

## ILLINOIS STATE POLICE DIRECTIVE ENF-006, DOMESTIC VIOLENCE

<b>RESCINDS:</b> ENF-005, 2013-031, revised 03-13-2013.	<b>REVISED:</b> 11-02-2016 <b>2016-033</b>
<b>RELATED DOCUMENTS:</b> ENF-005, ENF-046, OPS-008, OPS-037, OPS-201	<b>RELATED CALEA STANDARDS:</b> 26.1.1, 52.1.1, 52.2.1, 52.2.7, 55.1.1, 55.1.3, 55.2.2, 55.2.3, 55.2.4, 61.1.2

### I. POLICY

The Illinois State Police (ISP) will:

- I.A. Treat domestic violence as criminal conduct.
- I.B. Respond to calls for assistance without unnecessary delay.
- I.C. Take all reasonable steps to prevent further abuse, neglect, or exploitation of domestic violence victims and to ensure referrals for follow-up services are provided to victims and witnesses.

### II. AUTHORITY

- II.A. 18 USC § 922, "Federal Gun Control Act of 1968." (d) Knowing sale to prohibited person; (g) Knowing possession of firearm by prohibited person
- II.B. People v. Evans, 259 Ill. App 3d 195. 631 N.E. 2d 281(1994)
- II.C. 430 ILCS 65/0.01, et seq., "Firearm Owners Identification Card Act"
- II.D. 720 ILCS 5/7-1, "Use of force in defense of person"
- II.E. 720 ILCS 5/12-3.2, "Domestic battery" and 720 ILCS 5/12-3.3. "Aggravated domestic battery"
- II.F. 720 ILCS 5/12-3.4 "Violation of an order of protection"
- II.G. 725 ILCS 5/111-8, "Orders of protection to prohibit domestic violence"
- II.H. 725 ILCS 5/112A, "Domestic Violence: Order of Protection"
- II.I. 740 ILCS 45/1, et seq., "Crime Victims Compensation Act"
- II.J. 750 ILCS 60/101, et seq., "Illinois Domestic Violence Act of 1986"
- II.K. 750 ILCS 61/1, et. seq., "Address Confidentiality for Victims of Domestic Violence Act"

### III. DEFINITIONS

- III.A. Domestic violence - when any family or household member commits or attempts to commit any of the following behaviors against another member:
  - III.A.1. Physical abuse
  - III.A.2. Harassment (including threats of physical force, confinement, or restraint)
  - III.A.3. Intimidation of a dependent
  - III.A.4. Willful deprivation
  - III.A.5. Interference with personal liberty

**NOTE:** This does not include reasonable direction of a minor child by a parent or person in loco parentis (to assume the duties and responsibilities of a parent). This section adopts the definition contained in 750 ILCS 60/103(3).

III.B. Family or household members

III.B.1. Spouses or former spouses

III.B.2. Parents, children, stepchildren, and other persons related by blood or by present or prior marriage

III.B.3. Persons who share, or formerly shared, a common dwelling

III.B.4. Persons who have, or allegedly have, a child in common

III.B.5. Persons who have, or have had, a dating or engagement relationship (excluding a casual acquaintanceship or ordinary fraternization between two individuals)

III.B.6. Persons with disabilities and their personal assistants

III.B.7. Persons who share, or allegedly share, a blood relationship through a child (i.e., mother-in-law vs. son-in-law where there is a child of the marriage)

III.B.8. Caregivers as defined in Section 12-4.4a or paragraph (3) subsection (b) of Section 12-21 of the Criminal Code of 1961

This section adopts the definition contained in 750 ILCS 60/103(6).

III.C. Primary aggressor - that person primarily responsible for the pattern of abuse or battering in the relationship. When determining the primary aggressor, officers will consider:

III.C.1. Prior complaints of domestic violence

III.C.2. Relative severity of injuries inflicted on each person

III.C.3. Likelihood of future injury to each person

III.C.4. The use of any weapon to inflict injury or to intimidate or threaten the victim

III.C.5. The relative fearfulness and excited utterances of each person

III.C.6. The context of violent acts by assessing:

III.C.6.a. The intent of the person who displayed violence

III.C.6.b. The meaning of the violent act to the victim

III.C.6.c. The effect of the violent act on the victim's behavior

III.D. Order of Protection

III.D.1. An Order of Protection is a written court order, signed by a judge, which requires an abusive household or family member to do or not to do certain things. There are three kinds of Orders of Protection:

III.D.1.a. **Emergency:** An Emergency Order may be obtained just on testimony and court appearance; that is, the abuser is not there to tell his side of the story. Before issuing an emergency Order of Protection, the judge must find that there is good cause to grant it without first notifying the abuser, and the judge must apply different standards before granting individual remedies (for example, that you would likely be harmed if the abuser knew you were seeking legal protection). Emergency Orders of Protection can last for not less than 14 days nor more than 21 days and can be extended one or more times for an additional 14-21 day period.

