

Faribault Police Department

Policy #: 306	Subject: Domestic Abuse Policy and Procedure
Issued by: Chief Andy Bohlen	
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Policy

The Faribault Police Department recognizes domestic abuse as a serious problem in today's society. The policy of this Department is to protect victims of domestic abuse by making an arrest whenever it is authorized and to ensure that its peace officers have a complete understanding of the law governing this area.

Peace officers must utilize this policy in response to calls where there may be domestic abuse. This policy prescribes courses of action peace officers should take in response to a domestic call. Members of the Department must aggressively enforce these laws without bias and prejudice based on race, marital status, sexual orientation, social class, age, disability, gender, religion, creed, or national origin.

Purpose

The principal purpose of this policy is to establish guidelines and procedures to be followed by peace officers in their response to domestic abuse. Additionally, this policy intends:

1. To prevent future incidents of domestic abuse by establishing arrest rather than mediation as the preferred law enforcement response to domestic abuse;
2. To afford maximum protection and support to victims of domestic abuse through a coordinated program of law enforcement and victim assistance;
3. To ensure that the same law enforcement services are available in domestic abuse cases that are available in other criminal cases;
4. To reaffirm peace officers' authority and responsibility to make arrest decisions in accordance with established probable cause standards;
5. To promote peace officer safety by ensuring officers are as prepared as possible to respond to domestic calls;
6. To complement and coordinate efforts with the development of domestic abuse prosecution plans, so that law enforcement, prosecution and advocacy will be more efficient and successful;
7. To promote law enforcement's accountability to the public in responding to domestic abuse; and

8. To document allegations of domestic abuse so there can be meaningful prosecution and delivery of victim services.

Definitions

For purposes of this policy, the words and phrases in this section have the meanings given to them, unless it is clear that there is a different intent.

1. Domestic Abuse means the following, if committed against a family or household member by a family or household member: (i) physical harm, bodily injury, or assault; (ii) the infliction of fear of imminent physical harm, bodily injury or assault; or (iii) terroristic threats within the meaning of Minnesota Statutes Section 609.713, subdivision 1; criminal sexual conduct in the first through fourth degree (within the meaning of Minnesota Statutes Sections 609.342, 609.343, 609.344, 609.345 or 609.3451); or interference with an emergency call within the meaning of Minnesota Statutes Section 609.78, subdivision 2.
2. Domestic Abuse Program means a public or private intervention project or advocacy program, which provides support and assistance to the victims of domestic abuse.
3. Child means a person under the age of 18.
4. Family or Household Members means and former spouses; parents and children; persons related by blood; persons who are presently residing together or who have resided together in the past; persons who have a child in common regardless of whether they have been married or have lived together at any time; a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and persons involved in a significant romantic or sexual relationship.
5. Domestic Call means a request for assistance to a law enforcement agency regarding domestic abuse or any other crime against a family or household member.
6. Qualified domestic violence-related offense (“QDVRO”) means a violation of or an attempt to violate Minnesota Statutes Sections 518B.01, subdivision 14 (violation of domestic abuse order for protection); 609.185 (first-degree murder); 609.19 (second-degree murder); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.2242 (domestic assault); 609.2247 (domestic assault by strangulation); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.377 (malicious punishment of a child); 609.713 (terroristic threats); 609.748 subdivision 6 (violation of harassment restraining order); 609.749 (stalking); 609.78 subdivision 2 (interference with an emergency call); 617.261 (nonconsensual dissemination of private sexual images); and 629.75 (violation of domestic abuse no

contact order) and similar laws of other states, the United States, the District of Columbia, tribal lands, and United State territories.

