



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-78 (Formerly 4-25) Effective: 05/23/2022 Review: 05/23/2023 Replaces: 05/16/2022

**2-78 DOMESTIC VIOLENCE**

**Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):**

A. Related SOP(s)

- [1-26 Special Victims Section \(Formerly 5-4\)](#)
- [1-35 Crime Scene Specialists Unit \(Formerly 5-8\)](#)
- [1-59 Impact Teams \(Formerly 4-1 and 4-4\)](#)
- [2-16 Reports \(Formerly 1-05\)](#)
- [2-19 Response to Behavioral Health Issues](#)

B. Form(s)

- Law Enforcement Domestic Violence Questionnaire
- PD 3069 Pre-Booking Worksheet (In Mark43)
- [PD 3011 Domestic Violence Packet](#)

C. Other Resource(s)

- NMSA 1978, §§ 30-3-10 to 30-3-18 Crimes Against Household Members Act
- NMSA 1978, § 31-1-7 Arrest without Warrant; Liability
- NMSA 1978, §§ 40-13-1 to 40-13-13 Family Violence Protection Act

D. Rescinded Special Order(s)

- SO 20-97 Domestic Violence Response

**2-78-1 Purpose**

The purpose of this policy is to outline the requirements for deadlines for investigating a domestic violence incident. It provides guidance on conducting investigations, identifying the predominant aggressor, restraining orders, and ensuring the safety of the victim and relating parties.

**2-78-2 Policy**

It is the policy of the Albuquerque Police Department (Department) to enforce laws dealing with domestic violence and to take appropriate action in cases involving domestic violence.

**N/A 2-78-3 Definitions**

A. Domestic Violence

Any incident resulting in physical harm, bodily injury or assault, or a threat causing imminent fear of such harm by any household member.



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-78 (Formerly 4-25) Effective: 05/23/2022 Review: 05/23/2023 Replaces: 05/16/2022

B. Emergency Restraining Order (ERO)

A court order that is issued after normal court hours when the facts are sworn to by a sworn law enforcement officer to a District Court judge, which can be done telephonically. An ERO is only valid for seventy-two (72) hours or until the next day the courts are open to account for holidays, etc., whichever is longer, and only approved when the respondent's (offender) location is known so they can be served.

C. Exigent Circumstances

An emergency situation(s) requiring swift action to prevent imminent danger to life, to forestall the imminent escape of an individual, or the destruction of evidence.

D. Household Member

1. Consistent with the Crimes Against Household Members Act, a spouse, former spouse, parent, present or former stepparent, present or former parent-in-law, grandparent, grandparent-in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for the Crimes Against Household Members Act.

a. A household member includes:

- i. Boyfriend (current or former);
- ii. Continuing personal relationship;
- iii. Girlfriend (current or former);
- iv. Divorced couple;
- v. Father-in-law;
- vi. Grandparent;
- vii. Grandparent-in-law;
- viii. Married couple;
- ix. Mother-in-law; and
- x. Parents or co-parents who have a child in common;

b. A non-household member includes:

- i. Aunt;
- ii. Brother;
- iii. Brother-in-law (current or former);
- iv. Child (minor or adult);
- v. Cousin;
- vi. Nephew;
- vii. Niece;
- viii. Uncle;
- ix. Sibling-in-law (current or former);
- x. Step-grandparent (current or former);
- xi. Sister; and
- xii. Sister-in-law (current or former).

E. Order of Protection (Restraining Order)



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-78 (Formerly 4-25) Effective: 05/23/2022 Review: 05/23/2023 Replaces: 05/16/2022

If the judicial officer hearing the facts finds that an act(s) of domestic violence has occurred, the temporary restraining order (TRO) may be extended for a period of time as directed by court order and is now considered an “order of protection” or a “restraining order”.

F. Predominant Aggressor

The person determined to be the most significant, rather than the first aggressor. In identifying the predominant aggressor, the officer shall consider the intent of the law to protect victims of domestic violence between the persons involved and whether either person acted in self-defense.

G. Temporary Restraining Order (TRO)

A court order that may be issued in response to a petition filed in the Domestic Relations court alleging act(s) of domestic violence against the Petitioner. The petition is reviewed by a judicial officer and if approved, is countersigned by a District Court judge. Because the process is ex-parte, a hearing is scheduled, usually within two (2) weeks at which time both parties (petitioner and respondent) may present evidence to the court. The TRO is not considered active until the respondent has been personally served.

