



<b>Domestic Violence Investigations</b>	<b>Related Policies:</b> Ethics, Code of Conduct
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable State Statutes: 13 V.S.A. §1041, 15 V.S.A. §1101, 1103	
Date Adopted: February 8, 2021	Date Reviewed:

**I. PURPOSE**

The purpose of this policy is to establish the Bennington Police Department's (BPD) priorities, guidelines, and procedures to be followed by law enforcement officers and all other personnel in response to domestic violence calls, including when the subject is a law enforcement officer.

**II. POLICY**

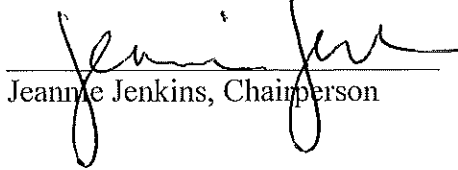
- A. The BPD shall provide a proactive, survivor, and family-centered approach when responding to domestic violence. Additionally, the BPD takes a position of zero tolerance on domestic violence. While prioritizing the safety of victims and others involved in the incident, officers should inform all parties that the State of Vermont is responsible for enforcement of all existing Abuse Protection Orders (APO's) and for making decisions regarding prosecution. Officers should not: (1) make any statements that discourage survivors/victims from reporting acts of domestic violence; (2) suggest, or otherwise indicate the possibility of arrest of all parties to discourage reporting an act of domestic violence; or (3) avoid taking any action because the victim stated prosecution was not desired. Officers should direct survivors to Community Service Providers (See Definition III E.) for assistance in creating a safe environment.
  
- B. Effective domestic violence prevention requires a team approach. Dispatchers should gather information to safeguard responding officers and all other persons involved in the incident. Responding officers should restore order and conduct thorough on-scene investigations. Supervisors shall motivate, teach, and direct their personnel, so that they perform their jobs in a compassionate, professional manner. Any domestic violence incident will be thoroughly investigated, including when law enforcement officers or individuals in positions of power or influence are involved.

- C. The BPD will work with Community Service Providers that provide safety and support for the survivor(s)/victim(s) and others affected, including, when appropriate, entering into Memorandum of Understanding (MOU) to better define agencies' respective roles. Additionally, the BPD will engage with Community Service Providers to provide training and other resources for BPD personnel. The BPD will actively participate in collaborative efforts to address domestic violence.

### III. DEFINITIONS

- A. **Domestic Violence:** Abusive behavior in any relationship, as defined by Vermont Statute. [15 V.S.A. §1101 (1)]
- B. **Intimate Partners or Family or Household Members:** As defined by Vermont Statute these include people who are related, whether by blood, marriage, or adoption, live together, have children together, or have dated. [13 V.S.A. §1041, 15 V.S.A. §1101]
- C. **Predominant Aggressor:** The individual who poses the most serious, ongoing threat, who might not necessarily be the initial aggressor in a specific incident.
- D. **Preferred Arrest Response:** Law enforcement officers are expected to arrest any person who commits a crime related to domestic violence as defined by law, unless there is a clear and compelling reason not to arrest, such as self-defense or lack of probable cause, after a comprehensive investigation to identify the predominant aggressor.
- E. **Protection Order:** any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts, other than support or child custody orders issued in domestic docket, whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection.
- F. **Community Service Providers:** Agencies providing local support and services for Survivor/Victims of Domestic Violence, their household members, and other affected by violence. They also provide educational services to the larger community regarding Domestic Violence and its long-lasting effects of the community and its individuals. In Bennington they include, but are not limited to, Project Against Violent Encounters (PAVE), United Counseling Service (UCS), Bennington District DCF, and Bennington County Child Advocacy Center.
- G. **Victim/Survivor/Complainant:** means any person who has been subjected to domestic violence. This includes persons who are unwilling to participate in any investigation.
- H. **Self-Defense:** A person's justifiable use of physical force upon another person when the person believes such force is necessary to defend themselves or a third party from what he/she reasonably believes to be the use, or imminent use, of unlawful physical force by another person.

This Policy is adopted by the Select Board of the Town of Bennington, Vermont, this 12 day of October, 2021 and is effective until amended or repealed.

  
Jeannie Jenkins, Chairperson

#### IV. PROCEDURES

##### A. Communications Personnel Response

When a caller reports a domestic violence incident, communications personnel should follow BPD protocols. In addition, communications personnel shall do the following.