7. Order for Protection is a court order that protects a victim from domestic abuse that may be made by any family or household member personally or by a family or household member, a guardian as defined in Minnesota Statutes Section 541.1-201, clause (2), or, if the court finds that it is in the best interests of the minor, by a reputable adult age 25 or older on behalf of minor family or household members. An order for protection may order the following relief: restrain the abusing party from committing acts of domestic abuse; exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner; exclude the abusing party from a reasonable area surrounding the dwelling or residence; award temporary custody or establish temporary parenting time with regard to minor children of the parties; establish temporary support for minor children or a spouse; provide counseling or other social services; order the abusing party to participate in treatment or counseling services; award temporary use and possession of property; exclude the abusing party from the place of employment of the petitioner; order the abusing party to have no contact with the petitioner; order the abusing party to pay restitution; order the continuance of all currently available insurance coverage; direct the care, possession or control of a pet or companion animal; direct the respondent to refrain from physically abusing or injuring any pet or companion animal; and any other relief deemed necessary for the protection of a family or household member.
8. Temporary Restraining Order is a temporary order of the court ordering the respondent to cease or avoid the harassment of another person or to have no contact with that person.
9. Restraining Order is an order issued by the court ordering the respondent to cease or avoid the harassment of another person or to have no contact with that person. These orders generally prohibit all contact of any kind (including, but not limited to, phone calls, letters, e-mails, and contact through a third party) and may limit the respondent's ability to come within a certain distance of the petitioner's home, workplace or school.
10. Harassment means to engage in intentional conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted or intimidated AND causes this reaction on the part of the victim.
11. Stalking is a crime of harassment. Generally a person commits the offense of stalking if he or she: (i) directly or indirectly, or through third parties, manifests a purpose or intent to injure the person, property or rights of another by the commission of an unlawful act; (ii) follows, monitors or pursues another, whether in person or through any available technological or other means; (iii) returns the property of another if the actor is without claim of right to the property or consent of one with authority to consent; (iv) repeatedly makes telephone calls, sends text messages, or induces a victim to make telephone calls to the actor, whether or not conversation ensues; (v) makes or causes the telephone of another repeatedly or continuously to ring; (vi) repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistive devices for the visually or hearing impaired, or any

communication made through any available technologies or other objects; or (vii) knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.

12. Domestic Abuse No Contact Order (DANCO) is an order issued by a court against a defendant in a criminal proceeding for domestic abuse, harassment or stalking of a family or household member, violation of an order for protection or a violation of a prior no-contact order. A knowing violation of such an order is a misdemeanor. Minnesota Statutes Section 518B.01, subdivision 22.

A. RESPONDING TO THE CALLS

1. Driving to the Scene

The peace officer should respond directly and without unreasonable delay to the scene of a domestic call, taking into consideration all information provided by dispatch in determining speed of travel.

2. Initial Contact with Occupants

Upon arriving at the scene of a domestic call, the responding peace officers must identify themselves as peace officers, explain their presence, and request entry into the home. The officers should ask to see the person who is the alleged victim of the call. If the person who called is someone other than the subject of the call, the officers should not reveal the caller's name. The officers must check to make sure all of the occupants of the premises are safe.

3. Entry

- a. Refused -- If refused entry, the officers should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused, the officers should request the dispatcher to contact the caller.
- b. Forced Entry -- If access is still refused and the officers have reason to believe that someone is in imminent danger, the officers are permitted to force entry.
- c. Search Warrant Entry -- If the officers are refused entry and have no legal grounds for forced entry and they have reasonable grounds to believe a crime has been committed, they should contact their supervisor or the County Attorney's Office and request advice concerning obtaining a search warrant.

4. First Aid

After securing the scene, the responding peace officers must provide first aid as needed.

5. Victim Safety

Assure the victim that her/his immediate safety is your first priority as an officer. Take steps to protect the victim's privacy and dignity. Provide for the care and safety needs of children present. Whether or not there has been an arrest, provide assistance to victims, including assistance accessing medical care, securing shelter, and providing notice of victim's rights information.

6. Risk Assessment

Obtain information about the history of violence and stalking from the apparent victim by asking the following three risk questions:

- Do you think he/she will seriously injure or kill you or your children? What makes you think so? What makes you think not?
- How frequently and seriously does he/she intimidate, threaten, or assault you? Is it changing? Getting worse? Getting better?
- Describe the time you were the most frightened or injured by him/her.

B. ARREST DECISIONS

1. Making Arrests

After securing the scene and providing first aid, the peace officers must begin a criminal investigation to determine if there is probable cause to believe that a crime has been committed based upon the evidence and not upon the victim's willingness or unwillingness to have an offender arrested.