- III.D.1.b. **Interim:** An interim Order of Protection can be obtained in cases where the abuser has been notified of the court hearing but has not necessarily been personally served with all the legal papers. Interim Orders of Protection are good for up to 30 days, and can be extended one or more times.
- III.D.1.c. **Plenary:** A plenary, or full Order of Protection, is available when all the legal requirements of notice, service, etc. for the abuser have been satisfied. All remedies can be requested. A plenary Order of Protection can last for up to two years from the date the judge signs it, and it can be extended by the judge for up to two years longer.

#### IV. PROCEDURES

##### IV.A. Initial contact

- IV.A.1. During the initial contact, secure the scene and separate the subjects.
- IV.A.2. The officer will evaluate the subjects' physical condition. The officer will render first aid and, if necessary, request emergency medical assistance.

##### IV.B. Evidence collection

- IV.B.1. The investigating officer will conduct the investigation with the expectation that the case will proceed to trial without the victim.
- IV.B.2. The officer will request, if available, the audiotape of the 911 call, complaint, or call for assistance.
- IV.B.3. The officer will attempt to obtain photographs of injuries and/or property damage.
- IV.B.4. The officer will attempt to obtain written statements from victims, witnesses, suspects, and medical personnel.

**NOTE:** Refer to ISP directive OPS-201, "Evidence – Collecting and Packaging," for more information on evidence collection.

##### IV.C. Arrests without warrant

- IV.C.1. When an ISP officer is the first to respond or comes upon a domestic violence incident, the officer will immediately take all reasonable steps to protect the victim.
- IV.C.2. If the arrest of more than one person is appropriate, the officer will specifically document the basis for the multiple arrests. If the victim of a pattern of domestic violence has committed a crime, the officer is discouraged from arresting this person unless:
  - IV.C.2.a. Failing to arrest the victim would pose an immediate physical threat to the primary aggressor or another
  - IV.C.2.b. There is probable cause to arrest the victim for a crime
- IV.C.3. If an officer arrests the victim of domestic violence, the officer must still provide services to the victim as outlined in this directive and the Illinois Domestic Violence Act.
- IV.C.4. Officers will also arrest:
  - IV.C.4.a. Any subject who has violated the automatic 72-hour no-contact provision of a bail bond (or was released on recognizance).
  - IV.C.4.b. Any subject who has violated certain arrestable provisions of an Order of Protection (OP), under the following circumstances:

- IV.C.4.b.1) The officer has verified a valid OP is in effect through Law Enforcement Agencies Data System (LEADS) or by contacting the originating authority or referring to the victim's copy of such order (foreign/out-of-state). Orders of Protection will be presumed to be valid if they are certified and appear authentic and enforced if the violation is substantially similar to an arrestable remedy of an Illinois-issued OP.
- IV.C.4.b.2) The subject has knowledge of the OP.

**NOTE:** An entry of an OP is not in itself evidence of a crime or immediate threat to the victim.

#### IV.D. Weapons

##### IV.D.1. Used or threatened

Officers will take possession of all weapons and objects, including legally possessed firearms, if there is probable cause to believe these weapons or objects were used, or were threatened to be used, to commit domestic violence.

##### IV.D.2. Officers will check all persons involved in a domestic violence incident for issuance or ownership of a Firearm Owners Identification (FOID) card.

##### IV.D.3. Release on bond

When a person has bonded out (as determined by a court appearance) on a charge of domestic battery, one possible condition of the bond is that he/she is prohibited from possessing a firearm. Should an officer encounter someone whose bond requires the surrender of firearms, the officer will take lawful steps to confiscate firearms and FOID cards in the person's possession.

##### IV.D.4. Voluntary surrender of firearms

If a person offers firearms to an officer to be secured for safekeeping, and the owner of the firearms does not object or is not present, the officer will temporarily secure the firearms as property to be released upon proof of ownership and a valid FOID card.