1. Dispatch a minimum of two officers whenever possible.
2. Assign immediate response whether or not the suspect is known to be on the premises.
3. Document the call and action taken for the call, including those that involve or appear to involve a law enforcement officer.
4. Attempt to obtain any and all information from the caller that may help responding BPD officers assess the situation, including the following:
  - a. The immediate safety of the caller and those at the scene
  - b. Other persons involved or witnesses at the scene, including children
  - c. The suspect's relationship to the victim
  - d. Whether law enforcement has been called before because of this suspect and the number of times
  - e. Previous history of domestic violence
  - f. Presence of firearms or other weapons
5. Determine whether there is a valid protection order against the suspect or whether there have been orders in the past.
6. Whenever possible and when it will not jeopardize the individual's safety, keep the caller on the line in order to relay ongoing information to the responding BPD officer(s). An alternative may be to ask the caller to place the phone down but leave the line open if possible and safe to do so.
7. If a caller requests that law enforcement response be cancelled, advise the responding BPD officer(s) of the second call. BPD officers should continue to respond, investigate, and assess the situation to ensure that all parties are safe.

## B. BPD Officer Response

When responding to a report of domestic violence, BPD officers shall follow standard incident response procedures. In addition, officers shall do the following:

1. Avoid parking law enforcement vehicles in front of the residence or other site of the disturbance when possible.
2. When initially approaching the scene, indicate that they are responding to a call for service, without revealing the name of the caller or the caller's whereabouts.
3. Request entry in the event the incident is at a private residence. A warrantless entry is permissible if there is an objectively reasonable basis to believe that the safety of an occupant may be in jeopardy.
4. Make contact with all individuals present, including potential witnesses, victims, or perpetrator(s); when possible, separate all parties, keeping all individuals out of sight and hearing range of one another as safety permits.
5. Detain and remove the suspect if necessary.
6. Assess for physical injuries and administer first aid.
7. Summon emergency medical services from the Bennington Rescue Squad at the request of the victim or suspect, or if it appears that strangulation or other significant injuries have occurred.
8. Inquire about weapons in the area or access to weapons; identify and take temporary custody of firearms or weapons in plain sight.
9. Offer to contact Project Against Violent Encounters (PAVE) advocates to provide support to the victim and/or Project Against Violent Encounters (PAVE) contact information for use at a later time.

## C. On-scene Investigation

BPD officer(s) shall do the following:

1. Conduct victim and witness interviews in a location away from others at the scene. Interviews shall include questions about:
  - a. acts of intimidation intended to prevent the victim from calling law enforcement or seeking other assistance;
  - b. recent or previous stalking behaviors;

- c. objects or items that were given to the victim by the suspect; and
  - d. unwanted contact by the suspect that made the victim feel frightened or threatened.
2. Take digital images of the victim and suspect whether or not there are any visible injuries.
3. Take digital images of injuries to all parties, including any healing or old injuries.
  - a. When possible, digital images should also be taken 24, 48, and 72 hours later in the event the injuries become more visible and pronounced.
  - b. Descriptive and specific documentation of the injuries should be noted in the incident report/affidavit.
  - c. BPD officers should be sensitive to the victim's need for privacy, which may include the use of an officer of the same sex, when available, as the victim to photograph injuries.
  - d. Take digital images of the scene to show damage or disarray as a result of the incident.
4. Collect evidence to establish the facts of the crime.
5. Check for the existence of an Abuse Prevention Order (APO) or similar court orders through communications personnel at BPD.
6. Obtain a comprehensive account of the events from all parties. Whenever reasonable and practical, interviews shall be recorded and written statements obtained. However, if the victim or witness indicates that they do not wish to be recorded, this should be documented in the officer's report and the recording should be stopped. (Refer to Body-Worn Camera Policy and Procedures)
7. Interview children at the scene in a manner appropriate to their age. Document any signs of trauma and any apparent injuries on the children and take appropriate action, to prevent imminent harm to the children.
8. The Vermont Department of Children and Families shall be notified when a child(ren) is involved or present during a domestic violence situation. In any situation in which the BPD officer has grounds to believe a child(ren) is in immediate danger from their surroundings and the child(ren) removal is necessary for their protection, the child(ren) should be taken into custody pursuant to 33 VSA Section 369(3) and the Vermont Department of Children and Families notified.

9. Assess for and document all actual and suspected incidents of violence, including physical and sexual abuse, elder or child abuse, property damage, and animal cruelty.

D. BPD officer(s) shall not do the following:

1. Make any statement that would discourage a victim from reporting an act of domestic violence.
2. Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel.
3. Avoid taking action because the victim stated arrest and prosecution was not desired.

