

# Peoria Police Department Policy and Procedure Manual

## Policy 4.12 Domestic Violence



**“Our Community...  
Our Commitment”**

### I. POLICY

It is the policy of the Peoria Police Department to respond to all calls of domestic violence. When violence has occurred or been threatened, the primary responsibility of the responding officers is to investigate a crime. Officers shall conduct detailed investigations to include victim/witness interviews and evidence collection, and shall follow the protocol established by the Maricopa County Attorney’s Office (MCAO). If the preliminary investigation establishes probable cause that domestic violence has been committed and physical violence, injury, or threats of bodily injury have occurred, officers are mandated by this policy to make a physical arrest. Officers are also required by this policy to make physical arrests if an act of aggravated domestic violence has occurred.

### II. DEFINITIONS

A. Domestic Violence (as defined in Arizona Revised Statutes (ARS) Title 13-3601) involves any act which is an offense as defined below when the relationship between the victim and the suspect is one of marriage, former marriage, persons residing together or having resided in the same household, or if the victim and suspect are related to each other by blood relationship (consanguinity) or by a relative through marriage or court order, if the victim and defendant have a child in common or if the victim or the defendant is pregnant by the other party. Examples of relationships or persons covered by this statute are:

1. Husband and wife.
2. Father or mother and son or daughter.
3. Brother and sister.
4. Grandparents and grandchildren.
5. Nieces and nephews.
6. Mother and father-in-law.
7. Brother and sister-in-law.
8. Boyfriend and girlfriend who are currently, or have in the past, resided together.
9. Victim and Suspect have a child in common or the victim is pregnant with the suspect’s child.
10. Identical Gender Relationships

B. The following acts constitute domestic violence offenses:

1. Assault/Aggravated Assault.
2. Criminal Damage.
3. Custodial Interference.
4. Disorderly Conduct by:

- a. Fighting,
  - b. Unreasonable noise,
  - c. Abusive language, or
  - d. Reckless display or discharge of a deadly weapon or dangerous instrument.
5. Endangerment.
  6. Unlawful Imprisonment.
  7. Kidnapping.
  8. Trespass.
  9. Intimidation/Threats.
  10. Harassment.
  11. Dangerous Crimes Against Children.
  12. Stalking.
  13. Interfering with Judicial Proceedings.

C. Family Problems are generally issues within the family not associated with violence and/or verbal arguments and when there is no allegation or evidence of a violation of ARS § 13-3601.

D. Aggravated domestic violence, a class 5 felony, occurs if a person, within a period of sixty months:

1. Commits a third or subsequent violation of domestic violence or
2. Is convicted of a violation of domestic violence offense and has previously been convicted of any combination of convictions of a domestic violence offense or acts:
  - a. In another state,
  - b. In a court of the United States, or
  - c. In a tribal court that if committed in this state would be a violation of a domestic violence offense.
  - d. Such prior offenses must have occurred on or after January 1, 1999.

**III. PROCEDURES**

A. Police Response to Domestic Violence (Family Fight)

1. Responding to domestic violence situations is considered one of the most hazardous duties routinely performed by police officers. All officers are reminded of the

volatility of such situations and the need to practice officer safety while investigating domestic violence calls.

a. It is the responsibility of Communications to determine if the call for service should be dispatched as a “Family Fight” or “Family Problems.” Once a call has been determined and dispatched as a family fight it shall remain a family fight call.

b. Prior to arrival at domestic violence calls, officers should be advised by Communications of any prior history at the location of the incident, identify the caller and should advise if the caller is one of the participants of the family fight. Officers shall note this information in the Incident Report (IR).

c. Officers should also note alternate or next of kin information for the victim, to include addresses and telephone numbers, in the IR.

2. Officers are encouraged to make physical arrests when appropriate to break the cycle of violence that occurs with domestic violence situations.

a. The decision to take enforcement action will be based on the totality of the circumstances (i.e., injuries, observations at the scene, probability for reoccurrence, determination of the primary aggressor, etc).

b. Officers are mandated to make a physical arrest if physical violence, injury, or threats of bodily injury have occurred, and in the case of acts that constitute aggravated domestic violence.

c. An incident report will be taken on all family fight calls where an allegation of Domestic Violence (as defined in ARS § 13-3601) has been made.

d. Officers shall adhere to the Report Writing Guide and Manual and to the Maricopa County Attorney’s Office protocol as it applies to domestic violence.

e. Officers will keep themselves familiarized with and provide information on referral and social service agencies equipped to deal with situations that require a minimal involvement of police.

f. Officers must interview all victims, witnesses, etc., at the scene of a domestic violence related call.

(1) Interviews will be conducted regardless of whether the victim desires prosecution or not.

(2) If it is determined that a crime has occurred or an allegation of a crime the officer will obtain an IR and author a written report of the facts.

