



Carrboro Police Department

Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 1 of 15

- I. Purpose
- II. Definitions
- III. Procedures

I. PURPOSE

- A. The Carrboro Police Department views domestic violence as a crime which requires direct police intervention and a coordinated community response.
- B. When responding to a domestic incident, police officers shall reduce the possibility of violence and threats to the victim and other people involved, conduct a thorough on-scene investigation, and comply with all North Carolina General Statutes.
- C. The purpose of the Department’s Domestic Violence Policy is to prevent domestic violence, assaults and homicides; to enhance our services to citizens; to prevent physical and psychological injuries to victims, others involved, and to police officers; and to reduce the need for police call- backs in order that the agency have the resources to answer other serious calls.

II. DEFINITIONS

- A. According to N.C.G.S. § 50B-1, **DOMESTIC VIOLENCE** means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:
 - 1. Attempting to cause bodily injury, or intentionally causing bodily injury; or
 - 2. Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily injury or continued harassment, as defined in G.S. 14-277.3A, that rises to such a level as to inflict substantial emotional distress; or
 - 3. Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7.



Carrboro Police Department



Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 2 of 15

B. In accordance with N.C.G.S. § 50B-1 and for the purposes of this policy, the term **PERSONAL RELATIONSHIP** means a relationship wherein the parties involved:

1. Are current or former spouses;
2. Are persons of the opposite sex who live together or have lived together;
3. Are related as parents and children, including others acting *in loco parentis* (as a parent, i.e. legal guardian) to a minor child, or as grandparents and grandchildren. For purposes of this subdivision, an aggrieved party may not obtain an order of protection against a child or grandchild under the age of sixteen;
4. Are persons of the opposite sex who are in a dating relationship;
5. Are current or former household members;
6. Are persons who live together or have lived together in a dating relationship (whether the same or opposite sex);
7. Are persons with a child in common; or
8. Are persons of the same sex who are in a dating relationship.

[**NOTE TO OFFICERS:** Individuals in a same-sex dating relationship are not included in N.C.G.S. 50B-1. However, it shall be the policy of the Department to investigate assault complaints made within the confines of a same-sex relationship as domestic violence complaints.]

C. **PROBABLE CAUSE:** At the moment the arrest was made, the facts and circumstances within the officer’s knowledge and of which he had reasonable and trustworthy information, were sufficient to warrant a prudent person to believe that the perpetrator had committed a crime.



Carrboro Police Department



Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 3 of 15

- D. **DOMESTIC DISPUTE:** Any incident between persons in a personal relationship where no crime has occurred, but police intervention may be necessary.
- E. **BODILY INJURY:** Physical pain to the victim or impairment of the victim's physical condition, no matter how temporary.
- F. **SELF-DEFENSE:** A person's justifiable use of physical force upon another person when he reasonably believes such force is necessary to defend himself or a third party from what is reasonably believed to be the use, or imminent use, of unlawful physical force.

III. PROCEDURES

- A. Initial Contact
 - 1. A minimum of two (2) officers shall respond, when practicable.
 - 2. Responding officers shall:
 - a. Identify themselves;
 - b. Explain their presence;
 - c. Request entry into premises;
 - d. Ask to see the person identified as the victim of the call; and
 - e. Not reveal the complainant's name, if the complainant is not the victim.
- B. If Entry Is Refused
 - 1. If entry is refused, officers shall be persistent about seeing and speaking alone with the victim.



Carrboro Police Department

Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 4 of 15

2. If access to the victim is refused, the officers shall request that Orange County Central Communications attempt to make contact with the reporting person to determine if the reporting person is the victim.
3. Responding officer shall brief the shift supervisor on the situation so that the shift supervisor can decide whether officers should leave, remain and observe, or force entry. Issues to be considered are:
 - a. If there is any evidence to indicate that a domestic violence crime has been committed, the officers shall not leave the scene without speaking with the victim. Evidence includes the condition of the scene, emotional state of the person speaking with the officer and all statements made, including those of children present in the residence during the incident;
 - b. If an officer has reason to believe that serious bodily injury has occurred or may occur if the officers leave, the officers shall not leave the scene until safety considerations are addressed. If an arrest is not made, options include getting one party to leave the residence, contacting a domestic violence service agency to arrange emergency shelter or any other measure that is designed to enhance the safety of all parties to the incident;
 - c. If forced entry is necessary and appropriate in order to save a life or prevent bodily injury, and time allows, officers shall contact a supervisor before forced entry is pursued;
 - d. If the officers leave, they shall drive by as appropriate to observe if any further disturbance has occurred;
 - e. If no consensual or forced entry is made and officers remain to observe, they shall move to public property and observe the premises from that location; and
 - f. Use of force to enter may, as appropriate, be predicated upon the authority of N.C.G.S. § 15A-285, the urgent necessity statute, to save a life or prevent serious bodily harm.



