

Domestic Violence

309.1 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 this department to take enforcement action when appropriate, to provide assistance to victims, and to guide officers in the investigation of domestic violence.

309.1.1 DEFINITIONS

Definitions related to this policy include:

Cohabitant - means an emancipated individual under Utah Code 15-2-1 or an individual who is 16 years old or older who: (UCA 78B-7-102)

- (a) is or was a spouse of the other party;
- (b) is or was living as if a spouse of the other party;
- (c) is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;
- (d) has or had one or more children in common with the other party;
- (e) is the biological parent of the other party's unborn child;
- (f) resides or has resided in the same residence as the other party; or
- (g) is or was in a consensual sexual relationship with the other party

1. Cohabitant does not include:

- (a) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
- (b) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.

Court order - All forms of orders related to domestic and dating violence, that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

Dating relationship - means, a social relationship of a romantic or intimate nature, or a relationship which has a romantic or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy. "Dating relationship" does not include casual fraternization in a business, educational, or social context (UCA 78B-7-102).

Dating violence - Any criminal offense involving violence or physical harm, threat of violence or physical harm, or any attempt, conspiracy, or solicitation by a person to commit an offense involving violence or physical harm, when committed by a person against a dating partner of the person who is either 18 years of age or older or is emancipated.

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

Domestic violence - Includes any crime involving the actual, threatened, or attempted violence or physical harm of a cohabitant. Domestic violence also includes committing or attempting to commit any crime listed in Utah Code 77-36-1 by one cohabitant against another.

Intimate Partner - means an emancipated individual under Utah Code 15-2-1 or an individual who is 16 years old or older who:

- (a) is or was a spouse of the other party;
- (b) is or was living as if a spouse of the other party;
- (c) has or had one or more children in common with the other party;
- (d) is the biological parent of the other party's unborn child;
- (e) is or was in a consensual sexual relationship with the other party; or
- (f) is or was in a dating relationship with the other party.

Lethality Assessment Protocol - The process of identifying victims of domestic violence who are at a greater risk of imminent danger or being killed. The protocol encourages victims to utilize the services of a domestic violence service program. The protocol includes a screening questionnaire that identifies potential victims based upon the answers to the assessment questions.

309.1.2 DUTIES OF OFFICERS

Pursuant to Utah Code 77-36-2.1(s) an officer who responds to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including:

- (a) Taking the action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member.
- (b) Confiscating the weapon(s) involved in the alleged domestic violence.
- (c) Making arrangements for the victim and any child to obtain emergency housing or shelter.
- (d) Providing protection while the victim removes essential personal effects.
- (e) Arrange, facilitate or provide for the victim and any child to obtain medical treatment.
- (f) Arrange, facilitate or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence.
- (g) If the allegation of domestic violence is against an intimate partner, complete the lethality assessment protocol.

Additionally, an officer shall give written notice to the victim in simple language, describing the rights and remedies available under the law. This notification may be completed by providing a victim with the Department Domestic Violence Packet.

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Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

309.2 POLICY

The Clearfield City Police Department'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 department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

309.3 OFFICER SAFETY

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

309.3.1 ARRESTS AND NOTIFICATION

When an officer responds to a domestic violence call and has probable cause to believe that an act of domestic violence has been committed, the officer shall arrest without a warrant or issue a citation, subject to §309.3.2, to any person that he/she has probable cause to believe has committed an act of domestic violence, including violations of court orders (Utah Code 77-36-2.2(2)(a)).

309.3.2 FIELD RELEASE

If an officer has probable cause to believe that there will be continued violence against the alleged victim, or if there is evidence that the perpetrator has either recently caused serious bodily injury or used a dangerous weapon in the domestic violence offense, the officer shall arrest and take the alleged perpetrator into custody, and may not utilize the option of issuing a citation (Utah Code 77-36-2.2(2)(b)).

Any of the following may support the likelihood of a continuing offense:

- (a) Whether the suspect has a prior history of arrests or citations involving domestic violence.
- (b) Whether the suspect is violating a criminal court issued Protective Order.
- (c) Whether the suspect has previously violated, or is currently violating, a valid temporary restraining order.
- (d) Whether the suspect has a prior history of other assaultive behavior (e.g., arrests or convictions for assault and battery or aggravated assaults).
- (e) Statements taken from the victim that the suspect has a history of physical abuse towards the victim.
- (f) Statements taken from the victim expressing fear of retaliation or further violence should the suspect be released.
- (g) Any other evidence that would indicate the victim may be subjected to continued violence or abuse.

