**Cheyney University Policy Number FA 2013-1012 – 4.13**

**Policy Title: CUPD Domestic Violence Policy**

**Approved by**: FA Council

President’s Cabinet

**History:** Issued – 8-1-12

Revised – 10-2-13

**Related Policies**:

**Additional References**:

**A. Purpose**

Domestic violence involves crimes against family members or other persons involved in varying degrees of intimate relationships. Domestic violence has the potential to significantly impact individual rights as well as the university community's need for maintaining functional campus families. When that functionality of interpersonal relationships is afflicted by acts of familial violence, police officers have a duty and an obligation to intervene through mediation, investigation, and/or enforcement efforts. The purpose of this policy, therefore, is to establish guidelines for officers in responding to and managing incidents involving, or allegations of, domestic violence.

B. Scope: All Students, Staff, Faculty, Parents/Guardians, Employees, Contractors, Visitors

C. Definitions:

1. Abuse

Occurrence of one or more of the following acts between family or household members, sexual or intimate partners, or persons who share biological parenthood.

1. Attempting to cause or intentionally, knowingly or recklessly causing bodily injury, serious bodily injury, rape, and spousal sexual assault or involuntary deviate sexual intercourse with or without a deadly weapon.
2. Placing another in reasonable fear of imminent serious bodily injury.
3. The infliction of false imprisonment pursuant to 18 Pa.C.S. Section 2903 (relating to false imprisonment).
4. Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place a person in reasonable fear of bodily injury.
5. Adult
6. An individual who is eighteen years of age or older.
7. Family or household members

1. Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

1. Minor
2. An individual who is not an adult
3. Victim
4. A person who is physically or sexually abused by a family or household member in accordance with the provisions of Act 85 of 1994 and/or 18 Pa.C.S.

**This order consists of the following sections:**

4.13.1 Definitions

4.13.2 Police Response Procedures

4.13.3 Preliminary Investigation

4.13.4 On Scene Procedures Without Arrest

4.13.5 Required Arrests Upon Probable Cause in Domestic Violence Cases

4.13.6 Seizure of Weapons

4.13.7 Victim Rights Notifications

4.13.8 Protection from Abuse Orders

4.13.9 Enforcement of Protection Orders

4.13.10 Notice of Arrest

4.13.11 Required Reports

4.13.12 Required Training

**D. Policy and Procedure(s)**

It is the policy of the department to view domestic violence as being within the scope of the criminal justice system and to insure that incidents of domestic violence are investigated and managed as any other crime, regardless of the relationship of the victim and the offender. It is further the policy of the department to comply with the provisions of 23 Pa.C.S. (The Domestic Relations Title), as amended by Act No. 85 of 1994 Section 6105, by instituting this written directive outlining the practices and procedures of department police officers when confronting and managing domestic violence cases.

**4.13.2 Police Response Procedures.**

1. Non-active incidents.
2. Domestic related incidents can be considered "non-active" when the alleged abuse is not in progress or the alleged abuser is no longer on the premises or threatening further abuse.
3. One or more officers shall be assigned to handle this type of incident depending upon the level of threat as assessed by the available information concerning the incident.
4. Active incidents
5. Domestic related incidents can be considered "active" when the alleged abuse is in progress and the victim is presently exposed to ongoing, further, or threatened acts of abuse.
6. All available officers shall respond to handle or assist in managing this type of incident until the scene is controlled and an assessment is made by on-scene officers as to the need for additional resources.

1. As soon as possible, all non-essential assisting officers shall be relieved from the incident for return to other patrol responsibilities.
2. Responding
3. Responding officers shall obtain all available information from the communications specialist before arriving at the scene and shall notify communications upon arrival.
4. Responding officers should avoid any use of sirens and emergency lights in the vicinity of the scene of the incident.
5. Responding officers should not park police vehicles directly in front of any residence, or other location, believed to be the site of the domestic related incident; but rather, approach the site from flanking positions that yield the most advantageous tactical considerations.
6. All active domestic related incidents shall be considered high risk and be approached using standard precautionary measures.

5. Responding officers should make an initial external assessment of the incident situation checking for danger signs, before making any committed approach or risking exposure while unprotected.

1. If the initial assessment indicates a hostage or barricaded situation exists, initially responding officer shall establish containment and summon a supervisor to the scene.

1. If the initial assessment indicates no hostage/barricade situation exists, and an approach can be made with safety, contact should be made with the disputing individuals and a preliminary investigation initiated.