E. Role of the BPD Supervisor:

1. Respond and assist patrol officers investigating incidents of domestic violence or whenever the incident appears to involve a law enforcement officer, prominent community member, or public official.
2. Supervise the on-scene investigation, if not already completed, to ensure that appropriate actions are taken.
3. Review all domestic violence reports for accuracy and consistency and conduct after-action reviews and domestic violence cases to ensure officers are conducting comprehensive, victim-centered, perpetrator-focused investigations.
4. Assess for co-occurring and interconnected crimes when responding to domestic violence, to include but not be limited to stalking, sexual violence, strangulation, firearms prohibitions, protection order violations, intimidation and threats, and abuse of children, elders, and animals.

F. Relief from Abuse (RFA) Order Enforcement/Conditions of Release

1. If it has been determined that a relief from abuse order or conditions of release order is known to exist, BPD officers shall do the following:
  - a. Obtain a copy of the order. A copy of the order is not required for enforcement.
  - b. All Relief from Abuse orders (RFA's) shall be enforced including orders issued by another jurisdiction.

- c. Determine if the order or applicable law prohibits firearm possession by the suspect. If so, BPD officers shall:
  - (1) encourage the voluntary relinquishment of firearms and ammunition for safekeeping;
  - (2) seize unlawfully possessed firearms and ammunition located in plain view or pursuant to a consensual or other lawful search; or
  - (3) contact the Bennington County State's Attorney's Office and consult with a prosecutor if a search warrant may be required;
  - (4) If firearms are located, a BPD officer shall complete an affidavit upon receipt of firearms form and submit to the Bennington Superior Court, Family Division.
- d. Enforce custody provisions in accordance with conditions of the order.
- e. Document order information in the report including verification and terms of order.
- f. Document violation and prepare a report even if the suspect is not on scene. Attempts shall be made to locate and arrest the suspect.

#### G. Arrest Decision

- 1. BPD officers shall never ask the victim if they want the suspect to be arrested.
- 2. BPD officers shall make a warrantless arrest in accordance with Rule 3, as part of the preferred arrest response, if probable cause exists to believe that a person has committed a crime involving domestic violence as defined by Vermont law or has violated a Relief from Abuse order (RFA).
- 3. When making arrest decisions, officers shall consider which individual appears to be the predominant aggressor.
- 4. BPD Officer shall contact the on-call Bennington County State's Attorney or Deputy following the Bennington County State's Attorney's Domestic Violence Protocol.
- 5. If an arrest is not made, the BPD officer must provide an explanation in the report as to the reason(s) why.
- 6. When an arrest cannot be made due to lack of probable cause, the officer should
  - a. explain to the victim the reasons that an arrest is not being made, and
  - b. facilitate contact with Project Against Violent Encounters (PAVE) for information regarding counseling and other services.

7. Dual arrests are strongly discouraged. If a BPD officer has probable cause to believe that two or more persons committed a crime and probable cause exists to arrest both parties, the investigating officer shall contact their supervisor before proceeding with the arrests.

#### H. Domestic Violence by Law Enforcement

In cases where one (or more) party of a reported domestic violence incident is a law enforcement officer, responding BPD officers shall follow standard domestic violence procedures as outlined in this policy, regardless of jurisdiction. In addition, the following procedures shall be followed.

##### 1. Notifications

- a. When communications personnel receive a call that involves or appears to involve a law enforcement officer, they shall immediately.
    - (1) notify and dispatch a supervisor, regardless of the involved individual's jurisdiction, and
    - (2) notify responding officers that the call involves a law enforcement officer.
  - b. If previously unaware that the call for service involves a law enforcement officer, responding BPD officer(s) shall immediately request a supervisor of higher rank than the involved officer report to the scene, regardless of the involved officer's jurisdiction.
  - c. The on-scene supervisor shall notify Chief of Police or their designee.
  - d. In the event that the officer is from another jurisdiction, the BPD supervisor shall ensure that the on-duty supervisor in the accused officer's jurisdiction is notified.
  - e. In the event that the reported incident involves the chief executive of a law enforcement agency, the appropriate prosecutors and the individual with direct oversight of the accused individual shall be notified.
  - f. All notifications and attempts to notify shall be fully documented in the BPD Officer's report.
2. Relief from Abuse orders (RFA) issued shall be served by two BPD officers with at least one being a supervisor to the officer being served.
  3. In cases where an accused officer is arrested and firearms have not previously been seized, firearms shall be seized.
    - a. A supervisor shall relieve the accused officer of all service weapons.



