

CHAPTER 111
DOMESTIC DISPUTES
10-10-08

DISCUSSION: Numerous activities unrelated to crime control or law enforcement make demands on time and manpower. This is reflected in the many calls for assistance involving complaints of a personal or interpersonal nature. Those involving domestic disputes are sufficient in number and seriousness to warrant particular treatment.

When responding to a situation involving a domestic dispute, officers must be vigilant and anticipate the unexpected. What appears to be an argument of a minor nature may soon escalate to a conflict of dangerous proportions. Domestic disputes are often characterized by anger, frustration, and pitched emotions. These feelings can be easily redirected towards a Police Officer with a result that it is the officer who becomes the focus and target of the violence. It is not unusual for a controlled, aggressive outburst within domestic dispute situations to lead to a serious bodily injury or death with the officers themselves becoming the victims.

Despite such conditions, the police role is not only that of law enforcer, but may be that of counselor and peacemaker. However, officers should not become personally involved or spend an undue period of time on anyone dispute. The goal of the police should be to calm the emotional conflicts and reconcile the disputing parties. Exception would be when one of the parties has engaged in threatening or violent behavior. To achieve the proper results, the Police Officer must remain objective and neutral. Proper guidelines are intended to aid in successful police response to domestic disputes. Without them, unskilled and unguided police performance may endanger members of the force as well as innocent parties and may fail to prevent further domestic disputes.

111.1.1 Responsibilities and Initial Contact

- A. The unique nature of domestic disputes requires that two (2) officers respond. In any case, an officer shall immediately proceed to the place of the dispute.
- B. An officer's initial contact must convey a professionally calm, objective and helpful attitude. His appearance on the scene can have considerable impact and possibly stop the dispute, at least temporarily. This can cause a "breathing spell" making resolution of the dispute possible.
 - 1. He shall identify himself and explain his reason for being present.
 - 2. He shall not take sides and shall act with respect towards the persons and their problems regardless of his own view or personal reaction toward the matter.
- C. Since he is responding to a request for police assistance, an officer should remain until he has accomplished his lawful purpose.
 - 1. At a minimum, this requires an officer to ensure that peace is restored. This usually consists of an opportunity to observe and ask a few questions.
 - 2. An officer may enter private premises where both or one of the parties grants

permission, where there is probable cause to believe physical abuse has been or is being committed, there is a virtual certainty of violence resulting or where a breach of the peace has taken place in his presence.

3. An officer must leave if both parties request that he do so unless there is probable cause to believe a crime is or has occurred.
- D. Whenever possible avoid having children at the scene.
- E. Third parties should not be permitted to intervene unless they can make a contribution to the resolution of the dispute.
- F. Officers should control access to weapons and the movement of people as much as possible.
- G. Officers shall separate the disputants to avert violence. However, the officers should remain in view of each other for safety and to avoid allegations of mistreatment.
- H. Consumption of alcohol or mental illness aggravates the situation. Officers should recognize such conditions and the resulting necessity of patience in handling the dispute. Procedures for handling alcoholics and handling the mentally ill should also be followed. (See Chapter One (1))
- I. Identify medical needs and activate EMS, if indicated or requested by either party.

111.1.2 On-Scene Procedures

- A. Upon achieving a degree of quiet and peace, an officer shall allow one (1) person at a time to talk. The officer should:
 1. Listen attentively.
 2. Allow the person to go into detail. This often provides for emotional venting and mayor may not relate to present events, but is necessary in many cases before reconciliation can be accomplished.
 3. Avoid unnecessary interruptions.
- B. To deal intelligently with the situation, an officer must ask questions. Certain fundamentals must be followed:
 1. Obtain information regarding identities and family relationships of parties involved.
 2. Address people with respect (i.e. "Mr. X would you please ...")
 3. Unless necessary, never demand an answer or ask a question in such a manner that it is a command.
 4. Avoid questions that belittle or reflect poorly on the individual.
 5. Unless necessary, avoid emphasis or in depth questioning on personal matters if there is an indication that the person would rather not discuss them.

6. Attempt to discover if there is a prior history of such disputes and the nature and extent of them.
 7. Express appreciation for the person's cooperative efforts.
- C. Remain objective and neutral. It is imperative not to take sides either in fact or in appearance.

111.1.3 Resolution: Mediation

- A. Mediation within a reasonable time is the primary goal of intervention. The most likely use of this resolution method is under the perimeters of a domestic dispute when abuse is not suspected.
1. Explain that the police cannot impose a solution, but that it must be arrived by them on a mutual basis.
 2. Allow each person to discuss their feelings and view of the incident. Only one (1) person at a time should speak.
 3. Discuss possible alternatives keeping in mind the time constraints of police duty and the responsibility to protect the entire community.
 4. Try to point out similarities and their viewpoints in an attempt to help them to a solution.
- B. While an attempt at mediation is necessary so that the dispute will not flair up after the police leave, it may become apparent that the disputants cannot be reconciled through their own efforts. The officer should suggest that they seek professional assistance from an outside source (the clergy or agencies providing social, medical, or legal counsel).
- C. Temporary separation may be the only way to ensure peace until the conflict is resolved. This solution should be arrived at by mutual agreement between the disputants.