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

309.3.3 PRIVATE PERSON'S ARREST

If an officer does not immediately exercise arrest powers or initiate criminal proceedings by citation or otherwise, the officer shall notify the victim of his/her right to initiate a criminal proceeding and of the importance of preserving evidence (Utah Code 77-36-2.2(2)(c)). Advisements regarding private person's arrests should be held out of the presence of the suspect. Officers shall not dissuade victims from making a lawful private person's arrest.

Officers should refer to the provisions of § 329 for further options regarding the disposition of private person's arrests.

309.3.4 PROTECTIVE ORDER VIOLATIONS

An officer shall, without a warrant, arrest an alleged perpetrator whenever there is probable cause to believe that the alleged perpetrator has violated any of the provisions of an ex parte protective order or protective order (Utah Code 77-36-2.4(1)). Any cohabitant who has been subjected to abuse or domestic violence, or to whom there is a substantial likelihood of abuse or domestic violence, may seek an ex parte protective order or a protective order, whether that person has left the residence or the premises in an effort to avoid further abuse.

These court orders usually involve the following:

- (a) Prohibit threats, harassment or violence.
- (b) Excludes a party from a dwelling.
- (c) Prohibit other behaviors specified by the court.

The court orders may be captioned as follows: Domestic Violence Protective Order, Criminal Court Protective Order, Civil Stalking Injunction (non-cohabitants) (Utah Code 77-3a-101), Order to Show Cause and Temporary Restraining Order (TRO), After Hearing Restraining Order, Juvenile Judgment of Dissolution and Order, Jail Release Court Order, Pretrial Protective Order, Sentencing Protective Order.

Any officer determining that there is probable cause to believe that a protective order issued by a tribunal of another state is valid, shall enforce such order as if it was issued in this state under the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act (Utah Code 78B-7-304).

309.3.5 TENANCY ISSUES

- (a) Officers may request a person who is not in lawful possession of the premises to leave when:
 - 1. The complainant is in lawful possession of the premise (as exhibited by rent receipts, lease, deed, verification by apartment manager).
 - 2. The complainant has requested that the person leave the premises.
- (b) The officer will standby until the person removes essential belongings.

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

- (c) If the person does not leave upon request, an arrest should be made for trespassing or any other applicable law.
- (d) If the complainant requesting removal of the person cannot show proof of lawful possession, the officer should refer the complainant for a Protective Order or other appropriate civil remedy.
- (e) If appropriate, a domestic violence situation involving a tenancy issue may be resolved through the proper application for a court-issued Protective Order.

309.3.6 CONDITIONS FOR RELEASE

- (a) Upon arrest for domestic violence, a person may not be released on bail, recognizance, or otherwise prior to the close of the next court day following the arrest, unless as a condition of that release he/she is ordered by the court or agrees in writing that until the expiration of that time he/she will:
 - 1. Have no personal contact with the alleged victim.
 - 2. Not threaten or harass the alleged victim.
 - 3. Not knowingly enter onto the premises of the alleged victim's residence or any premises temporarily.
- (b) As a condition of release, the court may order the person to participate in an electronic monitoring program and pay the costs associated with the program.
- (c) Subsequent to an arrest for domestic violence, an alleged victim who is not a minor may waive in writing release conditions 1, and 3 described in § 309.3.6(a). Upon waiver, those requirements shall not apply to the alleged suspect (Utah Code 77-20-3.5(6)(a)(ii)).
- (d) Whenever a person is released by this department pursuant to § 309.3.6(a), the releasing officer shall then make reasonable effort to notify the victim of that release (Utah Code 77-36-2.5(4)(a)).
- (e) Whenever a person is released by this department pursuant to § 309.3.6(a) based on a written agreement, the releasing officer shall cause that information to be transmitted to the statewide domestic violence network. The court shall transmit that information to the statewide domestic violence network if the release is based on a court order.