Carrboro Police Department



Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 5 of 15

C. Once Inside

Officers shall:

1. Determine if the perpetrator is still at the scene;
2. Determine if there are any weapons at the scene that have been, or may be, used in the extant crime;
3. Determine location and condition of the victim;
4. Assess the need for medical attention and call for medical support if needed;
5. Restore order by separating the parties and calming them;
6. Locate and assess the condition of any children at the scene;
7. Conduct a field interview to determine what, if any, crime has occurred; and
8. Determine if an arrest should be made based upon probable cause to believe that the perpetrator has committed a criminal offense.

D. Preliminary Investigation

1. Interview all parties separately and out of hearing distance from one another. Children should be interviewed separately as well and in an age-appropriate manner.
2. If there is a language barrier and the children present are bilingual, the child should only be utilized to assess immediate officer safety concerns, e.g., weapons in the home. Otherwise, officers should utilize other language interpretation resources, such as the AT&T Language Line.



Carrboro Police Department



Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 6 of 15

3. Determine the perpetrator’s and victim’s activities prior to your arrival. If it appears that both parties have been injured, determine which party acted as the predominant aggressor by assessing the crime scene and other available evidence, including oral statements from involved parties.
4. Collect and preserve any evidence found in plain view or otherwise lawfully found.
5. If bodily injury is apparent on either or both parties, document and photograph the injuries.
6. Officers shall obtain the following information:
 - a. Outstanding warrants, court orders or release conditions from Base II, NCAware, CJLeads, the Clerk of Court’s Office or Orange Central Communications;
 - b. Trespass restrictions through Base II;
 - c. Valid 50-B Protective Orders through NCIC;
 - d. No officer shall rely on the information received through NCIC about the validity of a domestic violence protective order. **The plaintiff must produce an order valid on its face for such determination.**
7. The existence of the elements of a crime that give officer’s probable cause and/or the needs of the victim are the factors that determine the proper method of handling the incident.

The following factors **are not** to be considered in determining whether charges are appropriate:

- a. The relationship or marital status of the perpetrator and the victim;
- b. Whether the perpetrator lives on the premises with the victim,



Carrboro Police Department



Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 7 of 15

except when pertaining to the element to support the crime of Domestic Criminal Trespass;

- c. The potential financial consequence of the arrest;
 - d. The complainant’s history of prior domestic violence incidents;
 - e. Verbal assurances that the violence shall stop;
 - f. The victim’s emotional state;
 - g. The use of alcohol or drugs by the perpetrator or the victim;
 - h. Lack of visible injuries;
 - i. Speculation that the victim may not follow through with the criminal justice process; or
 - j. Whether the arrest is likely to lead to a conviction.
8. If there is a firearm, or other deadly weapon, present on the premise and the officer has a lawful reason to seize the weapon or weapons, or the officer has permission to seize the weapon or weapons, the officer may seize that weapon for safekeeping.
9. The on-call investigator shall be contacted if it appears that a felony has occurred.

E. Evidence

Officers shall:

- 1. Note the condition of the scene;
- 2. Consider photographing the scene, if necessary for evidentiary or other purpose, and if a sufficient lawful justification exists or with the



Carrboro Police Department



Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 8 of 15

permission of the legal occupants;

3. Ensure that the victim's and/or perpetrator's injuries are photographed. Follow-up photographic evidence should be secured over several days as bruising and swelling will change over that time;
4. Impound and/or photograph any other evidence, such as torn and bloody clothing, or damaged property found in plain view or otherwise lawfully found;
5. Note any utterances or admissions by participants made during and immediately after the conflict;
6. Submit all photographs taken into Evidence.
7. Weapons
 - a. Any dangerous weapon displayed, used, or threatened to be used by the perpetrator during a domestic violence crime shall be seized and held as evidence for court. No weapons shall be returned to a perpetrator unless ordered by a court of competent jurisdiction following notice and opportunity to be heard by the District Attorney, or otherwise ordered upon final disposition of charges.
 - b. If the perpetrator has a prior conviction for a misdemeanor crime of domestic violence and is in possession of a firearm, then the perpetrator is in violation of Federal Statute 18 U.S.C. §922 (g). A perpetrator who has a prior conviction for a felony and is possession of a firearm is also in violation of N.C.G.S. Chapter 14, Article, 54A, The Felony Firearms Act. That information shall be documented and forwarded to the Bureau of Alcohol, Tobacco and Firearms. If the perpetrator is in violation of the North Carolina Felony Firearms statutes, he shall be immediately arrested.