**6** 2-78-4 **Procedures**

A. Response to Domestic Violence Call for Service

1. Sworn personnel that respond to a call for service for domestic violence shall:
  - a. Take whatever steps are reasonably necessary to protect the victim(s) from further domestic violence;
  - b. Conduct an investigation to determine who the predominant aggressor is and whether the individual must be arrested;
  - c. Make a lawful arrest of the individual alleged to have committed an act of domestic violence where it has been determined arrest is reasonably necessary to protect the victim(s) from further domestic violence;
  - d. If one exists, enforce the provisions of any valid Order of Protection as outlined in this Standard Operating Procedure (SOP);
  - e. Advise the victim of the procedures and remedies available under the Family Violence Protection Act, including but not limited to, the right to file a written statement or request for an arrest warrant, and the availability of domestic violence shelters, medical care, counseling, other services, and the importance of preserving evidence; and
  - f. Upon request of the victim, arrange for their transportation to a shelter, safe refuge, or medical facility. When it is possible, and the Bernalillo County Sheriff's Office (BCSO) is available, sworn personnel can make arrangements for transportation to destinations substantially outside City of Albuquerque limits



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-78 (Formerly 4-25) Effective: 05/23/2022 Review: 05/23/2023 Replaces: 05/16/2022

but within Bernalillo County. A reasonable effort to resolve the situation locally is sufficient until other arrangements can be made at a more appropriate time.

2. Upon request of the victim, sworn personnel may accompany them to their residence to remove their clothing and personal effects required for immediate needs and the clothing and personal effects of any children in their care.
3. When determining whether to issue a summons or make a lawful arrest, sworn personnel shall:
  - a. Determine whether they will arrest an individual without a warrant when at the scene of a domestic violence call for service;
    - i. Sworn personnel shall have established probable cause to believe that the individual has committed an assault or battery upon a household member.
  - b. Issue a summons when probable cause is established. Immediate arrest is not always required; however, sworn personnel shall arrest the alleged offender where it has been determined arrest is reasonably necessary to protect the victim(s) from further domestic violence, or when exigent circumstances necessitate an arrest;
  - c. When issuing a summons or making a lawful arrest, determine who the predominant aggressor is when at the scene of a domestic violence incident;
  - d. When interacting with individuals who may be affected by a behavioral health disorder or in behavioral health crisis, refer to SOP Response to Behavioral Health Issues;
  - e. When an arrest has been made but the individual is taken to a medical facility for treatment, stay with the individual until they can be transported to the Metropolitan Detention Center (MDC) or Prisoner Transport Center (PTC) to be booked. Sworn personnel shall not request for medical facility personnel to hold an individual who was arrested under the Family Violence Protection Act, even when the applicable charges involve only misdemeanor offenses. The transporting officer is responsible for remaining with and guarding the individual; and
  - f. Complete a Uniform Incident Report on all domestic violence incidents.

4. Criminal Complaint

When an individual is arrested for domestic violence involving a household member, arresting sworn personnel shall list the charge in the criminal complaint for all cases of domestic violence.

5. Documentation of Domestic Violence Call for Service

- a. Sworn personnel shall not offer or accept any waivers of prosecution in any domestic violence case.
- b. When possible, sworn personnel shall obtain statements from the victim(s) and witness(s) at the scene.
- c. Sworn personnel shall document all visible injuries relating to the incident.



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-78 (Formerly 4-25) Effective: 05/23/2022 Review: 05/23/2023 Replaces: 05/16/2022

