



<b>Subject: Domestic Violence Response</b>	<b>POLICY NO: 305.1 – 305.5</b>
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<b>SPECIAL INSTRUCTIONS: None</b>	

**305.1 PURPOSE:**

This purpose of this Policy is to provide guidelines for Yuma County Sheriff's Office ("Office") personnel to enable them to effectively respond to calls of domestic violence in order to ensure both their safety and the safety of the public. This Policy provides guidelines for a uniform and consistent response from Office personnel.


**305.2 POLICY:**

This Office maintains a zero tolerance approach to domestic violence. The Office policy and philosophy is pro-arrest in an attempt to break the cycle of violence and to deter future abuse. In-custody arrest is the preferred response unless there is a clear and compelling reason not to arrest.

**305.3 DEFINITIONS:**

**Domestic Violence:** Defined by Arizona Revised Statute 13-3601 as any act that is a dangerous crime against children as defined in section 13-705 or an offense prescribed in section 13-1102, 13-1103, 13-1104, 13-1105, 13-1201, 13-1202, 13-1203, 13-1204, 13-1302, 13-1303, 13-1304, 13-1406, 13-1425, 13-1502, 13-1503, 13-1504, 13-1602 or 13-2810, section 13-2904, subsection A, paragraph 1, 2, 3 or 6, section 13-2910, subsection A, paragraph 8 or 9, section 13-2915, subsection A, paragraph 3 or section 13-2916, 13-2921, 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following applies:

1. The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.
2. The victim and the defendant have a child in common
3. The victim or the defendant is pregnant by the other party.

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4. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister or by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law or sister-in-law.
5. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.
6. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. The following factors may be considered in determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship:
  - a. The type of relationship.
  - b. The length of the relationship.
  - c. The frequency of the interaction between the victim and the defendant.
  - d. If the relationship has terminated, the length of time since the termination.

#### **305.4 PROCEDURE**

##### **A. Initial Response:**

When responding to a domestic violence call, the following procedures will be followed:

1. Denying Access to Officers: If one party requests the deputy to enter the residence and the other party refuses to admit the officer, the officer is justified in entering the home over the objections of one party in order to answer the call for help or check the welfare of the other.
2. A Victim's Rights Form will be given to all victims or potential victims of an act of domestic violence and the information on the form will be explained to the victim(s).
3. If the act of domestic violence involves the crime of Endangerment, Threatening or Intimidating, Assault, Custodial Interference, Stalking, Child Abuse, Unlawful Imprisonment, Kidnapping, Violation of Court Order (pursuant to A.R.S. §13-2810), any act of domestic violence involving the infliction of physical injury or involving the discharge, use or threatened exhibition of a deadly weapon or dangerous instrument (or any combination thereof), the investigating officer **SHALL**, based upon probable cause, physically arrest and incarcerate the person(s) violating the statute(s) regardless of whether the victim is willing to make a formal complaint. Recognizing there are exceptions to every rule, the duty supervisor may approve an exception to an arrest if, in his/her opinion, the victim will be protected from further injury and there are good, clear reasons that an arrest would not be appropriate under the circumstances.

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4. If the act of domestic violence involves the crime of Disorderly Conduct (with no physical injuries present), Criminal Damage, Harassment or Criminal Trespass, the investigating officer **MAY**, based upon probable cause, physically arrest and incarcerate the person(s) violating the statute(s) regardless of whether the victim is willing to make a formal complaint. The decision to arrest shall be left to the discretion of the investigating officer.

Recognizing there are exceptions to every rule, the duty supervisor may approve an exception to arrest if, in his/her opinion, the victim will be protected from further injury and there are good, clear reasons that an arrest would not be appropriate under the circumstances.

5. If an officer has probable cause to believe that two (2) or more persons committed an "independent act" resulting in a crime, in regard to domestic violence, the officer shall try to determine who the primary aggressor was. **Arrest is the preferred response only with respect to the primary aggressor.**

If the officer believes that all parties are equally responsible, the officer shall exercise his/her best judgment in determining whether to arrest any party. The on-duty supervisor should be contacted and briefed on the results of the case investigation and will make the final determination as to the disposition of the parties involved.