F. Arrest



Carrboro Police Department



Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 9 of 15

1. If there is probable cause to believe that a Domestic Violence crime has occurred, make an arrest and transport the perpetrator to the police station.
2. If, in the officers' opinion, probable cause does not exist for the officers to make an arrest, but the victim wishes to seek a warrant, the officers shall assist the victim in doing so by explaining how a warrant is secured. If the victim asks for transportation, the officers may provide the victim transportation to the magistrate's office.
3. Warrantless Arrest

After each party has been interviewed separately, officers shall review the evidence to determine if probable cause exists for a warrantless arrest. Officers shall arrest when there is probable cause to believe that any of the following exist:

- a. A Domestic Violence criminal offense has been committed in the officer's presence;
- b. One of the following has taken place, even if outside the officer's presence:
 - (1) A felony crime; or
 - (2) A misdemeanor crime of Domestic Violence, and either:
 - (a) The perpetrator is not likely to be apprehended at a later time; or
 - (b) If the perpetrator is not immediately apprehended, he may cause injury to self or others, or cause property damage;
- c. When the offense was committed by a person with whom the alleged victim has a personal relationship as previously defined and the offense was one of the following:



Carrboro Police Department

Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 10 of 15

- (1) Simple Assault or Affray;
 - (2) Assault with a Deadly Weapon;
 - (3) Assault Inflicting Serious Injury;
 - (4) Assault on a Female; or
 - (5) Assault by Pointing a Gun.
- d. Domestic Criminal Trespass has been committed;
- e. The perpetrator has violated any condition of a valid 50B Protective Order (GS 15-401(b));
- f. In some cases, the perpetrator may have violated a criminal statute, (e.g., Assault on a Female or Domestic Criminal Trespass), while a valid Domestic Violence Protective Order is in effect. Officers shall pursue the charge for the 50B violation when probable cause exists.
- g. Officers who encounter claims of assault committed against more than one party shall attempt to identify actions used as self-defense, and those actions used by the predominant aggressor. A predominant aggressor is the individual in a personal relationship who attempts to exercise power and control over the other person through behavior and/or verbal communication that is perceived as intimidating, threatening, and/or violent to the other person. This behavior or verbal communication is an attempt to force the other person into compliance or a reaction that may lead to an assault. Efforts should be made to arrest the predominant aggressor following the field investigation, provided that there is probable cause to arrest.
- h. Officers shall consider:



Carrboro Police Department

Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 11 of 15

- (1) History of domestic abuse between the parties;
 - (2) Severity and extent of injuries inflicted on each of the parties;
 - (3) Corroborating witnesses to the incident;
 - (4) Appearance of injuries that are consistent with statements describing self-defense behaviors;
 - (5) Existence of a protective order; and
 - (6) Credibility factors – warrants against one of the parties, probation for domestic violence incidents, etc.
- i. If the perpetrator is not on the scene for a warrantless arrest, officers should immediately seek and arrest the perpetrator. **If the perpetrator is not arrested within one hour of the officer’s initial response, the officer shall seek an arrest warrant.**
4. In order to enter the perpetrator’s own premises to make the arrest an officer must have one of the following:
 - a. Consent from a party entitled to give consent to enter;
 - b. Exigent circumstances justifying a warrantless entry;
 - c. The arrest warrant in the officer’s possession;
 - d. A copy of a warrant which is in the possession of a law enforcement agency within the same county; or
 - e. A copy of a warrant, including signature, that has been printed through facsimile transmission from anywhere in the State.
 - f. A copy of the paper form printed from the Electronic Repository pursuant to N.C.G.S. § 15A-301.1(e) and (g). In addition, for



Carrboro Police Department

Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 12 of 15

sections (c) through (f) above, the officer must have reasonable cause to believe the perpetrator is present and must give notice of his authority and purpose. If the perpetrator is inside someone else’s premises, a search warrant may also be needed, absent consent or exigent circumstances.