- b. If the accused officer is a member of an agency in another jurisdiction, the service weapon shall be relinquished to officials at that agency.
  4. The BPD Internal Affairs Policy regarding alleged misconduct shall be followed. This may include taking administrative action if it has been determined that BPD policy was violated.
- I. BPD officers shall do the following:
    1. Remain at the scene of the incident until the situation is under control.
    2. Provide victims with information about:
      - a. The process of applying for an abuse prevention order;
      - b. Project Against Violent Encounters (PAVE) resources: The victim shall make the decision to contact Project Against Violent Encounters (PAVE);
      - c. Contact Vermont 211;
      - d. Bennington County State's Attorney Victim's Advocate;
      - e. BPD officer shall provide a business card with the incident number.
    3. Advise the victim what to do if the suspect or others harass or intimidate the victim, witnesses, or others.
    4. Assist the victim in establishing a temporary safety plan.
  - J. Incident Documentation
    1. BPD Officers shall complete a thorough, detailed narrative following response to or investigation of a report of domestic violence, whether or not an arrest is made. BPD officers shall also complete the Domestic Violence Investigation Report packet as required by the Bennington County State's Attorney's Office.
    2. In addition to routine documentation regarding the incident, the BPD officer should ensure that elements as they relate to the domestic violence relationship are captured, including, but not limited to the following:
      - a. Observations upon approach, including the demeanor of the victim, suspect, and witnesses;
      - b. Relationship of parties involved;

- c. History of relationship;
- d. Current or past relief from abuse orders;
- e. Prior calls to the location involving the suspect;
- f. Probation or parole status of the suspect;
- g. Information on co-occurring crimes to include, but not be limited to, stalking; sexual violence; strangulation; firearms prohibitions; protection order violations; intimidation and threats; and abuse of children, elders, and animals;
- h. Details of any children present;
- i. All threats and intimidation tactics used by the suspect;
- j. Presence or use of firearms or weapons

#### K. Service of Abuse Prevention Orders (APO)

##### A. Information

- a. When the Vermont Family Court provides granted Relief from Abuse Order (RFA) to the BPD for service, the dispatcher/shift supervisor will assign a BPD officer to:
  - 1. Personally serve Relief from Abuse (RFA) upon defendant; and/or,
  - 2. Remove defendant from the residence, (15 V.S.A. 1108); and/or
  - 3. Remove victim's children from residence (15 V.S.A. 1108); and/or
  - 4. Protect victim when removing personal property, including prescribed medication or financial resources from victim's residence (15 V.S.A. 1108); and/or
  - 5. Arrest defendant for criminal violation of Relief from Abuse (RFA).

BPD shall assist victims with temporary or permanent Relief of Abuse (RFA's) to ensure the order of the court is enforced. The Abuse Prevention Act provides that police have authority to assist domestic violence victims in enforcing the Relief from Abuse (RFA) (15 V.S.A. 1108).

## B. Verification

1. The dispatcher/shift supervisor shall verify the status of the Relief of Abuse (RFA);
  - a. The Relief from Abuse (RFA) has been issued by the Family Court. If the dispatcher/shift supervisor finds any of the following, they should assume a valid Relief from Abuse (RFA) has been issued by the Court:
    1. The Relief from Abuse (RFA) is currently on file with BPD, or
    2. Confirmation of the Relief from Abuse (RFA) by telephone call or email to the Family Court by the dispatcher/shift supervisor.
  - b. The Relief from Abuse (RFA) is served upon defendant. A Relief from Abuse (RFA) is an emergency order and is enforceable immediately after service upon the defendant. Both the Court and the BPD keep records as to whether orders have been served in Bennington County.
  - c. The Relief from Abuse (RFA) has NOT expired. There are two types of Relief from Abuse (RFA's); Temporary and Final. The expiration date is in a box on the Relief of Abuse (RFA).

## C. Prioritization

1. Requests for assistance shall be prioritized by dispatcher/shift supervisor. The response to complaints of domestic violence, including requirements for officer back-up, shall not differ from procedures normally used by the Department in responding to calls involving complaints of violence by non-related parties.
  - a. The shift supervisor/dispatcher should consider the following factors when prioritizing the complainant's request for assistance:
    1. The risk of further abuse to the complainant or neglect of any children by defendant.
    2. The risk the defendant will remove children from complainant's residence or the State.
    3. The amount of time defendant has been in receipt of the Relief of Abuse (RFA) and has had to comply with Relief of Abuse (RFA).
    4. Defendant's past or expressed refusals to comply with the Relief of Abuse (RFA).
    5. Complainant's need for personal property, including medication or financial resources at the residence.

b. An officer shall be assigned as soon as possible.