The department's policy of arrest for domestic assault is that an officer shall arrest when one of the following occurs:

- When visible signs of injury or impairment exist and the officer determines it was not self-defense
- When a dangerous weapon is involved
- When an assault is alleged and supported by other evidence
- When a victim is in fear of immediate bodily harm
- The alleged assault or incident involves a felony-level crime
- An order for protection, harassment restraining order, or domestic abuse no-contact order has been violated

The officers should collect relevant physical evidence, including weapons which may have been used, take photographs of the scene and any injuries, take damaged property into evidence if appropriate, and take statements from the involved parties and witnesses. Statements should be taken at the scene as close in time to the assault as possible. The victim's emotional state should be noted in the statement. All statements must be recorded so that they can be used as evidence in the prosecution of the case. The evidence and statements should include the following information:

- a. The condition of clothing (if ripped or bloody take as evidence);
- b. Any property damage (take photographs of any property damage to large or permanent items and take into custody smaller items such as a broken telephone);
- c. Any excited utterances of the victim and suspect (officers should have available at the scene a digital recorder to record all statements of available witness, victims and the suspect as they speak with them);
- d. Evidence of any physical injury including strangulation;
- e. A description of the demeanor of the victim and the suspect;
- f. Medical records including the victim's statements to paramedics, nurses, and doctors (have the victim sign a medical release of information form if treatment is given by a medical professional);
- g. Interviews of witnesses including the children who may have been present (record all statements);
- h. Information concerning prior domestic abuse, and the existence of any protective orders; and
- i. Verification of what was heard by dispatch while on the phone with the caller.

Note: When determining probable cause, the peace officers should consider their own and the observations of fellow officers and any statements by parties involved and any witnesses. Prior convictions may provide the basis for enhancement to a gross misdemeanor or even felony charges (see C.2. below).

2. Factors NOT to be Considered in Making the Arrest

Arrests should be made **without** the consideration of:

- a. Marital status, gender, sexual orientation, race, or cultural, social, political or professional position;
- b. Ownership, tenancy rights of either party, or the fact that the incident occurred in a private place;
- c. Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction (assume the victim will not cooperate and gather as much evidence as possible);
- d. Verbal assurances that the abuse will stop;

- e. Disposition of previous police calls involving same victim or suspect;
 - f. Denial by either party that the abuse occurred when there is evidence of domestic abuse;
 - g. Lack of a court order restraining or restricting the suspect;
 - h. Concern about reprisals against the victim;
 - i. Adverse financial consequences that might result from the arrest; and
 - j. Chemical dependency or intoxication of the parties
3. Primary Aggressor and Dual Arrests

Dual arrest is discouraged. Where there are allegations that each party assaulted the other, the peace officer shall determine whether there is sufficient evidence to conclude that one of the parties is the primary aggressor based on the following criteria and the officer's judgment:

- a. Comparative extent of any injuries inflicted;
 - b. Fear of physical injury because of past or present threats;
 - c. Actions taken in self-defense or to protect oneself;
 - d. The history of domestic abuse perpetrated by one party against the other; and
 - e. Existence or previous existence of orders for protection
4. Victim Request Not to Prosecute

If the officer finds probable cause to believe a domestic abuse offense has been committed and intends to arrest but the victim requests no arrest or prosecution, the officer should inform the victim that the decision to arrest is the officer's and the decision to prosecute lies with the prosecutor.

C. AUTHORITY AND TYPES OF ARREST

1. Warrantless Probable Cause Arrest for Fifth Degree Assault or Domestic Assault

Although the general rule is that officers may not make probable cause arrests for misdemeanors unless the offense occurs in their presence (or a citizen who saw the crime so requests), domestic assault is an exception. Minnesota Statutes Section 629.341 provides that "... [a] peace officer may arrest a person anywhere without a

warrant, including at the person's residence, if the peace officer has probable cause to believe that the person within the preceding 72 hours the person has committed domestic abuse, as defined in section 518B.01, subdivision 2." However, the Minnesota Court of Appeals has ruled in State v. Anderson, 388 N.W.2d 784 (Minn. Ct. App. 1986) that absent consent, hot pursuit, medical or emergency aid, children in need of protection or services (as defined in Minnesota Statutes Section 260C.007) or exigent circumstances, a peace officer DOES NOT have a right under Minnesota Statutes Section 629.341 to enter a suspect's house for the sole purpose of effecting a domestic abuse arrest. As a general rule, any evidence obtained as a result of an unlawful house entry will be suppressed under the "fruit of the poisonous tree" doctrine.