In every misdemeanor offense incident, including where there is no indication of physical assault or injury, the officer should evaluate the reasonable likelihood that the offense will continue if the suspect is not taken into custody.

The Office policy and philosophy is **PRO ARREST** in order to break the cycle of violence and deter future abuse. **In-custody arrest is the preferred response unless there is a clear and compelling reason not to arrest.**

The Yuma County Sheriff's Office may have occasion to handle domestic violence cases that occur between military personnel and family members living off base. If the party to be arrested is an active member of the military service, **do not turn these suspects over to the military police.** Arrest and process the same as all other domestic violence crimes. A notification to the Provost Marshal's Office shall occur.

6. An arrest made for a domestic violence offense will be a physical arrest. The release procedures available pursuant to A.R.S. §13-3903 **are not applicable** to arrests made pursuant to this sub-section
7. A case report will be made when domestic violence has occurred or is alleged to have occurred.
8. An Intimate Partner Risk Assessment Form shall be completed by the case officer. A copy of the form shall be included with the case report and an additional copy shall be submitted to Admitting Officers when an arrest has been made.

## **B. Seizure of Firearms**

1. A peace officer may question the persons who are present to determine if a firearm is present on the premises. The officer may temporarily seize a firearm if it is in plain view or located as a result of a consent search and *if the officer reasonably believes* the firearm

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would expose the victim or other persons in the household to a risk of serious bodily injury or death. A firearm *owned or possessed by the victim* shall not be seized unless there is probable cause to believe that both independently have committed an act of domestic violence.

2. The Evidence Custodian will be responsible for the release of any firearm seized pursuant to A.R.S. §13-3601(C). The Evidence Custodian will ensure the firearm is eligible for release, i.e. wants/warrant check, a criminal history check shall be conducted on the individual from whom the firearms are seized to determine eligibility to possess firearms.
3. When a firearm is seized, the victim shall be notified by a peace officer before it is released pursuant to A.R.S. §13-3601(E).

### C. Orders of Protection and Preliminary Injunctions

#### 1. Orders of Protection:

An Order of Protection is a civil action obtained from a Superior Court Judge, Justice of the Peace or Magistrate, which may prohibit a spouse or ex-spouse, or one whose relationship is defined pursuant to A.R.S. §13-3601(A), from committing an act of domestic violence or prohibit presence at a residence, place of employment, etc. The Order may also grant exclusive use of the residence to a particular person named in the Order. All prohibited acts will be specified in the document. The Order is in force for one (1) year from the date of service and can be renewed.

#### 2. Emergency Orders of Protection:

When the officer has reasonable grounds to believe a subject is in immediate danger of domestic violence, based on an allegation of a recent incident of domestic violence, and the courts are not in session (and will not be in operation for the next twenty-four (24) hours), the officer will advise the subject of the availability of an Emergency Order of Protection. A Superior Court Judge, Justice of the Peace or Magistrate will be contacted to authorize the signing of the Order by the assisting Deputy. The Order will then be served on the named defendant. The affidavit of service portion of the original Order will be completed and forwarded to the Civil Department of the Yuma County Sheriff's Office. Copies of the Order will be served upon the defendant, the plaintiff (complaining party) and Dispatch. An Emergency Order of Protection expires at the close of the next day of judicial business following the day of issue unless continued by the Court.

a. Deputies may advise victims of the availability to obtain an Emergency Order of Protection by using AZ POINT.

3. Once an Order of Protection has been served on a defendant, it is valid and enforceable by a peace officer.

Before an arrest can be made for a violation of the Order, the validity of the Order and verification of service on the defendant **must be verified by** checking with Dispatch to obtain the specific conditions of the Order.

a. A case report will be completed on all violations of Orders of Protection.