##### IV.D.5. Orders of protection

IV.D.5.a. Officers who come upon a person in possession of firearms who is listed as the respondent to an active OP will notify the Firearms Services Bureau, Division of Administration, by LEADS message using CDC (KYW) or by telephone to 217/782-7980.

IV.D.5.b. If the OP meets the criteria as a qualifying court order under federal law or the order prohibits possession of firearms officers will:

- IV.D.5.b.1) Seize the firearms and secure them as property.
- IV.D.5.b.2) Seize the FOID card and return it to the Firearms Services Bureau.
- IV.D.5.b.3) Officers should provide the person from whom the FOID card and/or firearm(s) are seized ISP form 2-636 "Illinois State Police Firearm Disposition Record". Officers should instruct the person to complete and return the form to the Firearms Services Bureau.

#### IV.E. Orders of Protection

##### IV.E.1. If the OP has not been served:

##### IV.E.1.a. Officers will:

- IV.E.1.a.1) Inform the respondent of the contents of the order.

- IV.E.1.a.2) Complete the "Order of Protection Short Form Notification" (available from the ISP Quartermaster).
- IV.E.1.a.3) Provide the respondent with his/her copies of appropriate documents.
- IV.E.1.b. A telecommunicator will enter an add-on message to the LEADS entry indicating the order has been served and send a LEADS message to the originating agency.
- IV.E.2. Service of OPs and the notifications that follow will be documented in a Traffic and Criminal Software (TraCS) report or a Field Report. A copy of this report will be forwarded to the originating agency.
- IV.E.3. Foreign OPs
  - IV.E.3.a. An OP issued by a state, tribal, or territorial court related to domestic or family violence will be presumed valid where an order is certified and appears authentic on its face.
  - IV.E.3.b. Officers will arrest for violating a foreign OP if the remedy violated is substantially similar to the following remedies in an Illinois Order of Protection:
    - IV.E.3.b.1) Respondent is prohibited from committing certain acts of abuse or threats of abuse.
    - IV.E.3.b.2) Petitioner is granted exclusive possession of, and Respondent is prohibited from entering or remaining present at the residence/household.
    - IV.E.3.b.3) Respondent is ordered to stay at least \_\_\_ feet away from the Petitioner and/or protected person(s)' and their residence, school, daycare, employment and any other specified place.
    - IV.E.3.b.4) Respondent is prohibited from entering or remaining in the residence of household while under the influence of drugs or alcohol and constituting a threat to the safety or well-being of Petitioner or Petitioner's children.
    - IV.E.3.b.5) The Court finds that there is a danger of the illegal use of firearms by Respondent. Respondent is ordered to turn over any and all firearms.
- IV.F. Victim Assistance
  - IV.F.1. If an officer has reason to believe a person has been abused, neglected, or exploited by a family or household member, the officer will immediately take all reasonable steps to prevent further abuse, neglect, or exploitation. The officer will transport, or arrange for transportation, to a medical facility, if requested, and make appropriate referrals, (See ISP directive OPS-008, "Victim/Witness Services" for additional information on victim/witness referrals).
  - IV.F.2. An officer will request a department Juvenile Officer be contacted when an officer takes a child into protective custody or when an officer has reasonable cause to believe a child has been subjected to, or witnessed, domestic violence, abuse, or neglect.
  - IV.F.3. Officers will complete and distribute to the victim ISP 5-31a "Illinois State Police Victim/Witness Assistance Notification," and ISP 5-31c, "Domestic Violence Victim Information Sheet" (both forms are available in the ISP Document Library at <http://maphome/documentlibrary/>).
- IV.G. Follow-up
 

The investigating officer, the officer's immediate supervisor, or another assigned officer will contact the victim between 24 and 72 hours following the incident to determine if there are additional signs of injury, if the victim has had recent contact with the offender, and if there is a need for referrals or further assistance. Follow-up information will be documented on a supplemental report.

## IV.H. Other Law Enforcement Agencies

When more than one police agency is present, ISP officers will take all reasonable steps to ensure the requirements of the Illinois Domestic Violence Act are fulfilled. Duplication is not required if another agency has complied with the law enforcement responsibilities of the Act.

## IV.I. Reporting

IV.I.1. The responding ISP officer will complete a Field Report using the TraCS application, providing the district/work unit has functioning TraCS software.