Note: An arresting officer may not issue a citation in lieu of an arrest and detention to an individual charged with harassment, domestic abuse, violation of an order for protection, or violation of a domestic abuse no contact order. (Minnesota Statutes Section 629.72, subdivision 1a (a)).

2. Level of Arrest for Assault in the Fifth Degree and Domestic Assault; Misdemeanor, Gross Misdemeanor and Felony

Assault in the Fifth Degree and Domestic Assault are typically misdemeanor offenses. If the suspect has prior convictions for QDVRO, the offense may be a gross misdemeanor or felony.

a. Gross Misdemeanors

Assault in the fifth-degree (Minnesota Statutes Section 609.224 Subd. 2(a)):

- I. Against the **same victim** within 10 years of a previous conviction for a QDVRO conviction or adjudication of delinquency.
- II. Against **any victim** within three years of a previous QDVRO conviction or adjudication of delinquency

Domestic Assault (Minnesota Statutes Section 609.2242):

- I. Against any family or household member within 10 years of a previous QDVRO conviction or adjudication of delinquency. The prior conviction need not be against a member of the **same** family or household.

Note: Any QDVRO will serve to enhance, it need not be the same offense.

b. Felonies

Assault in the fifth-degree (Minnesota Statutes Section 609.224):

- I. Against the same victim within 10 years of the first of any combination of two or more previous QDVRO convictions or adjudications of delinquency.
- II. Any victim within three years of the first of any combination of two or more previous QDVRO convictions or adjudications of delinquency.

Domestic Assault (Minnesota Statutes Section 609.2242):

- I. Within 10 years of the first of any combination of two or more previous QDVRO convictions or adjudications of delinquency.
- II. According to Minn. Stat. 609.2247 subd. 2, whoever assaults a family or household member by strangulation is guilty of a felony.

3. Stalking (Minnesota Statutes Section 609.749) [Note: the following has been modified from the statutory language to improve readability and eliminate portions not pertinent to this policy]

- a. Definition. Stalking is conduct which the actor knows or has reason to know would cause the victim under the circumstances to feel frightened, threatened, oppressed, persecuted, or intimidated and causes this reaction on the part of the victim regardless of the relationship between the actor and victim.
- b. No Proof of Specific Intent Required. It is not required to prove that the actor intended to cause the victim to feel frightened, threatened, oppressed, persecuted, or intimidated, or except as otherwise provided in Minnesota Statutes Section 609.749, subdivision 3, paragraph (a), clause (4) or paragraph (b), that the actor intended to cause any other result.
- c. Stalking crimes. A person who stalks another by committing any of the following is guilty of a gross misdemeanor:
 - I. Directly or indirectly or through third parties, manifests a purpose or intent to injure the person, property or rights of another by the commission of an unlawful act;
 - II. Follows, monitors, or pursues another, whether in person or through any available technological or other means;
 - III. Returns to the property of another if the actor is without claim of right to the property or consent of one with authority to consent;
 - IV. Repeatedly makes telephone calls, sends text messages, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;