D. Service

1. BPD cannot enforce a Relief of Abuse (RFA) until the defendant has been served with the court order. The BPD shall personally serve, or make arrangements for service of a Relief from Abuse (RFA) upon the defendant when provided with the Relief from Abuse (RFA) by the plaintiff. Service shall be handled as follows:
  - a. An emergency exists when the shift supervisor determines that:
    1. Defendant has custody of plaintiff's children and there is present danger defendant will abuse or neglect the children.
    2. Defendant has custody of plaintiff's children and there is danger defendant will remove the children from the home or the State.
    3. Defendant is in possession of the plaintiff's residence and other emergency shelter is unavailable to plaintiff. Other emergency shelters, includes, but is not limited to, Project Against Violent Encounters (PAVE), safe homes and housing.
    4. Defendant has possession of Plaintiff's residence and Plaintiff has emergency need for prescribed medication, financial resources or other personal property at the residence.
  2. The officer shall enforce the conditions of the Relief from Abuse (RFA). If the defendant substantially interferes with the officer in enforcing the Relief from Abuse (RFA), or the defendant refuses to comply with the Relief from Abuse (RFA), the officer shall arrest the defendant for a criminal violation of the Order pursuant to Rule 3. When enforcing the Relief from Abuse (RFA), the officer shall:
    - a. Verify service of the Relief from Abuse (RFA) upon the defendant by:
      1. Personally serving defendant with the Relief from Abuse (RFA);
      2. Having defendant admit receipt of the Relief from Abuse (RFA),  
or
      3. Showing defendant the Relief from Abuse (RFA) and Return of Service.

- b. Explain the terms of the Relief from Abuse (RFA) to defendant.
- c. Warn the defendant that a criminal violation of the Relief from Abuse (RFA) shall result in defendant's arrest.
- d. Complete a written narrative of the service.

#### E. Transportation

1. If the plaintiff is without transportation and is needed at the scene when the Relief from Abuse (RFA) is enforced, an officer shall transport the plaintiff to the scene. The officer shall not have the plaintiff wait at the scene prior to the officer's arrival.

#### L. Post-Incident Follow-up

1. Upon request, BPD officer(s) will assist the Bennington County State's Attorney's Office Domestic Violence Investigator with any post-incident investigation follow-up.
2. Following an arrest and arraignment, the Victim's Advocate at the Bennington County State's Attorney's Office will notify victim(s) of any release conditions and case status.

#### M. Collaboration and Training

1. The BPD will establish or maintain ongoing partnerships with local community stakeholders and victim advocacy organizations to develop a holistic approach to responding to victims of domestic violence and ensure they are notified of all available resources.
2. The BPD and the Town of Bennington will work with legal counsel in an effort to develop Memorandum of Understanding (MOU) with community stakeholders including Project Against Violent Encounters (PAVE) for the purpose of creating a more permanent and successful range of services to victims of domestic abuse.
3. The BPD will consult with community stakeholders and victim advocacy organizations to establish training needs and to serve as training providers for the BPD, as appropriate.

The policies and procedures outlined above are hereby adopted by the Chief of Police of the Town of Bennington, Vermont this 12 day of OCTOBER, 2021 and is effective as of this date until amended or repealed.

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal line at the bottom, positioned above a solid horizontal line.

Paul J. Doucette, Chief of Police



**VICTIM INFORMATION FORM TO P.A.V.E.**

Bennington Police Officers are to read the following:

"Your contact information will be provided to PAVE (Project Against Violent Encounters) within 24 hours to prevent gaps in possible services for you and your family. The Bennington Police Department partners with PAVE to ensure victims of domestic incidents are provided with advocacy contacts and resources in a timely manner to minimize future encounters and risks."

Victim's initials: \_\_\_\_\_

Date and Time of Incident: \_\_\_\_\_

Agency: **Bennington Police Department**

Officer: \_\_\_\_\_

Victim's Name: \_\_\_\_\_ Gender: F M T

DOB: \_\_\_\_\_ Address: \_\_\_\_\_

Phone # for immediate contact and the following day: (H) \_\_\_\_\_ (C) \_\_\_\_\_

Is it safe to leave a message at either/both numbers: Y or N

Race: W B H A N (Native America/Pacific Islander)

Offender: \_\_\_\_\_

Lodged: Y or N

Cited: Y or N

Condition: Y or N

Brief description of the incident: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Must be emailed to PAVE by 1200 hours the following day at [docadvocate@pavebennington.com](mailto:docadvocate@pavebennington.com).