5. Magistrate or Judge

Officers shall inform the magistrate or judge of:

- a. The seriousness of the crime;
- b. Information concerning the perpetrator’s history of violence, threats, existence of court orders, release conditions, or civil orders; and
- c. Whether the charges include assault on or communicating a threat to a spouse, former spouse, or a person with whom the perpetrator lives or has lived as if married, or domestic criminal trespass or violation of a 50B order. If so, only a judge may determine the conditions of bond or release conditions during the first 48 hours following the arrest. If a judge has not set release conditions during the first 48 hours, a magistrate may then set the release conditions.

6. Every reasonable effort shall be made to inform the victim if the perpetrator has been released and any conditions of release, but no promise to provide such information shall be made. **Officers shall not assure a victim that the perpetrator shall be in jail for forty-eight hours.** Instead, provide the victim with the SAVAN (Statewide Automated Victim Assistance and Notification) number and information.

7. Officers shall not advise victims of domestic violence that they can “drop charges.” The decision to prosecute is made by the investigating officers and the District Attorney. The victim and the perpetrator shall be advised by the investigating officers that once a warrant for a domestic violence incident is secured, neither party has control over the decision to



Carrboro Police Department



Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 13 of 15

prosecute.

G. Enforcement of Protective Orders

1. A protective order (often referred to as a “50B”) may be obtained by a victim of domestic violence through the District Court. Application for a protective order is done through the Clerk of Court’s Office.
2. Officers shall enforce North Carolina protective orders issued anywhere in the State.
3. Out-of-State or Indian Tribe Protective Orders
 - a. Protective orders issued by the courts of another state or Indian tribe, whether registered with the North Carolina courts, must be enforced the same as North Carolina protective orders.
 - b. To determine the validity of the out-of-state or Indian order, the officer may rely on a copy of the order, the protected person’s statement that the order exists, and any other available information.
 - c. If an officer arrests a person for violation of an out-of-state order and the person contests the validity of the order, the person must be “promptly” provided with a copy of any NCIC registry information pertaining to the out-of-state order.
 - d. If a person claims that an out-of-state protective order exists when it does not, the person can be charged with Making a False Statement Regarding a Protective Order. The elements are:
 - (1) Knowingly make a false statement;
 - (2) To a law enforcement agency or officer; and
 - (3) That a domestic violence protective order of the courts



Carrboro Police Department



Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 14 of 15

of a state or Indian tribe remains in effect.

4. Officers are required to arrest for violation of any of the following provisions of a 50B Protective Order:
 - a. Perpetrator has been excluded from the victim’s home;
 - b. Perpetrator has been directed to refrain from threatening, abusing, and/or following the victim;
 - c. Perpetrator has been directed to refrain from harassing the victim including by telephone, visiting the home or workplace, or by other means; or
 - d. Perpetrator has been directed to refrain from otherwise interfering with the other party.
5. Reconciliation between two parties does not invalidate a 50B Protective Order. Arrest for the above violations remains mandatory. Advise the parties that the order can be rescinded only by a district court judge.

H. Completing Incident Report

1. Reports shall be completed on all cases of domestic disputes and violence. Ensure that the elements of all involved crimes are included in the report.
2. If the crime is a violation of a 50B condition, attach a copy of the protective order to the incident report.
3. Include the following:
 - a. Evidence that was gathered;
 - b. Injuries to all parties; and



Carrboro Police Department



Subject: Chapter 10: DOMESTIC VIOLENCE POLICY		Number: III. Subsections
Issued: 07-02-18	Revised: N/A	Pages: 15 of 15

c. The victim resource information which was provided.

4. A Domestic Violence Supplement Form must be completed for all cases of domestic violence. A Domestic Violence Supplement Form must be completed for cases of domestic disputes only when there are extenuating circumstances that need to be noted, e.g., minor children present, communication of threats, stalking behaviors, etc.

I. Follow-Up Investigation

The follow-up investigation shall include the following:

1. Verify the inclusion of all investigative steps utilized during the patrol officer response and investigation;
2. Obtain medical records, if available;
3. Obtain a copy of the 911 tape of the original call for assistance;
4. Re-interview victim and witnesses, as necessary;
5. Contact the victim to inform him of the status of the case;
6. Obtain subsequent photographs of injuries sustained by the victim;
7. Record name, address, and phone number of two friends or relatives who would know the whereabouts of the victim in 6-12 months from the time of the investigation;
8. Conduct a complete criminal history of the perpetrator; and
9. Complete a felony prosecution report, if needed.