- V. Makes or causes the telephone of another repeatedly or continuously to ring;
 - VI. Repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, telegrams, messages, packages, through assistive devices for the visually or hearing impaired, or any communication made through any available technologies or other objects; or
 - VII. Knowingly makes false allegations against a peace officer concerning the officer's performance of official duties with intent to influence or tamper with the officer's performance of official duties.
- d. Venue. When acts constituting a violation of Minnesota Statutes Section 609.749 are committed in two or more counties, the accused may be prosecuted in any county in which one of the acts was committed for all acts in violation of the statute. The conduct described in Minnesota Statutes Section 609.749, subdivision 2, clauses (4) and (5) may be prosecuted at the place where any call is made or received or, in the case of wireless or electronic communications or any communications made through any available technologies, where the actor or victim resides or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established by Minnesota Statutes Chapter 5B. The conduct described in Minnesota Statutes Section 609.749, subdivision 2, clause (2) may be prosecuted where the actor or victim resides. The conduct described in Minnesota Statutes Section 609.749, subdivision 2, clause (6), may be prosecuted where any letter, telegram, message, package or other object is sent or received or, in the case of wireless or electronic communication or communication made through other available technologies, where the actor or victim reside or in the jurisdiction of the victim's designated address if the victim participates in the address confidentiality program established by Minnesota Statutes Chapter 5B.
- e.
- f. Arrest A peace officer may not make a warrantless, custodial arrest of any person for violation of Minnesota Statutes Section 609.749, subdivision 2 (7) (acts against an officer). For all other violations under this statute, a peace officer may make an arrest under the provisions of Minnesota Statutes Section 629.34 (when an arrest may be made without a warrant).
- g. Aggravated violations. A person commits a felony if he or she:
- I. Commits any offense described above because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in Minnesota Statutes Section 363A.03, age or national origin;
 - II. Commits any offense described in Minnesota Statutes Section 609.749, subdivision 2 by falsely impersonating another;

- III. Commits an offense described in Minnesota Statutes Section 609.749 and possesses a dangerous weapon at the time of the offense;
 - IV. Stalks another, as defined in Minnesota Statutes Section 609.749, subdivision 1, with the intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or
 - V. Commits any offense described in Minnesota Statutes Section 609.749, subdivision 2 against a victim under the age of 18; if the actor is more than 36 months older than the victim.
- h. Second or Subsequent Violations: Felony. A person is guilty of a felony who violates any provision of Minnesota Statutes Section 609.749 within 10 years of a previous QDVRO conviction or adjudication of delinquency.
 - i. Pattern of Stalking Conduct. A person who engages in a pattern of stalking conduct with respect to a single victim or one or more members of a single household which the actor knows or has reason to know would cause the victim under the circumstances to feel terrorized or to fear bodily harm and which does cause this reaction on the part of the victim is guilty of a felony.

A "pattern of stalking behavior" means two or more acts within a five-year period that violates or attempts to violate the provisions of any of the following or a similar law of another state, the United States, the District of Columbia, tribe or United States territories:

- I. Minnesota Statutes Section 609.749;
- II. First-degree to third-degree murder and first and second-degree manslaughter (Minnesota Statutes Sections 609.185 to 609.205);
- III. Terroristic threats (Minnesota Statutes Section 609.713);
- IV. Fifth-degree assault (Minnesota Statutes Section 609.224);
- V. Domestic assault (Minnesota Statutes Section 609.2242);
- VI. Violations of domestic abuse orders for protection (Minnesota Statutes Section 518B.01 subdivision 14);
- VII. Violations of harassment restraining orders (Minnesota Statutes Section 609.748 subdivision 6);

- VIII. Certain trespassing offenses (Minnesota Statutes Section 609.605 subdivision 1, paragraph (b) clauses (3), (4), and (7));
 - IX. Interference with an emergency call (Minnesota Statutes Section 609.78, subdivision 2);
 - X. Obscene or harassing telephone calls (Minnesota Statutes Section 609.79);
 - XI. Letter, telegram, or package; opening; harassment (Minnesota Statutes Section 609.795);
 - XII. Burglary (Minnesota Statutes Section 609.582);
 - XIII. Damage to property (Minnesota Statutes Section 609.595);
 - XIV. Criminal defamation (Minnesota Statutes Section 609.765);
 - XV. First to fifth-degree criminal sexual conduct (Minnesota Statutes Sections 609.342 to 609.3451); or
 - XVI. Violations of domestic abuse no contact orders (Minnesota Statutes Section 629.75, subdivision 2)
- j. Exception Conduct is not a crime if it is performed under terms of a valid license, to ensure compliance with a court order, or to carry out a specific lawful commercial purpose or employment duty, is authorized or required by a valid contract, or is authorized, required, or protected by state, federal or tribal law or the state, federal, or tribal constitutions.