**4.13.3 Preliminary Investigation**

1. Initial contact with participants.
2. Locate all involved individuals and control the scene for officer safety.
3. When necessary, force entry, if evidence exists of a serious crime in progress, or to protect a victim from continued assault.
4. Try to determine if there was abuse and/or a crime was committed, and to what extent.
	1. Assess any injuries and the need for emergency medical service response.

1. Summon medical resources, as required, and assist victim.
2. As soon as possible, create barriers/distance between the participants and interview them separately, preferably out of their individual hearing ranges.
3. Be attentive to the potential for surge violence by participants against each other or the police.
4. Maintain location/range for continuous intermittent eye contact with other interviewing officer(s).
5. If no violence has occurred, utilize conflict management and consultive skills.
6. If violence has occurred, continue as with any other emergency or crime scene where evidence needs to be identified, secured, preserved, and collected; consistent with the policies of this department.

**4.13.4 On Scene Procedures Without Arrest**

A. In all cases where an allegation of abuse or criminal conduct is made by an individual, the investigating officer shall:

1. Provide the victim(s) with the notifications and documents required under section 4.13.6 of this General Order.
2. Take a written statement from the victim(s) and witness(s), in cases where arrests are made, either at the scene or, arrange to do so, at the department.
3. Take photographs of all injuries and other evidence necessary for evidence based prosecution if so indicated.
4. File report(s) required by Section 4.13.9 of this general order.
5. In cases which the officer determines he will continue to investigate, or in which probable cause exists to file charges against an individual, charges shall be instituted in a timely manner consistent with the provisions of 18 Pa.C.S., the Pa. rules of Criminal Procedure, and the general orders of this department.
6. In cases where the victim(s) fear continued abuse, officers shall recommend other accommodations, consultation with abuse counselors, legal aid services, private counsel, and/or Protection Orders to ensure the victims' safety and prevent further abuse.
7. In cases where a victim alleges criminal conduct, and wishes to file criminal charges, and probable cause does not exist to take an individual into immediate custody, the investigating officer shall:
	* 1. Proceed as in sub-section "A" above.
8. In cases where a victim alleges criminal conduct but does not wish to file criminal charges, and probable cause does not exist to take an individual into immediate custody, the investigating officer shall:
	1. Proceed as in subsection "A" above and determine whether a prosecution is warranted or possible without the assistance of the victim.
9. In cases where a victim presents an allegation of abuse or non-violent domestic conflict, and a preliminary investigation does not indicate probable cause to indicate any criminal event, the investigating officer shall:
10. Complete reports required under section 4.13.9 of this general order.

**4.13.5 Required Arrests Upon Probable Cause in Domestic Violence Cases**

1. When recent physical injury to a victim or other cooberative evidence, is observed by an officer investigating a domestic violence incident, the officer shall have the same right of arrest without a warrant as in a felony when probable cause exists to believe the following crimes have been committed against a spouse or other person with whom the alleged person resides or has formerly resided:
2. Involuntary Manslaughter [Pa.C.S. 2504]
3. Simple Assault [Pa.C.S. 2701]
4. Aggravated Assault [Pa.C.S. 2702 (a) (3), (4), and (5)]
5. Recklessly Endangering [Pa.C.S. 2705]
6. Arrests shall be made in accordance with established departmental guidelines with the defendant being removed from the scene and transported for processing.
7. Preliminary Arraignment
8. A defendant arrested pursuant to this section shall be afforded a preliminary arraignment by an issuing authority having jurisdiction as authorized by the Judicial District.
9. In no case shall the arresting officer release the defendant from custody rather than taking the defendant before an issuing authority.
	* 1. **Seizure of Weapons**
10. The arresting officer shall seize all weapons used by the defendant in the commission of an alleged offense.
11. Weapons seized shall be secured and processed in accordance with proper evidence collection and preservation practices outlined in the general orders of the department.
12. Weapons seized shall be maintained with a proper chain of custody and entered into the property management system as outlined by general order of the department.
13. Custody shall be maintained until a disposition of the case is determined by a court of jurisdiction and an order is issued by the court for disposition of the weapon(s).