IV.I.2. Officers who do not have access to a mobile data computer (MDC) or functioning TraCS software, at the time of the report, will complete a (hard copy) field report (ISP 5-048) or Investigative Report (4-3) as well as the applicable Domestic Violence Checklist (ISP 5-031), Domestic Violence Victim Information Sheet (5-031c), Domestic Violence Reference Information (5-031d) and Domestic Violence Addendum (5-0131dv), and enter the report(s) into TraCS when they return to their district/work unit.

The narrative will include:

- IV.I.2.a. Detailed observations of the victim, primary aggressor, visible injuries of either person, complaints of injuries by either person, and the presence of weapons or objects threatened to be used as weapons.
- IV.I.2.b. Description of the history of abuse and other relevant facts and circumstances used by the officer to identify the primary aggressor.
- IV.I.2.c. A description of the immediate threat that serves as the basis for any arrest of a victim of a pattern of domestic violence.
- IV.I.2.d. Interviews, statements, and excited utterances of all persons, including children, present at the time of the incident.
- IV.I.2.e. Victim statement as to frequency and severity of prior incidents by the same person.
- IV.I.2.f. The number of prior requests for police assistance, if known.
- IV.I.2.g. Whether the victim was advised of his or her rights under the Domestic Violence statute and given a copy of the Illinois State Police Victim/Witness Assistance Notification (see ISP directive OPS-008, "Victim/Witness Services").
- IV.I.2.h. How the victim was assisted and all victim and witness referrals made.
- IV.I.2.i. If no arrest is made, the rationale for non-arrest of any primary aggressor or OP violator.
- IV.I.2.j. The names, dates of birth, and contact information for children who have witnessed the incident.
- IV.I.2.k. Complete an Illinois State Police Domestic Violence Addendum, form ISP 5-31 dv, and submit with the report.
- IV.I.2.l. Complete a Domestic Violence Checklist (envelope), form ISP 5-31, and place all paperwork in the envelope to be submitted.
- IV.I.2.m. Field reports which include personally identifiable information of minors under the age of 18 must be labeled as a "juvenile record."

## IV.J. With respect to any domestic violence incident the ISP investigates, districts will notify:

IV.J.1. The local law enforcement agency in the jurisdiction of the victim's residence of the incident and document the notification on the report.

IV.J.2. The command of any law enforcement agency employing a person accused of domestic violence and document the notification on the report.

## IV.K. Involvement of an ISP employee in a domestic violence incident

## IV.K.1. Notification of Command

- IV.K.1.a. All employees, other than the victim of the alleged offense, will immediately notify their chain-of-command when they have direct knowledge that an employee has committed or made threats of domestic violence or are under investigation for criminal conduct.
- IV.K.1.b. Officers coming upon or responding to the scene of a domestic incident involving a current ISP employee accused of domestic violence will immediately notify the employee's chain-of-command.
- IV.K.1.c. Employees who learn they have been named in a complaint of domestic violence or as a respondent to a civil or criminal OP, or who have been implicated in a domestic call for police assistance will:
  - IV.K.1.c.1) Immediately notify their supervisor of the incident and of any injunction or order including the names of protected persons and remedies listed therein.
  - IV.K.1.c.2) Provide a copy of any order to their supervisor without unnecessary delay but within 24 hours of receipt of the order.
- IV.K.1.d. When an ISP officer is the subject of an order of protection, Commanders/Laboratory Director/Bureau Chiefs, or their designee, will immediately notify the Division of Administration, Firearms Services Bureau.
  - IV.K.1.d.1) An officer who is the subject of an order of protection is prohibited from possessing firearms.
  - IV.K.1.d.2) The Firearms Services Bureau will revoke the officers FOID card, if applicable, and notify the officer's chain of command and the Division of Internal Investigations.

**NOTE:** Complaints of domestic violence include any reports made to other investigating agencies such as the Illinois Departments of Human Services, Children and Family Services, or Aging, and complaints made to other law enforcement agencies or courts by the alleged victim or others.

- IV.K.2. When an incident involves an ISP employee accused of domestic violence, Commanders/Laboratory Directors/Bureau Chiefs, or their designee, will immediately notify the Division of Internal Investigation and a sworn supervisor who will ensure this directive is followed.
- IV.K.3. Supervisors will act to promote the safety of ISP employees who are victims of domestic violence. (See ISP directive ENF-046, "Workplace Violence," for specific responsibilities and options).

| Indicates new or revised items.

**-End of Directive-**