4. When a deputy is called to a situation where it is alleged that an Order of Protection has been violated, the following procedures shall be utilized:

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- a. If the individual who has allegedly violated the court Order is at the scene, a deputy, based on probable cause, may make an arrest for violating the court Order pursuant to A.R.S. §13-2810(A)(2) and process the individual into the appropriate detention facility.
- b. If the individual is not at the scene and probable cause for an arrest, an arrest can be made upon locating the individual.
- c. If the individual is out of jurisdiction, the Deputy shall forward the case report to the County Attorney's Office and request the issuance of a summons or warrant.
- d. In any event, no citations shall be issued

#### 5. Preliminary Injunctions:

A Preliminary Injunction is one of the documents issued at the initiation of divorce proceedings and usually restricts both parties from transferring or selling property, harassing or disturbing the peace of the other, etc. Like an Order of Protection, a Preliminary Injunction is not valid unless served on the defendant-respondent. Pursuant to A.R.S. §25-315(A)(5), a peace officer may enforce the provisions of a Preliminary Injunction and any violations thereof will be a violation of A.R.S. §13-2810 (Interfering with Judicial Proceedings). Temporary Restraining Orders also fall into this category and will be enforced in the same manner.

#### 6. Removing Community Property:

A deputy who is called to a situation where a Preliminary Injunction, Order of Protection or Temporary Restraining Order has been issued shall follow the procedures listed below if there is a dispute regarding removal of community property:

- a. Conditions and validity of any court Order must be confirmed through Dispatch.
- b. In many court orders involving domestic relationships, contact between the individuals (as in an Order of Protection) is forbidden. If that is the case, that section of the Order or Injunction will be enforced unless a written authorization has been obtained from the court
- c. If a party to the Order or Injunction is attempting to remove property that is claimed to be community property, the individual attempting to remove the property shall be advised that removal of the property will constitute a criminal offense.

The individual shall be advised that continuing to remove property may result in arrest for Interfering with Judicial Proceedings, in violation of A.R.S. §13-2810.

- d. If one of the parties to an Order or Injunction has already removed the property and is not at the scene, a case report shall be made and the report shall name the individual removing the property as a suspect and reflect the offense of Interfering with Judicial Proceedings.

#### 7. Officer Liability:

An officer making an arrest under A.R.S. §13-3601 or §13-2810 will not be held civilly nor criminally liable for that arrest if the deputy acts with probable cause and in good faith.

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#### **D. Reciprocity of State-Tribal Court Orders**

The Violence against Women Act (VAWA) of the Violence Crime Control and Law Enforcement Act of 1994 also mandates reciprocity of protection orders. The full faith and credit provisions of 18 U.S.C. §2265, in conjunction with the definition section (18 U.S.C. §2266), directs state and tribal courts to enforce valid civil and criminal protection orders issued by foreign state and tribal courts as though issued in the enforcing state or tribal jurisdiction.

#### **E. Enforcement of Out-of-State Orders**

1. The Yuma County Sheriff's Office will take appropriate law enforcement action on all out-of-state Orders of Protection.
2. Before taking law enforcement action on an alleged out-of-state court order violation, a reasonable effort will be made to determine the validity of the court order by checking with Dispatch, the Civil Office and/or the issuing court if during regular business hours. It must also be established that the court order was served on the defendant.
3. Pursuant to ARS 13-3602(U), a valid protection order related to domestic or family violence issued by a court out-of-state, a United States Territory, or tribal court, shall be enforced as if it were issued in the state of Arizona as long as the order is still effective in the issuing jurisdiction.
4. Pursuant to ARS 25-1063 and ARS 25-1063, a court in the state of Arizona shall recognize and enforce child custody determination by a court out-of-state so long as the determination is still valid. Any such orders shall be enforced as if it were issued in the state of Arizona as long as the order is still effective in the issuing jurisdiction.
5. In the event probable cause exists for an arrest and the circumstances warrant it, the officer may make an arrest. The arresting officer will follow current arrest and documentation procedures as outlined in this policy.

#### **F. Domestic Violence Cases Involving Peace Officers from Other Agencies**

Criminal investigations of domestic violence involving peace officers from any agency will be investigated in the same manner as all other domestic violence cases. For the purposes of this policy, peace officers include those defined in A.R.S. §13-3871.

#### **305.5 AMENDMENT:**

This policy is subject to amendment, revision and/or rescission as required

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