4. Probable Cause Warrantless Arrest

The domestic abuse arrest statute (Minnesota Statutes Section 629.72) has been amended to provide, as was already the case for domestic assault arrests, that the officer shall not issue a citation in lieu of arrest and detention to an individual charged with harassment, domestic abuse, violation of an order for protection or a violation of a domestic abuse no contact order. An officer may also make a warrantless probable cause arrest for harassment even if the offense did not occur in the officer's presence. Minnesota Statute Section 629.34, subdivision 1(c) (6).

5. Probable Cause Felony Arrests for Other Crimes

At a domestic call, peace officers shall consider whether other felonies have been committed, including, but not limited to: burglary, felony assault, terroristic threats, kidnapping, false imprisonment and witness tampering.

Note: Entry into a home in violation of an OFP may be burglary if there is intent to commit a crime in addition to mere entry. Example: OFP respondent knows that the petitioner is not home, goes in to retrieve his Skill Saw – OFP violation, but no burglary because there is no intent to commit burglary. If the respondent enters the home with the intent to assault or contact petitioner, the assault or contact is an independent crime which will support a burglary charge. State v. Colvin, 645 N.W. 2nd 449 (Minn. 2002).

6. Violation of Court Orders

Officers shall determine whether any of the following orders exist before or during an arrest. The peace officer or someone acting at the officer's direction must verify. Methods of verification include personally seeing a copy of the order or reviewing an agency's file that indicates the existence of such an order. If the verification is made at the direction of the peace officer, the peace officer shall document the name of the person and the type of order verified. The officer must document actions taken to identify the specific court order (e.g. order for protection) in the police report and include the following information: the county of origin, the file number and the provision allegedly violated. The officer must make arrangements to get a copy of the order as part of the investigative process.

Note: *Ex Parte* Temporary Orders for Protection are valid for a fixed period of time, not to exceed 14 days from issuance *unless extended by the court*. Orders for protection (non-temporary) are valid for a fixed period of time, not to exceed one year except when the court determines a longer fixed period is appropriate.

a. Order for Protection

A peace officer shall arrest and take into custody without a warrant a person who the peace officer has probable cause to believe has violated any condition of an OFP granted pursuant to Minn. Stat. 518B.01, subds. 6, 7, and 9. Such an arrest shall be made even if the violation of the order did not take place in the presence of the peace officer, if the officer can verify the existence of the order.

NOTE: Minn.Stat. 518B.01, subd. 18(a)(2), states that an OFP is not voided even if the respondent was invited back to the residence by the petitioner, and there is no hour limitation for a warrantless arrest for a violation of an OFP.

A violation of an OFP is a misdemeanor but is enhanceable to a gross misdemeanor if the offense occurs within ten years of discharge from sentence for conviction of violation of an OFP or for any conviction of assault, terroristic threats, violation of a harassment order or harassment/stalking. It is enhanceable as a felony if it occurs within ten years of discharge of the first of two or more such convictions.

OFPs and DANCOs can be verified on the State MNJIS system, also known as the Hot Files. HROs are not in the Hot Files system at this time but are still enforceable.

b. Harassment Restraining Order

A peace officer shall arrest and take into custody a person who the peace officer has probable cause to believe has violated a harassment restraining order pursuant to Minn. Stat. 609.748, subs. 4 and 5, if the officer can verify the existence of the order.

NOTE: A person who violates an HRO is guilty of a misdemeanor if the violator knows of the order. This offense is enhanceable to a gross misdemeanor if it occurs within ten years of a previous qualified domestic violence-related offense conviction or adjudication of delinquency. Per Minn. Stat. 609.748, subd. 6, (d), it is enhanceable to a felony if the person knowingly violates the order:

- within 10 years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency;
- because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability (as defined in section 363A.03), age, or national origin;
- by falsely impersonating another;
- while possessing a dangerous weapon;
- with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.414, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or
- against a victim under the age of 18, if the respondent is more than 36 months older than the victim.

c. Domestic Abuse No Contact Order (DANCO) (Minn. Stat. 629.75):

A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a DANCO, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer.

The pretrial DANCO is sometimes continued at the time of sentencing with a new, probationary DANCO issued as a condition of probation. This DANCO may be valid for the full probationary period indicated in the order.

