

DOMESTIC VIOLENCE RESOURCE CARD

Domestic Violence First Degree {See §13A-6-130 Ala. Code 1975}

- Commits Assault 1 (§13A-6-20) AND has qualified relationship with the victim.
- Qualified relationship is a current or former spouse, current or former household member, child, parent, have child in common, or involved in dating/engagement relationship with offender.
- Class A Felony

Domestic Violence Second Degree {See §13A-6-131 Ala. Code 1975}

- Commits Assault 2 (§13A-6-21) AND has qualified relationship with victim.
- Class B felony

Domestic Violence Third Degree {See §13A-6-132 Ala. Code 1975}

- Commits Assault 3 (§13A-6-22), Menacing (§13A-6-23), Reckless Endangerment (§13A-6-24), Criminal Coercion (§13A-6-25), Harassment (§13A-11-8(a)), AND has qualified relationship with victim.
- Class A Misdemeanor

Protection Order Violations {See §30-5-9 & §30-5A-3, 4 Ala. Code 1975}

A willful violation of a protection order is a Class A misdemeanor and the officer may arrest without a warrant.

Warrantless Arrest {See §15-10-3 (8) Ala. Code 1975}

When an offense involves domestic violence and the arrest is based on probable cause regardless of whether the offense is a felony or misdemeanor, an officer may arrest a person without a warrant.

Holding Period Required Before Release {See §15-13-190 Ala. Code 1975}

Offender may not be admitted to bail until after an appearance before a judge or magistrate within 12 hours of the arrest and if the person is not taken before a judge or magistrate within 12 hours, he or she shall be released on bail. Prior to the release of the person, the judge or magistrate shall review the facts of the arrest to determine whether the person is a threat to the alleged victim, is a threat to public safety, and is reasonably likely to appear in court.

Primary Aggressor Determination {See §13A-6-134 Ala. Code 1975}

If law enforcement officer receives complaints from two parties, the officer shall evaluate each complaint separately to determine who was the primary aggressor and need not arrest the other person alleged to have committed domestic violence. The officer shall consider: prior complaints, relative injuries, likelihood of future injuries, and who may have acted in self-defense.

This project was supported by Grant No. 2002 WE-AR-001 awarded by the Violence Against Women Office, Office of Justice Programs and U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice

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EVIDENCE-BASED PROSECUTION CHECK LIST

Evidence-based prosecution is a very effective method in responding to domestic violence cases. This method involves collection of all relevant evidence. Evidence-based prosecution techniques reduce the dependency of the case on merely the victim's statements, increase the ability of the officer to build a credible case, and enhance the likelihood of successful prosecution.

Example of items to collect, but not limited to:

- Statements documented from all parties
- Excited utterances and spontaneous statements
- Appearance and demeanor of all parties documented
- Appearance of scene documented
- Injuries of all parties photographed, described and/or diagramed
- Remove weapons used in incident, in plain view or if consensual search is conducted
- Collect torn clothing
- Medical records
- Prior police reports
- Copies of restraining orders
- 911/emergency tape
- Use supplemental forms
- Follow-up photographs

Predominate/Primary Aggressor Determinations

Other considerations to assist in making a determination:

- Self-defense wounds (scratches to the back of hands, face and neck, bite marks on inside of arms or chest, injury on top of head, injuries on back, buttocks and back of legs indicating defensive fetal position).
- Body language
- History of abuse
- Witness statements
- Excited utterances
- Crime scene (does it match the statements of the parties)
- Whose things are broken?

Domestic Violence Crisis # 1-800-650-6522

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