**4.13.7 Victim Rights Notifications**

1. Upon responding to a domestic violence case, the police officer shall provide the abused person with oral and written notice of the availability of safe shelter and of domestic violence services in the community, including its hot line phone number for domestic violence services. The written notice, which shall be in English and Spanish, and any additional language required by local rule of court, shall include the following statement:

 "If you are the victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from domestic abuse pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) which could include the following:

1. An order restraining the abuser from further acts of abuse.
2. An order directing the abuser to leave your household.
3. An order preventing the abuser from entering your residence, school, business or place of employment.
4. An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.
5. An order directing the abuser to pay support to you and the minor children, if the abuser has a legal obligation to do so."
6. n order directing the abuser to refrain from stalking or harassing you or other designated persons.
7. Written notification forms
8. The department shall provide “Rights and Services Available to Victims of Crime in Pennsylvania" forms that are in compliance with the requirements of 18 Pa.C.S. Section 2711 (d) and 23 Pa.C.S. Section 6105 (b).
9. Officers responding to a domestic violence incident shall orally, and in writing, communicate the provisions of the written notice as provided to all parties who are found to be victims of abuse.
10. The officer(s) issuing the written notice shall have the victim(s) acknowledge receipt of the notice(s) by signing a prescribed receipt attached to the notice.
11. The receipt shall be returned to the department and attached to the Incident Report required by Section 4.13.10 of this general order.

**4.13.8 Protection from Abuse Orders**

* 1. Statewide Registry of Orders

1. The Pennsylvania State Police maintains a registry in which it shall enter certified copies of orders entered by courts from jurisdictions in this Commonwealth.
2. PFA's shall be checked in the Statewide CLEAN database by any officer presented with an order by a plaintiff. The order shall be enforceable under 23 Pa.C.S. Section 6117 regardless of whether or not it was originally entered in this County.
3. Application for Protection Orders through County Courts
4. When a private attorney is not used for securing a protection order, persons interested in application should seek orders through the County Victim/Witness Assistance Program.
5. All officers should direct protection order applicants to the County Victim/Witness Assistance Program during normal business hours.

 C. Issuance of Emergency Orders

1. Officers shall direct victims of abuse in the process of how to proceed in securing a Temporary Emergency Protection From Abuse Order through the County Victim/Witness Assistance Program.

 D. Service of Emergency Orders.

1. When provided with a certified order and requested to provide emergency service, officers, after ascertaining jurisdiction and validity of the order, shall make every attempt to assist the plaintiff in service of the order to the defendant.
2. Service of orders shall be consistent with the general orders of this department concerning the service of civil processes and/or court orders.

**4.13.9 Enforcement of Protection Order**

1. Authority to Arrest Without a Warrant.
2. A police officer may arrest for a violation of a Protection Order upon probable cause, whether or not the violation of the Order occurred in the presence of the officer, in circumstances where the defendant has violated a provision of the order relating to the following conditions:
3. Where the defendant has been directed by the court to refrain from abusing the plaintiff or minor children.
4. Where possession of the residence or household to the plaintiff, to the exclusion of the defendant by eviction, has been granted by the court.
5. Where the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant or restoring possession to the plaintiff or, with the consent of the plaintiff, ordering the defendant to provide suitable alternate housing.
6. Where temporary custody of, or temporary visitation rights with regard to, minor children have been established by the court.
7. Where the defendant is prohibited from having any contact with the plaintiff or minor children, including, but not limited to, restraining the defendant from entering the place of employment or business or school of the plaintiff or minor children and from harassing the plaintiff or plaintiff's relatives or minor children.
8. Where the defendant has been ordered to temporarily relinquish to the Sheriff the defendant's weapons which have been used or been threatened to be used in an incident of abuse against the plaintiff or the minor children, and prohibits the defendant from acquiring or possessing other weapons for the duration of the order.
9. Mandatory Arrests for Violations of Protection Orders
10. A police officer shall arrest a defendant for violating an order issued under 23 Pa.C.S., Chapter 61, by a County Court; issued by a court in another judicial district within this Commonwealth; or issued by another state and registered pursuant to the requirements of the aforementioned statute citation or verified through the Pennsylvania State Police registry.
11. Police officers shall make every attempt to verify, if necessary, the existence of a protection order by telephone or radio communication with the appropriate police department, county registry, or issuing authority.
12. Teletype message confirmations, through the CLEAN system, or FAX copies of the certified orders should be requested in all cases where enforcement of an order is effected or anticipated.
13. Procedure Following Arrest
14. Following arrest, the defendant shall be transported to the police department booking center for processing in accordance with the General Orders of the department concerning prisoner transportation and processing.
15. A charge of ‘Indirect Criminal Contempt’ shall be completed by the arresting officer, in addition to any other charges that may have accompanied the arrest situation.
16. Subsequent to processing, the defendant shall be taken, without unnecessary delay, before the court in the judicial district where the contempt is alleged to have occurred for arraignment.
17. When the court is unavailable, the defendant shall be taken before a District Justice designated as appropriate by local rules of the court; i.e., Night Court, for disposition.