- i. Sworn personnel, a supervisor, or a Crime Scene Specialist (CSS), consistent with SOP Crime Scene Specialists Unit, should capture by video using their on-body recording device (OBRD) or photograph of any visible injuries in order to meet this requirement.
    1. Department personnel should make sure the photo/video accurately depicts the injury and consider calling a CSS when needed.
  - ii. Photographs of visible injuries shall be used as evidence for prosecution whenever possible.
  - d. Sworn personnel shall have available and provide to victims the necessary Domestic Violence Packet for their completion. The Domestic Violence Packet shall be available in both English and Spanish.
  - e. Sworn personnel should use the following guidelines in determining the need to locate and arrest an offender in domestic violence.
    - i. If the individual who is suspected of domestic violence is still at or near the scene of a domestic violence case, the officer shall, when arrest is reasonably necessary to protect the victim from further domestic violence, make every reasonable attempt to place the individual under arrest, rather than merely issuing a criminal summons, where there is probable cause to believe that the person has committed an assault or a battery upon a household member.
    - ii. If the individual who is suspected of domestic violence has fled the scene of a domestic violence case, before the officer arrives, and cannot be located at or near the scene of the domestic violence, a summons or warrant will be issued for the offender.
  - f. Sworn personnel shall take whatever steps that are reasonably necessary to protect the victim from further domestic violence that may include writing an arrest warrant.
  - g. Sworn personnel shall email their Uniform Incident Reports for all incidents, misdemeanors, and felonies involving domestic violence against a household member by the end of the officer's shift to the Department's Domestic Violence Coordinator at [dvc@cabq.gov](mailto:dvc@cabq.gov).
    - i. Sworn personnel shall forward Uniform Incident Reports for felony-level domestic violence incidents that require additional investigation or an arrest warrant to the appropriate area command Impact Team, consistent with SOP Impact Teams.
  - h. On all domestic violence calls for service when an officer requests authorization to change the call to something other than a domestic violence, the supervisor shall conduct a thorough investigation before granting the change. The officer shall supply sufficient remarks in the Computer-Aided Dispatch (CAD) system to justify the change in the status of the call.
6. When responding to domestic violence calls for service involving individuals with behavioral health issues, sworn personnel shall abide by the requirements outlined in SOP Response to Behavioral Health Issues.

B. Victim Notification



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-78 (Formerly 4-25) Effective: 05/23/2022 Review: 05/23/2023 Replaces: 05/16/2022

1. The arresting officer at the scene of a domestic violence incident shall ask the victim the following:
  - a. The telephone number and email address where they may be contacted personally;
  - b. If a telephone number is not available, a telephone number where a message can be left for the victim to provide notification of the offender's release; and
  - c. The address at which the notification can be made.
2. The arresting officer will complete the Law Enforcement Domestic Violence Questionnaire and telephone the New Mexico Offender Release Notification System at 1-505-768-CARE (1-505-768-2273) with the telephone number(s) and or address(s) where the victim can be notified.
3. The arresting officer shall complete the Pre-Booking Worksheet.
4. Upon notification by MDC to the ECC that the offender is released from custody, ECC personnel shall make every reasonable attempt to notify the victim in accordance to the information provided by the arresting officer.
5. In the rare case where no telephone is available, ECC personnel shall request a welfare check and dispatch an officer to make notification at the victim's location.

C. Social Support for Victims

1. Sworn personnel shall advise the victim of the procedures and remedies available under the Family Violence Protection Act.
2. Sworn personnel may refer a victim who is thirteen (13) years of age and older to the Special Victims Section Advocacy Unit to connect them with resources, consistent with SOP 1-26 Special Victims Section.
3. Sworn personnel may request assistance from the Department's contracted on-call victim's advocates through ECC to coordinate services for the victim.
4. Upon the request of the victim, sworn personnel shall provide or make reasonable efforts to arrange for transportation to a shelter, safe refuge, or a medical facility.
5. When it is possible, and BCSO personnel are available, sworn personnel may make arrangements for transportation to destinations substantially outside the City limits but within Bernalillo County. A reasonable effort to resolve the situation locally is sufficient until other arrangements can be made at a more appropriate time.
6. Upon request of the victim, sworn personnel may accompany the victim to the victim's residence to retrieve their clothing and personal effects that are required



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-78 (Formerly 4-25) Effective: 05/23/2022 Review: 05/23/2023 Replaces: 05/16/2022

for immediate needs and the clothing and personal effects of any children in the care of the victim.