The court may rescind a DANCO at any time. However, a victim's production of a copy of an apparently valid court order, absent contrary evidence, provides

prima facie basis for arrest whenever there is probable cause to believe a violation of the order has occurred.

7. Other Offenses

At a domestic call, the peace officer shall consider whether other crimes have been committed, including, but not limited to: trespass, criminal damage to property, disorderly conduct, witness tampering, interference with an emergency call, burglary, assault or false imprisonment.

D. ASSISTANCE, STAYING AT THE SCENE, VICTIM RIGHTS, AND SERVICES

1. Staying at the Scene

If an arrest does not occur, peace officers should remain at the scene of the disturbance until they believe that the likelihood of further imminent abuse has been eliminated. The victim should be put in phone contact with the on-call Blueprint advocate.

Note: Minnesota Statutes Section 629.342 provides that when a peace officer does not make an arrest, when the officer has probable cause to believe that a person is committing or has committed domestic abuse or violated an order for protection, the officer shall provide immediate assistance to the victim. Assistance includes: (1) assisting the victim in obtaining necessary medical treatment; and (2) providing the victim with the notice of rights pursuant to Minnesota Statutes Section 629.341, subdivision 3. A peace officer acting in good faith and exercising due care in providing assistance to a victim pursuant to this statute is immune from civil liability that might result from the officer's action.

2. Assistance to Non-English Speaking Victims or Victims with Communication Disabilities

Rice Steele 911 Center maintains a list of approved interpreters. Officers should avoid the use of friends, family, or neighbors serving as the primary interpreter for the investigation. If necessary, a non-approved interpreter may be used for preliminary inquiries and follow up may be done with an approved interpreter at a later date. Officers should always obtain information regarding the interpreter's identity and contact information.

3. Notice of Crime Victim Rights

Officers must supply the victim of a domestic call with a copy of the City's crime victim notification form with the officer's name and case number.

4. Services

Before leaving the scene, the victim should be put in phone contact with the on-call Blueprint advocate. Under no circumstances, should the officer put the HOPE Center representative's full name or other personal information in the report. The officer may use the first name or initials of the HOPE Center representative if needed for the report.

This section shall not apply if prohibited by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.

The officer must obtain any telephone numbers from the victim that the victim wants blocked from being made of the Rice County Jail. The officer must give those numbers separate from any reports to the Jail for blocking as soon as practical. The officer must also provide to the Jail the names and phone numbers of individuals who need to be contacted if the offender is released.

E. CHILDREN

1. Child Victims

If a child is present at the scene of a domestic call or is the victim of domestic abuse, the officer must interview the child to determine whether the child has been subjected to physical abuse, emotional abuse, sexual abuse, or neglect. The officer must comply with the requirements of Minnesota Statutes Section 626.556, Reporting of Maltreatment of Minors. The officer must also attempt to verify whether there has been a child abuse order for protection (Minnesota Statutes Section 260C.201). If the child has been physically injured, the officer should escort the child to the nearest hospital for treatment.

2. Providing Child Care for Children

If the parent or guardian of a child can no longer provide care (for example, when the victim is hospitalized), the officer should consult with the child's parent or guardian in order to determine the disposition of the child. The officer should make a good faith attempt to follow the request of the child's parent or guardian.

F. REPORTS AND FORMS

1. Written Report

Regardless of whether or not there is an arrest, officers must make a report after responding to a domestic call. If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest must be documented. The report should include the following information: detailed statements from the victim, suspect and witnesses;

descriptions of any injuries; information about past abuse; a description of the scene; the name of the primary aggressor; the existence of any language barriers; the presence of elderly victims or those with disabilities; and documentation of evidence. If the victim requests that his or her post-incident residence address be kept confidential, this request must be noted in the police report. The address must not be included in the report, but listed on a separate sheet and noted as “confidential.”