**4.13.10 Notice to Plaintiff or Victim**

* 1. Notice of Arrest for Protection Orders
1. The arresting officer shall make reasonable efforts to notify any adult or emancipated minor protected by an order issued under 23 Pa.C.S., Chapter 61, of the arrest of any defendant for violation of an order as soon as possible following the arrest.
	1. Notice of Disposition Following an Arrest Arraignment.
2. The arresting officer shall make reasonable efforts to notify any adult or emancipated minor protected by an order issued under 23 Pa.C.S., Chapter 61, or a victim of any crime where the defendant was arrested under the authority of 18 Pa.C.S., Section 2711 (related to probable cause arrests in domestic cases), within 24 hours following the disposition of the defendant at arraignment before a District Magistrate.

1. Notice shall include the provisions of the Certificate to Facilitate Bail so the plaintiff or victim is fully informed of the defendant's disposition before the Magistrate.
2. Notice of Release from Incarceration
3. When an officer becomes aware that a defendant in a domestic violence incident was incarcerated and has posted bail, has escaped, or otherwise has been released from incarceration, the officer shall make reasonable efforts to notify any adult or emancipated minor listed as a victim of the crimes alleged to have been perpetrated by the defendant.

1. Documentation of Notice
2. All notices, and actions completed in attempting notice, shall be documented by the officer as a Supplemental Incident Report to the original case report by the officer making or attempting notice.

**4.13.11 Required Reports.**

1. Mandatory Incident Reports
2. On all incidents involving domestic violence where a criminal act is alleged, police officers shall complete an incident report in conformance with the requirements for the incident reporting system outlined in the general orders of the department.
3. In addition to any local report, police officers shall comply with the reporting requirements which may be prescribed by the Pennsylvania State Police, consistent with the data required by the National Incident-Based Reporting System (NIBRS), when that system is implemented.
4. Narratives
5. In addition to the biographical information requested in the report fields, officers completing incident reports should consider including the following information when it is applicable and available:
6. A second permanent address and telephone number for the victim, such as a close personal friend.
7. A statement of the relationship between the victim and the accused.
8. The date and time the incident occurred as well as whether the accused appeared intoxicated or under the influence of a controlled substance.

1. What, if any, weapons were used or threatened to be used.
2. A description of any injuries observed by the officer.
3. A description of any injuries described by the victim, but not observed by the officer, and an indication that the injury was not observed.
4. Documentation of any evidence that would tend to establish that a crime was committed.
5. An indication of whether an arrest was made or the reason for electing not to arrest. If an arrest was made, whether it was on-view, a warrantless arrest, or an arrest with a warrant, if an outstanding arrest warrant exists requiring service.
6. The crimes with which the accused was charged.
7. If the accused was arrested and arraigned, whether bail was set and any conditions of bail imposed.
8. The names and ages of any children present in the household and their addresses and telephone numbers, if children were relocated.
9. Notation of previous incidents of which the officer is personally aware.

(13) Notation of previous incidents reported by the victim or witnesses.

1. If an officer was injured in the incident, the nature and circumstances of the injury.
2. If the officer did not arrest or seek an arrest warrant, even though probable cause existed and an arrest was authorized, a detailed explanation of the reason(s) for the officer's decision not to arrest shall be included in the narrative section of the incident report.
3. Departmental Reporting
4. The department shall transmit to the Pennsylvania State Police, the information required, in the form specified, relating to crimes of violence between family or household members for inclusion in the statewide annual report required under 23 Pa.C.S. Section 6105 (g).

**4.13.12 Required Training**

1. The department shall ensure that all police officers, and any other employee having responsibilities which include involvement with any part of this general order, are familiar with the following:
2. Provisions of 23 Pa.C.S. (Domestic Relations), Chapter 61; including Section 6105 (relating to "Responsibilities of Law Enforcement Agencies").
3. Provisions of 18 Pa.C.S. (Crimes Code), Section 2711
4. Provisions of this General Order
5. Remedial Training
6. Any supervisor may recommend, and the Chief of Police may require, any department employee to submit to remedial training when their performance is not in compliance with the provisions of this general order or Pennsylvania law concerning the appropriate handling of domestic violence incidents.

**III. Effective**

 **By order of:**

 **Chief of Police**