309.4 INVESTIGATIONS

The following guidelines should be followed by officers 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, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

- (c) Officers should list the full name and date of birth (and school if available) 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) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) 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 Investigations Division in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers 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.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
 - 1. This applies to both investigations involving domestic violence or dating violence (Utah Code 77-36-2.1; Utah Code 78B-7-408).
- (i) When completing a report for violation of a court order, officers should 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. When reasonably available, the arresting officer should attach a copy of the order to the case files.
- (j) When officers receive complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine who the predominant aggressor was. If the officer determines that one person was the predominant physical aggressor, the officer need not arrest the other person alleged to have committed domestic violence. In determining who the predominant aggressor was, the officer shall consider (Utah code 77-36-2.2(3)):
 - 1. any prior complaints of domestic violence;
 - 2. the relative severity of injuries inflicted on each person;
 - 3. the likelihood of future injury to each of the parties; and
 - 4. whether one of the parties acted in self-defense
- (k) Officers shall 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. Whether the suspect lives on the premises with the victim.
 - 2. Claims by the suspect that the victim provoked or perpetuated the violence.

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

3. The potential financial or child custody consequences of arrest.
 4. The physical or emotional state of either party.
 5. Use of drugs or alcohol by either party.
 6. Denial that the abuse occurred where evidence indicates otherwise.
 7. A request by the victim not to arrest the suspect.
 8. Location of the incident (public/private).
 9. Speculation that the complainant may not follow through with the prosecution.
 10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
 11. The social status, community status, or professional position of the victim or suspect.
- (l) Officers shall not threaten, suggest, or otherwise indicate the possible arrest of all parties in order to discourage any party's request for intervention by law enforcement (Utah Code 77-36-2.2(4)).
- (m) If the offense is alleged against an intimate partner, the officers shall conduct a lethality assessment as required by Utah Code 77-36-2.1 and in accordance with the [accompanying policy](#). The lethality assessment shall be recorded on the appropriate form and the results submitted to the Department of Public Safety while on scene or as soon as reasonably practicable (Utah Code 77-36-2.1).

309.4.1 DOCUMENTATION OF INJURIES

All visible injuries should be properly documented and photographed regardless of severity, and all victims shall receive proper medical care prior to being photographed, if needed or desired. If feasible, officers may video record injuries and victim statements. Officers should request that the victim complete and sign an authorization for release of medical records. Victims whose injuries are not visible at the time of the incident shall be advised to contact the Investigations Division in the event the injuries later become visible. An investigator may be assigned to ensure that the injuries are photographed during the course of preparing the case for court.

309.4.2 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

309.4.3 IF NO ARREST IS MADE

If no arrest is made, the officer should:

- (a) Advise the parties of any options, 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).
- (b) Document the resolution in a report.

An officer who does not make an arrest shall notify the victim of their right to initiate a criminal proceeding and of the importance of preserving evidence (Utah Code 77-36-2.2(5)(b)).

309.4.4 ARREST NOTIFICATIONS

At the time of an arrest for domestic violence is made, the arresting officer shall provide both the alleged victim and the alleged suspect with written notice containing the following information which is included in the Department Domestic Violence Information Packet (Utah Code 77-36-2.5(7) and 77-36.2.1(2)):

- (a) The requirements described in § 309.3.6(a), and notice that those requirements shall be ordered by a court or must be agreed to by the alleged suspect prior to release.
- (b) The availability and effect of any waiver of the requirements.
- (c) Notifications of the penalties for violation of the court order or any agreement executed under § 309.3.6(a).
- (d)
- (e) The address of the appropriate court in the district or county in which the victim resides.
- (f) Information regarding the availability of and procedures for obtaining civil and criminal protective orders with or without the assistance of an attorney.
- (g) Information regarding the availability of and procedures for obtaining civil and criminal protective orders with or without the assistance of an attorney.
- (h) A list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

****Note this information may also be provided when an offender is released from the booking facility.****

309.4.5 PROOF OF SERVICE NOT VERIFIED

When the officer verifies that a restraining order exists but cannot verify proof of service or prior knowledge of the order by the suspect, the officer shall perform the following:

- (a) At the request of the complainant and upon presentation of an endorsed copy of the restraining order and a Proof of Service Form, serve a copy of the order on the suspect. Submit the completed Proof of Service Form to the court, regardless of whether the suspect is taken into custody (Utah Code 78B-7-106).

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

- (b) Immediately inform the suspect of the terms of the order and place the suspect on notice that violation of the order will result in arrest.
- (c) Obtain the suspect's address.
- (d) Enforce the order but do not make an arrest for any violation of the order occurring prior to verified proof of service or before an officer's admonition of the terms of the order. If the suspect continues to violate the order after being advised of the terms, an arrest should be made.