111.1.4 Resolution: Arrest

- A. Definitions (93-21-3):
1. "Abuse" means the occurrence of one (1) or more of the following acts between family or household members:
 - a. Attempting to cause or intentionally, knowingly or recklessly causing bodily injury with or without a deadly weapon;
 - b. Placing, by physical menace or threat, another in fear of imminent bodily injury; or
 - c. Criminal sexual conduct committed against a minor with the meaning of 97-5-23
 2. "Family or household member" means spouses former spouses, persons living as spouse parents and children, or other persons related by consanguinity or

affinity

- B. Beyond those procedures outlined in the preceding sections of the Chapter, MS Code 99-3-7(3) amended in the 1996 cumulative supplement to MS Code provides that “Any law enforcement officer SHALL arrest a person with or without a warrant when he has probable cause to believe that the person has, within 24 hours of such arrest, knowingly committed a misdemeanor which is an act of domestic violence.” The “act of domestic violence” shall mean one or more of the following acts between family or household members who reside or formerly resided together:
 - 1. Simple assault within the meaning of 97-3-7; or
 - 2. Disturbing the family or public peace within the meaning of 97-35-9 (explosions, noise or offensive conduct), 97-35-11 (abusive language or indecent exposure), 97-35-13 (disturbance in public place) or 97-35-15 (disturbance of the public peace).
- C. Officers shall presume that arrest; consistent with state law is the appropriate response in situations involving assault, injury, threatened use of a weapon or other imminent danger victim. Victims should not be made o feel that the entire burden for imitating charges is their responsibility, but their cooperation may be necessary.
- D. Collect and record all evidence to include photographs of injuries and property.
- E. MS Code 93-21-13 outlines procedures and guidelines for court orders relative to Domestic Relations. Police officers generally do not take enforcement action on civil court orders, however 99-3-7 (3) allows arrest in domestic abuse cases where the court order specifically provides for arrest as a condition of the order

111.1.5 Victim Assistance

- A. EMERGENCY SHELTER may be available for any person (and their children), who is afraid for their physical safety from a partner. This shelter is available twenty four (24) hours a day, seven (7) days a week, by contacting the Women's Shelter, (601) 428-8826 or 1-800-649-1092.
- B. The police department from time to time may receive request to stand-by while a party collects property or enforce a civil court order concerning property. Often this request is made by disguise as an effort to keep the peace. This act is usually used as a show of force and has been argued in civil cases as intimidation to the other party to give up property. Therefore it shall be the policy of the Hattiesburg Police Department to refrain from providing this service or interpreting the conditions of civil court orders. (exception 111.1.4.E)
- C. However, MS 93-21-28 (Emergency law enforcement response in domestic abuse cases) does provide that the complainant in a domestic abuse case may "remove food, clothing, medication and such other personal property as is reasonably necessary to enable the complainant and any minor children who are presently in the care of the complainant to remain elsewhere pending further proceedings". Protection is extended

to officers in subsection (2) "no officer may be held criminally or civilly liable on account of reasonable measures taken under authority of subsection (1)".

- D. AOM Chapter 55 provides for additional Victim/Witness policy.

111.1.6 Reporting Requirements

- A. A report shall be required any time an arrest is made for domestic abuse; outlining the circumstances surrounding the call, previous call history, evidence obtained, observations and reason for the arrest of one or more of the parties.
- B. The report shall be titled "Domestic Abuse" to define the charge for the court and allow for statistical tracking.
- C. A report shall be taken should an officer believe that domestic abuse has occurred but cannot affect an arrest because of time limits, lack of cooperation, lack of supporting evidence, probable cause or other circumstances. The report should reflect the officer's belief and an explanation of the action.
- D. A report is to be taken anytime an incident is reported to an officer as domestic abuse regardless of the original call classification even if it is determined that no crime has been committed.

11.1.7 Investigation

- A. Domestic Violence cases will be assigned to a singular point of contact within the Hattiesburg Police Department. The role of the domestic investigator(s) is to collaborate with social advocate groups while providing lifesaving resources and support for domestic violence.
- B. A team approach will be used to provide resolution to victims of domestic violence by coordinating with:
 - 1. Prosecution of Offenders
 - 2. Counseling Services
 - 3. Sheltering Services
 - 4. Victim Advocates
 - 5. District Attorney's Office
 - 6. Attorney General's Office
- C. The investigative services will be provided for all reported cases of domestic violence to include:

1. Case management and tracking
2. Orders of protection coordination and tracking.
3. Assistance during criminal proceedings.
4. Public Education and information programs
5. In-service training and legal updates related to Domestic Violence issues.
6. Utilization of data to analyze trends and patterns related to Domestic Violence to formulate appropriate department response.
7. Review of assistance needs and available area services conducted at least every three years.
8. Administrative or status reports monthly, quarterly or annually as requested by department administration.

D. Case follow-up will be provided as follows:

1. Provide information to the victim about applicable services such as counseling, medical, sheltering, compensation/financial and victim advocacy.
2. Advising victim on handling threats or intimidation issues.
3. Providing victim with case number, point of contact phone numbers and the steps in the processing of the case.