address.

6. Verbal assurances that the violence will cease.

7. The victim's emotional status.

8. Whether or not physical injuries suffered by the victim can be personally observed at the time of the law enforcement response.

9. The location of the incident (i.e., public or private).

10. Speculation that the victim may not follow through with the prosecution or that the arrest may not lead to a conviction.

11. The victim's initial reluctance regarding an officer-initiated arrest.

12. The fact that the victim and suspect are of the same gender.

V. RESPONSIBILITIES

A. Dispatch:

1. In progress domestic violence calls shall receive a high priority response. The dispatcher will use professional radio call skills to obtain all pertinent critical information and promptly relay all important information to the college police officer. The responding officer will be updated with additional information obtained from the caller by keeping the caller on the line unless it is dangerous for the caller to do so.

2. The dispatcher should request the following information.

a. Location of incident, victim and perpetrator

b. Type of incident (verbal/physical)

c. Need for emergency medical assistance including injuries and severity.

d. Weapons involved and descriptions.

e. Name and telephone number.

f. Dispatch two officers when available.

g. Other people involved including children/witnesses.

h. Perpetrator's dob/ssn, previous history of domestic violence including previous law enforcement responses outstanding warrants.

i. Alcohol and/or drug use.

j. Whether has perpetrator left scene, vehicle description, direction of travel.

h. Apparent hazards to responders including animals.

3. Safety of Complainant

a. The dispatcher should attempt to maintain telephone contact with the complaining party in order to monitor the situation and provide the most recent information until the officer arrives.

b. If the complainant must leave the telephone to seek safety, advise the caller to lay the phone down and not disconnect so the communications personnel can monitor the situation.

c. If the complainant is calling away from the scene, advise them to remain there until the law enforcement officer arrives. Inform the responding officer of that location.

d. Update the responding officer with all new information so the officer may approach the scene with as much information as possible.

e. Inform the responding officer of additional calls from the residence including those requesting to cancel the call but do not cancel the call.

B. On-Scene Investigation, Arrest and Post Arrest.

1. When responding to domestic violence calls, two officers will be assigned when available.

2. Assess the situation for risks to all parties including children.

3. Attend to the emergency medical needs of those involved.

4. Interview parties/witnesses separately and away from the line of sight and hearing of the perpetrator

5. Arrest the perpetrator if warranted.

6. Seize any weapons used in the incident.

7. Inform the victim of rights and provide victim information on legal remedies and obtaining community services for protection and safety planning.

8. Assist the victim in securing medical attention which shall include arranging for the transporting of the victim to obtain medical attention.

9. Provide the victim with information to secure legal protection (warrant, protective order).

10. Collect and photograph all relevant evidence required for successful prosecution and arrange for follow up photographs of the victim in order to demonstrate the extent of the injuries that may later become more obvious.

C. Mutual Violence

1. Where the officer has probable cause to believe that two or more persons committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall attempt to determine who the primary aggressor was and whether one party acted in self-defense.

2. Where there is probable cause to believe that all parties are equally responsible, the officer should contact his immediate supervisor for assistance in a resolution.

3. Officers should not use mutual arrests as a substitute for a thorough investigation.

4. Factors to consider in mutual violence situations to determine the primary aggressor:

(a) The history of domestic disputes/violence between the persons.

(b) The degree of injury inflicted upon each person keeping in mind that many injuries to the head and body may not be visible at the time.

(c) Objective and testimonial evidence from the parties and other persons at the scene including children.

(d) Whether one person acted in self-defense.

(e) The likelihood of future injury.

D. Obtaining Warrants/Protective Orders

1. When a domestic violence crime has allegedly been committed and the officer is unable to arrest the alleged perpetrator under the provisions above, the officer shall assist the victim in obtaining an arrest warrant and/or protective order.

2. The officer may apply for an arrest warrant when sufficient information is available to establish probable cause.

E. Duty to victim whether or not an arrest has been made

1. Whether or not an arrest has been made, if the officer has reason to suspect that a family member, member of an unmarried couple, or household member has been the victim of domestic violence, the officer is required to use all reasonable means necessary to prevent further domestic violence, including but not limited to:

(a) Remaining at the scene as long as the officer reasonably suspects there is danger to the physical safety of the individuals present without the presence of a police officer.

(b) Assisting the victim to obtain medical treatment, including offering to transport, or arranging for the transportation of the victim to the nearest medical treatment facility capable of providing treatment.

(c) Advising the victim of rights and services available.

F. Offender or Victim has Left the Scene

1. If probable cause exists that an alleged perpetrator has committed an assault on a family member or member of an unmarried couple, or has violated a protective order, a domestic violence order, or a foreign protective order, but the perpetrator has left the scene, the responding officer shall interview all available witnesses, record or document these interviews, and collect all available physical evidence.

2. If the officer is unable to arrest the alleged perpetrator within a reasonable time, the officer should advise the victim in seeking an arrest warrant and/or emergency protective order to deter future domestic violence.

3. If probable cause exists that there has been an assault on a family member or a member of an unmarried couple or that a protective order has been violated, but

the victim has left the scene, the responding officer shall, in addition to investigating the offense at the scene, attempt to locate the victim, determine whether the victim needs medical assistance and continue the investigation where the victim is located.

G. Special Needs Victims

1. Some domestic violence victims have special needs because of their relationship to the perpetrator, limited physical or mental abilities, or some other factor. These factors make it extremely difficult for them to report their victimization, call for assistance, or participate fully in the investigation and prosecution of their case.

2. Such special needs victims may include pregnant women, physically or mentally disabled persons, alcoholic or chemically dependent persons.

3. Officers should refer these victims to specialized support services to ensure the victim receives protection, physical assistance, medical treatment or other services as needed.

F. Marital Rape/Sexual Assault

1. Responding officers shall follow all procedures relating to investigation and evidence collection (including comprehensive rape examinations) where a sex offense is reported, regardless of the relationship including the marriage of the victim to the alleged perpetrator.

G. Children, Dependent Adults and Elderly Adults

1. Even where a spouse or partner is the primary victim, officers shall take appropriate action on behalf of children, dependent adults, and elderly adults at the scene who may be the direct or indirect victims of violence.

H. Domestic Violence Stalking

1. Officers should complete a full report and investigation where a domestic violence victim alleges that he or she has been stalked.

2. Officers should advise stalking victims to notify police of subsequent incidents.