If the suspect complies with the order the officer shall complete a report detailing the specific terms of the order and advisement, the name of the advising officer, and the date and time of the advisement. The Department copy of the restraining order shall be updated to reflect the information listed above.

309.4.6 WHEN ORDERS ARE NOT VERIFIABLE

If the victim is not in possession of the restraining order and/or for any reason the officer cannot verify the validity of the order the following action shall be taken:

- (a) Write a report, and give the case number to the victim.
- (b) Inform the victim of how to contact the appropriate detective or investigation unit for further action.
- (c) Inform the victim of the right to make a private person's arrest for the appropriate violation.

In domestic violence cases where the suspect has left the scene, an investigation should be conducted to determine if a crime has been committed. In such circumstances a written report shall be completed and the victim shall be informed of the case number and the follow-up criminal procedure.

309.4.7 PROTECTIVE ORDERS

Protective orders are issued by the court in criminal cases when the probability of victim intimidation exists. In accordance with Utah Code 77-36-2.4, officers shall arrest an offender where probable cause exists that a violation of a protective order as defined, has occurred..

Witness intimidation is also a violation of law. Examples of witness intimidation include attempting to prevent or dissuade a victim from attending, or giving testimony at any proceeding, or using force or expressing, or implying a threat of force, or violence related to the court proceeding.

The requirement to enforce any order of the court applies statewide, regardless of the jurisdiction in which the order was issued or the location of the victim or the perpetrator (Utah Code 77-36-6(2)).

309.4.8 LAW ENFORCEMENT TRAINING

All training of Officers relating to domestic violence shall stress protection of the victim, enforcement of criminal laws in domestic situations, and the availability of community shelters, services and resources. This department and community organizations with expertise in domestic violence shall cooperate in all aspects of that training (Utah Code 77-36-2.3).

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

All officers of the Department will be trained on the use of Lethality Assessment Protocol, including the identification of risk factors and the appropriate response to individuals at high risk of lethality.

309.5 VICTIM ASSISTANCE

Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected. The following applies to domestic violence and dating violence (Utah Code 77-36-2.1; Utah Code 78B-7-408):

- (a) Officers who respond to allegations of domestic violence shall use all reasonable means to protect the victim and prevent further violence.
- (b) Victims shall be provided with the Department's domestic violence information handout, even if the incident may not rise to the level of a crime.
- (c) Victims shall also be alerted to any available victim advocates, shelters, and community resources and advised of the results of the lethality assessment if applicable.
- (d) When an involved person requests law enforcement assistance while removing essential items of personal property, officers shall stand by for a reasonable amount of time.
- (e) If the victim has sustained injury or complains of pain, the officer shall seek medical assistance for the victim as soon as practicable.
- (f) Officers should ask the victim whether the victim has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for the victim's safety or if the officer determines that a need exists.
- (g) Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) If appropriate, officers shall seek or assist the victim in obtaining an emergency order.
- (i) When applicable, the victim should be provided with the required information from the Department of Public Safety regarding the right to voluntarily turn over a firearm to a law enforcement agency for safekeeping.

309.6 VICTIM ASSISTANCE

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable. Dispatchers are not required to verify the validity of a court order before dispatching an officer for

assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

During the course of investigating and reporting domestic violence cases, an officer may assist a victim in many ways. Some suggested methods of assistance are:

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

- (a) Explain legal options available to the victim including the private person's arrest process, temporary restraining and stay-away orders, and in cases of arrest, the follow-up procedures and ensuing criminal proceedings.
- (b) Leave a "Clearfield Police Department Domestic Violence Packet" with the victim after explaining its contents, including phone numbers of services available.
- (c) While on scene, offer to assist the victim by contacting a domestic violence advocate from the Safe Harbor Crisis Center (24 hr crisis line 801-444-9161).
- (d) Advise the victim of available community resources and the Crime Victim Reparations Program for both primary and secondary victims (801-238-2360).
- (e) Advise the victim of the Statewide Domestic Violence Information Linkline which can refer the victim to counseling, shelter and other services (800-897-5465).

309.6.1 VICTIM NOTIFICATION OF RELEASE

When appropriate, officers should advise the victim of the availability of the VINE (Victim Information and Notification Everyday), 1-877-UT-4-VINE, www.vinelink.com program which notifies victims on information about the offender. VINE is a free, computer-based telephone service that allows victims to check on an offender's custody status and register to receive automatic notification when an inmate is released from County Jail.