(3) In cases where enforcement action is taken and an arrest is made, suspects will be booked and held to appear before a magistrate.

g. When probable cause is present to make an arrest and the victim does not wish to aid in prosecution, officers have the authority to effect the arrest without the consent of the victim. Officers shall at no time ask the victims of domestic violence if they desire to aid in prosecution, as this causes additional emotional stress for the victim, and the State will prosecute regardless of the victim’s wishes. Officers shall effect an arrest if:

- (1) The victim has a physical injury, or has been threatened with physical injury or death. If the injury is noticeable, it shall be photographed with a digital camera.
- (2) The incident involved a deadly weapon or dangerous instrument, and/or;
- (3) The situation is likely to continue after the departure of police, and/or;
- (4) There have been multiple calls at the same location involving the same parties.

h. Officers shall provided victims with referral information procedures and resources available for their protection regardless of whether prosecution is desired or an arrest is made, pursuant to ARS § 13-3601, as outlined in Policy #5.08 Victim/Witness Assistance.

i. If the act of domestic violence is one which this policy requires the officer to make a physical arrest and the officer does not, contact with a supervisor will be made immediately. The officer must be able to articulate:

- (1) Why an arrest was not made and
- (2) How the victim will be protected from additional harm.

j. It is permissible for officers to utilize the long form complaint process for non-violent acts of domestic violence. It is also permissible to utilize the long form complaint process for acts of violence if the suspect cannot be located.

k. A citation in lieu of detention is not permissible in cases of domestic violence.

l. If an arrest is made, officers will annotate on the Form IV any information that will help the court determine the conditions of release. This would include officer’s comments such as:

- (1) “Defendant should not return to residence,” or

(2) “Victim is seeking an order of protection”, or

(3) “An Emergency Order of Protection has been issued.”

m. If an officer determines that there is no evidence of a crime and there has been no allegation of a domestic violence offense, the officer will find the call unfounded. On all family fight calls that lack evidence of a crime and no allegation of a crime have occurred a specific Computer Automated Dispatch (CAD) entry must be entered. The CAD entry must include the following information:

- (1) The names of the involved participants
- (2) Information regarding the lack of evidence to support a criminal violation and that no allegation of a domestic violence offense occurred.
- (3) Information regarding referrals or social services was provided.

n. Firearms: Officers may question the persons who are present at the scene to determine if a firearm is present on the premises.

o. The officer may temporarily seize the firearm if the firearm is in plain view or was found pursuant to a consent to search and if the officer reasonably believes that the firearm would expose the victim or another person in the household to a risk of serious bodily injury or death. (ARS § 13-3601(c))

p. A firearm owned or possessed by the victim shall not be seized unless there is probable cause to believe that both parties independently have committed an act of domestic violence.

3. If a firearm is seized pursuant to Peoria Police Department Policy 4.12.B.3, the officer shall give the owner or possessor of the firearm a receipt for each seized firearm.

a. The receipt shall indicate the identification or serial number or other identifying characteristics of each seized firearm.

b. Each seized firearm shall be held for a minimum of 72 hours and a maximum of fourteen (14) days and shall be impounded according to established guidelines.

c. The seized firearm shall be clearly labeled/tagged as removed from a Domestic Violence situation and the IR shall clearly state that the seized firearm was removed from a Domestic Violence situation.

d. The victim shall be notified before the firearm is released from temporary custody by the Police Services Officer assigned to Property who released the firearm.

e. A copy of the property impound form (listing the firearm) will be placed on top of the report, by the records clerk, prior to the report being forwarded to the prosecutor.

4. If there is reasonable cause to believe that returning a firearm to the owner or possessor may endanger the victim or a third party, the prosecutor shall file a Notice of Intent in the appropriate court to retain the firearm.

a. The prosecutor shall file notice on the owner or possessor of the firearm by certified mail.

b. The notice shall state that the firearm will be retained for not more than six (6) months following the date of seizure.

c. On receipt of the notice, the owner or possessor may request a hearing for the return of the firearm, to dispute the grounds for seizure or to request an earlier return date.

d. The court shall hold the hearing within ten (10) days after receiving the owner's or possessor's request for a hearing.

5. An officer is not liable for any act or omission in the good faith exercise of the officer's duties under ARS § 13-3601.K.

**B. Emergency Orders of Protection (55.2.2):**

1. Judges are available by telephone to issue Emergency Orders of Protection during times when the courts are closed.

2. The officer must state that there are reasonable grounds to believe that a person is in immediate and present danger of domestic violence based upon an allegation of a recent incident of actual domestic violence.

3. If the judge finds that a person's life or health is in imminent danger, the judge may issue an Emergency Order of Protection.

4. The officer will contact the Maricopa County Sheriff's Office (MCSO) Communications Division and be connected to the on-call judge.

5. The officer will advise the judge of the circumstances surrounding the request for an Emergency Order of Protection.

6. If the judge grants an Emergency Order of Protection, the officer will complete the Emergency Order Section of the form and request an Emergency Order of Protection Number from MCSO Records. The officer will advise MCSO Records if the Emergency Order of Protection has not been served.

7. A copy of the order will be given to the plaintiff, and a copy given to the defendant when served.

a. The original (white copy) with the Affidavit of Service Section completed will be routed to the Records Management Section who will forward it to the Clerk of the Superior Court.

b. The fourth copy (goldenrod) is the officer's copy and will remain with the IR.

8. If the defendant cannot be served during the officer's duty shift, the Order will be turned over to the next on duty patrol supervisor who will be responsible for serving it, if possible.

a. This process will continue until the morning of the next business day when the case file, including the Emergency Order, will be forwarded to the Records Management Section for disposition.

b. The original copy of the Emergency Order is the only copy that is required to be notarized.

9. If the defendant is in custody and served with the Emergency Order of Protection, the officer will annotate this on the Form IV.

10. Officers will advise victims on how to obtain a standard one-year Order of Protection.

**Peoria Police Department  
Policy 4.12 Domestic Violence  
Original Issue Date: 01/01/03  
Last Revision Date: 09/27/06  
Next Review Date: 06/30/07  
Office of Primary Responsibility: CIB  
Editor: J. Ellison  
Reviewed By: R. Smith**

**APPROVED:**   
**David C. Leonardo  
Chief of Police**