D. Emergency Order of Protection (EOP)

1. Sworn personnel are authorized to obtain an emergency order of protection after regular business hours. Sworn personnel responding to a domestic violence incident shall complete an application for an Emergency Order of Protection when appropriate, adhering to the following guidelines:
  - a. Probable cause exists that an act of domestic violence/abuse has occurred.
  - b. The victim wants an order of protection issued.
  - c. The victim and/or children are in danger of or believe they are in danger of receiving additional acts of domestic violence/abuse.
  - d. Once the location of the restrained part is known by the officer a supervisor will approve the requesting of an order of protection from a judge.
2. If the conditions above exist, sworn personnel will complete Sections 1 through 4 of the EOP.
3. Sworn personnel shall contact a district court judge for approval.
  - a. Permanent numbers to all district court judges can be obtained through the Emergency Communications Center (ECC) or the on-call victim's advocate.
  - b. Sworn personnel shall provide the judge a brief description of the facts surrounding the incident.
  - c. Sworn personnel shall provide the judge with viable reasons/facts as to why the EOP should be granted.
  - d. If the EOP is denied, sworn personnel shall indicate in the Uniform Incident Report the name of the judge and the reason denied.
4. After approval by the judge, sworn personnel will complete Sections 7 through 9 in the EOP indicating the judge's approval.
5. Sworn personnel shall distribute the EOP as required.
6. If the individual suspected of domestic violence is not present, sworn personnel shall leave the EOP with the victim or protected party.
7. If sworn personnel are responding to a call where an EOP has already been approved by a judge and the individual suspected of domestic violence is present but has not been served, sworn personnel shall:
  - a. Obtain the EOP from the victim or protected party and serve the individual;
  - b. Complete a Return of Service Form. These forms should be available at all area commands.



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-78 (Formerly 4-25) Effective: 05/23/2022 Review: 05/23/2023 Replaces: 05/16/2022

- c. Immediately email the original Return of Service to the Bernalillo County Sheriff's Office (BCSO) Warrants Section; and
- d. Attach and submit a copy with their Uniform Incident Report.

E. Temporary Order of Protection

1. Initial temporary Order of Protection are granted as non-mutual and apply to only one party, therefore, can only be violated by the restrained party. Initial orders are valid until the listed date; then a hearing is held on whether the order should be extended for six months or more.
2. After the hearing date noted on the temporary Order of Protection, an order of protection may be granted for an extended period.

F. Service of Temporary Restraining Orders (TRO) and Orders of Protection

1. Sworn personnel shall serve district court Orders of Protection under the following circumstances only:
  - a. If the officer is requested to do so;
  - b. The restrained party must be physically served with the order;
  - c. The protected party must have a copy of the valid district court order in their possession; or
  - d. Before serving the restrained party with the court order, sworn personnel shall have ECC contact the Bernalillo County Sheriff's Office (BCSO) Warrants Section and determine if the order has already been served.
    - i. If service has not been made, officers will promptly serve the Order of protection on the respondent.
    - ii. If service has been made and the Order of protection prohibits the restrained party from being on the premises.
    - iii. The officer will complete a police report and thoroughly document the incident.
2. Any officer serving a civil district court order as outlined above will fill out the Return of Service form and email the original to the BCSO Warrants Section immediately.

G. Enforcement of Orders of Protection

1. An Order of Protection is valid if the following criteria are met:
  - a. The order states the name of the protected and restrained parties;
  - b. The order contains the date it was issued;
  - c. The order has an expiration date and has not expired;
  - d. The order contains the name of the issuing court; and
  - e. The order is signed by, or on behalf of a judicial officer.





ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-78 (Formerly 4-25) Effective: 05/23/2022 Review: 05/23/2023 Replaces: 05/16/2022

2. When an Order of Protection is presented to an officer by the complainant, the officer shall:
  - a. Determine whether the order is valid using the above-noted criteria;
  - b. Determine if the conduct is prohibited by the order;
  - c. Attempt to confirm the order through BCSO Warrants Section or NCIC;
  - d. If it is determined the restrained party has not been served, or they are unable to confirm the service, serve the restrained party with a copy of the restraining order and file a return of service through the BCSO Warrants Section;
  - e. If the officer has probable cause to believe that the Order of protection has been violated, summons or arrest the restrained party for the violation of the order, but only when an arrest is reasonably necessary to protect the protected party from further domestic violence;
  - f. If the officer has probable cause to believe that the Order of Protection has been violated, charge a violation of an Order of Protection; and
  - g. Enforce the provisions of custody as outlined in the Order of Protection that directs removing a child from the non-custodial parent or guardian.

H. Out-of-State Protective Order

1. All out-of-state protective orders shall be enforced as written.
2. All out-of-state protective orders are presumed valid upon presentation to law enforcement officers and under full faith and credit.
3. Out-of-state protective orders do not have to be filed in district court to be valid and enforceable.
4. Sworn personnel shall ensure that out-of-state protective orders are not confused with no-contact orders.