Whenever a person is released after an arrest for domestic violence, by this department, the releasing officer shall ensure that the arresting law enforcement agency is notified of the release, conditions of release, and any available information concerning the location of the victim. The arresting law enforcement agency, including this department if the Clearfield City Police Department made the arrest, shall then make reasonable effort to notify the victim of that release (Utah Code 77-36-2.5(4)(a)).

309.7 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers 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 (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

309.7.1 RECORD-KEEPING RESPONSIBILITIES

Utah Code 77-36-2.2(7) requires this department to make a written record as soon as possible, and maintain records, of all incidents of domestic violence reported to it, and shall be identified by a law enforcement agency code for domestic violence.

The Records Supervisor shall maintain records on the number of reported domestic violence-related calls, whether weapons were used in the incident and to report this information to the

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

Division of Child and Family Services every month. The Records Supervisor is also responsible for filing monthly statistical reports with the Department of Public Safety as required.

309.7.2 CANADIAN DOMESTIC VIOLENCE PROTECTION ORDERS

If there is probable cause to believe a valid Canadian domestic violence protection order exists and has been violated, an officer shall enforce the terms of the order as if it were the order of a court in this state (Utah Code 78B-7-1202).

309.8 VERIFICATION OF COURT ORDERS

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, officers should carefully review the actual order when available, and, where appropriate and practicable:

- (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.
- (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.

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

309.8.1 RETURN OF FIREARMS

- (a) If a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident and the officer has no reason to believe that such firearm or weapon would further endanger the victim or person reporting the domestic violence, the Department shall notify the lawful owner or other person who was in lawful possession of the firearm or weapon of its availability.
- (b) If, however, any officer has reasonable cause to believe that a firearm or other deadly weapon seized in a domestic violence incident would likely result in further danger to the victim or person reporting such incident or that further investigation of such firearm or weapon is required through the Department of Justice or other sources, the Department shall notify the owner or other person who was in lawful possession of the firearm or weapon that such firearm or weapon will be retained as necessary.
- (c) If, after 45 days, the Department has been unable to clear the firearm or other deadly weapon for release, the Department shall commence the process of preparing a petition to the District Court to determine if the firearm or other weapon should be

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

returned. Such petition should be filed within 60 days following the initial seizure or upon timely application to the court for an extension within no more than 90 days.

- (d) Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and it can be established that the person is not prohibited from possessing a firearm pursuant to Utah Code 76-10-503.
- (e) The Department is not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law.

309.9 LEGAL MANDATES AND RELEVANT LAWS

This department considers calls of reported, threatened, imminent, or ongoing domestic violence, and the violation of any protection order and restraining orders of extreme importance and shall be ranked among the highest priorities. Dispatchers are not required to verify the validity of the protective order before responding to the request for assistance. All calls of domestic violence should be dispatched as soon as practical.

309.9.1 STANDARDS FOR ARRESTS

- (a) Officers responding to a domestic violence call shall arrest or issue a citation to a domestic violence offender if there is probable cause to believe an offense has occurred. The offense need not occur in the officer's presence (Utah Code 77-36-2.2). Any citation issued shall note that the offense involved a domestic violence offense (Utah Code 77-7-20).
- (b) An officer shall arrest an alleged perpetrator whenever there is probable cause to believe that the alleged perpetrator has violated any of the provisions of a court order or condition of release agreement and there is evidence the order has been served. The offense need not occur in the officer's presence (Utah Code 77-36-2.4; Utah Code 78B-7-119).
- (c) If an officer has probable cause to believe there will be continued violence against the victim or if there is evidence that the perpetrator has either recently caused serious bodily injury or used a dangerous weapon in the domestic violence offense, the officer may not utilize the option of issuing a citation (Utah Code 77-36-2.2). Factors that may support the likelihood of a continuing offense include:
 - 1. A prior history of arrests or citations involving domestic violence.
 - 2. The alleged perpetrator is violating a court order.
 - 3. The alleged perpetrator has a prior history of other assaultive behavior (e.g., arrests or convictions for assault and battery or aggravated assaults).
 - 4. The victim states that the alleged perpetrator has a history of physical abuse toward the victim.