The written police report of an alleged domestic abuse incident described in Minnesota Statutes Section 629.341, subdivision 1, and arrest data, request for service data, and response or incident data as described in Minnesota Statutes Section 13.82, subdivisions 2, 3 or 6 that arise out of this type of incident or part of an alleged violation of an order for protection must be released upon request at no cost to the victim of domestic abuse, the victim’s attorney, or an organization providing services to victims of domestic abuse (Minnesota Statutes Sections 13.82; 629.341)

G. FURTHER INVESTIGATION

1. A domestic call shall be turned over by the officer to the appropriate investigator for further follow-up if appropriate. If there is an arrest, the investigator shall determine the defendant’s criminal record, and if there is evidence of a previous conviction, the investigator or officer should advise the prosecutors of any enhanced criminal sanctions which may be available. Follow-up investigation work may also be required including taking photographs of the victim’s injuries two or three days after the incident (due to the fact that bruises that were not visible immediately following the incident may appear within a couple of days).
2. Notwithstanding the fact that the officer has decided not to arrest one of the participants in the domestic call, the officer still must thoroughly document all relevant information in the report and must refer the report to the appropriate prosecutor for review and consideration of criminal charges.
3. The investigating officer must obtain the victim’s medical records from the incident and obtain the appropriate releases from the victim in order to request these records.

H. CONFLICT OF INTEREST

1. It is recognized that a Faribault Police Officer may be dispatched to a domestic call that involves a department member, city council person, city department head, or other person that may present a conflict of interest. Once the scene is secure and all parties are safe, the officer should consult with their supervisor and/or refer the case to a neighboring law enforcement agency.

Enhancements Table

Conviction means a plea of guilty or verdict of guilty accepted by the court (Minn. Stat. § 609.02, subd. 5).

Discharge from Offense means the time between conviction and the end of 5 years following discharge from sentence for that offense.

QDVRO means a “Qualified Domestic Violence Related Offense” which includes a violation of or an attempt to violate a domestic abuse order for protection; first or second-degree murder; first through fifth-degree assault; domestic assault; female genital mutilation; domestic assault by strangulation; first through fourth-degree criminal sexual conduct; malicious punishment of a child; terroristic threats; violation of harassment restraining order; stalking; interference with an emergency call; nonconsensual dissemination of private sexual images; and violation of domestic abuse no contact order (DANCO); and similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories. (Minn. Stat. 609.02, subd. 16)

Offense	Victim of Offense	Time Limit	Prior Conviction	Offense Level
Assault 5	Same Victim	w/in 10 years of conviction	<u>QDVRO</u>	Gross Misdemeanor
		w/in 10 years of discharge of 1 st of 2 or more convictions	<u>QDVRO</u>	Felony
	Any Victim	w/in 3 years of conviction	<u>QDVRO</u>	Gross Misdemeanor
		w/in 3 years of 1 st of 2 or more convictions	<u>QDVRO</u>	Felony
Domestic Assault	Family/Household Member	w/in 10 years of conviction	<u>QDVRO</u>	Gross Misdemeanor
	(as defined in Minn. Stat. 518B.01, <u>subd. 2.</u>)	w/in 10 years of 1 st of 2 or more convictions for Domestic Assault or Assault 5	QDVRO	Felony
Malicious Punishment	Any Victim	w/in 5 years of discharge	Assault 1-5, Domestic Assault, Malicious Punishment, Criminal Sexual Conduct 1-4, or Terroristic Threats	Felony
Violation of Order for Protection or Harassment Restraining Order	Any Victim	w/in 10 years of conviction	QDVRO	Gross Misdemeanor
		w/in 10 years of discharge of 1 st of 2 or more convictions	QDVRO	Felony
Stalking	Any Victim	w/in 10 years of conviction	QDVRO	Felony
Interference w/ Privacy	Any Victim	None	Interference w/ Privacy or Stalking	Gross Misdemeanor

Example of Enhancement Reachback:	
Arrest for Assault 5 & Malicious Punishment	1/1/2013
Plea (Accepted) to Assault 5 & Malicious Punishment (Conviction)	6/1/2013
Sentence of 2 years of probation	8/1/2013
Expiration of reachback for any victim for Assault 5	6/1/2016
Discharge from sentence	8/1/2015
Expiration of reachback for any victim for Malicious Punishment	8/1/2020
Expiration of reachback for same victim for Assault 5	6/1/2023