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

5. The victim expresses fear of retaliation or further violence should the alleged perpetrator be released.
 6. Any other evidence that would indicate the victim may be subjected to continued violence or abuse.
- (d) In responding to domestic violence incidents, officers should generally be reluctant to make dual arrests. If an officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to identify the predominant physical aggressor. If the officer determines that one person was the predominant physical aggressor, the officer need not arrest the other person alleged to have committed domestic violence. In determining the predominant aggressor, the officer shall consider (Utah Code 77-36-2.2):
1. Any prior complaints of domestic violence.
 2. The relative severity of injuries inflicted on each person.
 3. The likelihood of future injury to each of the parties.
 4. Whether one of the parties acted in self-defense.
- (e) An officer may not threaten, suggest, or otherwise indicate the possible arrest of all parties in order to discourage any party's request for intervention by law enforcement (Utah Code 77-36-2.2).
- (f) Whenever an alleged perpetrator is arrested or issued a citation and subsequently released by this department, the releasing officer shall then make a reasonable effort to notify the victim of that release and shall transmit that information to the statewide domestic violence network (Utah Code 78B-7-802).
- (g) An officer who does not make an arrest shall notify the victim of their right to initiate a criminal proceeding and of the importance of preserving evidence (Utah Code 77-36-2.2).
- (h) Whenever a complainant advises of the existence of a court order, the officer shall determine if a valid court order exists and use every reasonable means to enforce the order. The officer should determine whether the order is in the statewide domestic violence network (Utah Code 78B-7-113) and/or:
1. Whether a court order is on file with a law enforcement agency or whether the complainant has a copy of the court order in their possession.
 2. Whether proof of service or prior notice exists, whether the alleged perpetrator was in court when the order was made, or it was provided by a court ex parte.
 3. The terms of the court order that may be enforced against the alleged perpetrator.
- (i) In the event the alleged perpetrator is no longer at the scene, officers shall document the incident for follow-up investigation.
- (j) If an arrest is made or a citation is issued, the arresting officer shall provide the individual with written notice containing the following information (Utah Code 78B-7-802):

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

1. The individual may not telephone, contact, or otherwise communicate directly or indirectly with the victim before being released.
2. The individual may not be released except by court order or a written jail release agreement.
3. Notification of the penalties for violation of the court order or any jail release agreement executed and that the individual must appear in court on the next business day after arrest.

309.9.2 REPORTS AND RECORDS

- (a) Reports on all incidents of domestic violence shall include (Utah Code 77-36-2.2):
 1. The officer's disposition of the case.
 2. The appropriate crime classification for domestic violence.
 3. If no arrest was made, the report shall detail the grounds for not arresting.
 4. If two parties are arrested, the report shall detail the grounds for arresting both parties.
 5. The results of a lethality assessment when required by Utah Code 77-36-2.1. The report, however, shall not reflect information about a referral to a domestic violence organization if one is made as a result of the lethality assessment.
- (b) The officer creating the report should provide the victim with the case number of the report. The case number may be placed in the appropriate space on the victim information handout provided to the victim. If the case number is not immediately available, the officer should explain to the victim how the victim can obtain the information at a later time.
- (c) The report shall be made available to the victim, upon request, at no cost (Utah Code 77-36-2.2(6)(d)).
- (d) The Records Supervisor shall forward a copy of the incident report to the appropriate prosecuting attorney within five days after the complaint of domestic violence occurred (Utah Code 77-36-2.2(6)(c)).
- (e) The officer completing a domestic violence report should include information regarding whether the victim would like the court to impose release restrictions upon the arrestee, including prohibiting the arrestee from having personal contact with the victim or from entering the victim's residence or other premises temporarily occupied by the victim (Utah Code 78B-7-802).
- (f) The Records Supervisor or the authorized designee shall update the statewide domestic violence network when a person is released upon a written jail release agreement (Utah Code 78B-7-802; Utah Code 78B-7-113).

309.10 SERVICE OF COURT ORDERS

When an officer serves an individual with a protective order which causes the individual to be a restricted person under Utah Code 76-11-302 or Utah Code 76-11-303, the officer shall verbally provide the individual with the appropriate firearm restriction notifications in accordance with Utah

Clearfield City Police Department

Clearfield City PD Policy Manual

Domestic Violence

Code 76-11-309 and request the individual's signature on the acknowledgment contained within the protective order document.