

**DIRECTIVE 55.2
VICTIM / WITNESS ASSISTANCE
OPERATIONS**

Issue Date: 05/13/2020	By Order of Chief of Police
Rescinds: (Issue 08/27/2015)	CALEA Standards
Pages: 13	Referenced: 55.2.1; 55.2.2; 55.2.3; 55.2.4; 55.2.5 & 55.2.6

This directive consists of the following sections:

- 55.2.1 Initial Assistance**
- 55.2.2 Assistance, Threats**
- 55.2.3 Assistance, Preliminary Investigation**
- 55.2.4 Assistance, Follow-Up Investigation**
- 55.2.5 Assistance, Suspect Arrest**
- 55.2.6 Next of Kin Notification**

POLICY AND PROCEDURE:

Miami Township Police Department is committed to the goal that victim/witnesses receive professional handling consistent with their important investigative and prosecutorial role. The Department must make every reasonable effort to assure that the personal rights and safety of the victim or witness are protected by its actions. Department members are to be particularly sensitive to the special needs of the victim and families of crimes such as domestic violence, child abuse, sexual assault and abuse of the elderly because of their effect on the delicate structure of the family unit and the community in general.

It is the policy of the Miami Township Police Department to treat victims and witnesses with fairness, compassion and dignity. The Department is committed to the development, implementation and perpetuation of appropriate victim/witness assistance programs and activities, which will provide victims and witnesses of crime with all reasonable assistance.

55.2.1 Initial Assistance

Miami Township Police Department personnel have access to agency and other organizations victim/witness assistance information. Community members can also receive this information via the main business phone number.

Information Regarding Assistance Supplied by the Agency Directly

The Miami Township Police Department makes the following victim/witness assistance information available 24 hours a day by the agency directly:

- Emergency or routine response as needed to calls for assistance or information.
- Crime Victim Information Packet
 - Your Rights & Responsibilities as a Crime Victim.
 - Victim Information & Notification Everyday (VINE).
 - Clermont County Victim Assistance Brochure.
 - Crisis Information Service Directory & 24-Hour Hotline Resources.

Referral Information Regarding Services by Other Organizations

It is the policy of the Clermont County Department of Public Safety Services (CDPSS) to maintain a current list of telephone numbers of emergency service agencies. These numbers are immediately available to all CDPSS personnel in the CAD Dialer File.

55.2.2 Assistance, Threats

All personnel will treat threats or a victim/witnesses concern of intimidation or further victimization with sensitivity and concern. Personnel will provide appropriate assistance to victim/witnesses who have been threatened or who express specific, credible reasons for fearing intimidation or further victimization. Protective measures may be implemented and extended within the jurisdictional boundaries of Miami Township to protect persons to whom there is a real and tangible danger of serious physical harm. The specific level of danger of physical harm required to implement affirmative protective measures will be determined by the shift supervisor based on the facts and circumstances of each individual case that arises.

An information or incident/offense report will be completed so as to disseminate such information to all department personnel.

Protective measures may include but are not limited to the following:

- Recording and/or tracing of phone threats.
- Additional or directed patrol and or fixed surveillance in the area of the victim/witness neighborhood, home or place of business.
- Escorts or surveillance upon request from the victim's home, business or their vehicle, to ensure that they are not being followed.
- Persuading the victim to take up temporary residence at a safe location until a court injunction be obtained or an arrest made.
- Coercive protective detention and custody of a material witness to a homicide or other serious felony, when a likelihood that there will be violence against the

victim/witness. Coercive protective detention and custody requires the permission of the Chief of Police and the Clermont County Prosecutor.

- Advise the victim of the availability of Protection Orders or take Protection Order enforcement, if needed.
 - The officer shall advise the victim of an incident of domestic violence; or an offense of assault, menacing by stalking, or aggravated trespass which involves a person who was a family or household member, of the availability of a temporary protection order or civil protection order and how to obtain such order.
 - Should the victim request a protection order but is unable to appear before the court because of hospitalization or a medical condition resulting from the incident, the officer shall inform the victim that another person may appear on their behalf.
 - The officer shall inform the victim that during all stages of a proceeding dealing with a protection order that they may be accompanied by a person to provide support to them.
 - Officers shall enforce protection orders issued by any Ohio court, regardless of whether the order is issued or registered in the county in which the agency is located.
 - The Ohio Revised Code allows the complainant of a protection order to file a notice of the issuance of a protection order with any law enforcement official in any county other than the county in which the order is issued.
 - An officer who receives such notification shall request the complainant to provide this department with the contact information of the court issuing such protection order along with the law enforcement agency of jurisdiction to which the original protection order would have been issued. The complainant shall be requested to provide this agency with a copy of the protection order. The officer will place the copy in the binder in the squad room where current protection orders and consent agreements are kept.
 - Failure of the complainant to provide any of the requested information does not relieve officers from the duty to enforce, pursuant to the Ohio Revised Code, a valid protection order.
- If the victim is a juvenile, a Juvenile Civil Protection Order [ORC 2151.34] or a Domestic Violence Civil Protection Order [ORC 3113.31] may be requested through Juvenile Court. Law enforcement officers shall advise juvenile victims of the availability of these protection orders when investigating offenses of felonious

assault, aggravated assault, menacing, menacing by stalking, menacing, aggravated trespass, sexually oriented offenses and domestic violence. Information on obtaining these protection orders is included in the Victim/Witness Assistance Packet which shall be given to juvenile victims of the listed offenses.

- Juvenile protection orders must be filed in the County where the alleged victim resides and the respondent must be under the age of 18.
- Violation of a Juvenile protection order/consent agreement is subject to contempt, delinquency proceeding or criminal prosecution under ORC 2919.27.
- Victim advocate may attend hearings.
- A Juvenile Civil Protection Order may be filed by minor, parent, or adult family member or any other person the court determines is appropriate to seek relief for a child.
- A Domestic Violence Civil Protection Order may be filed by minor, parent or adult family member.

Whenever an officer of the Miami Township Police Department becomes aware of potential physical danger to a victim/witness who resides in another jurisdiction, the officer shall:

- Contact a supervisor of the appropriate law enforcement jurisdiction and advise them of the circumstances of the incident, the nature of the threat and request that reasonable precautions or protective measures be taken by that agency. Document the name of the agency contacted, name of persons advised and the information given them. This information will be given to the case investigator and placed in the case file.
- Request that the agency contacted forward to this department, directly to the investigating officer if available, any information regarding the victim/witness.
- Should the other jurisdiction be within Clermont County, the officer receiving such information shall contact the CDPSS and advise their on-duty supervisor of the available information and location of the potential threat. The officer shall request that dispatch personnel be made aware of the information, should a call be received in reference to activity from the location.

When this agency is contacted by another agency in reference to potential physical danger to a victim/witness who lives or works in Miami Township, the Department will:

- Document the name of the department requesting the assistance, the investigating officer's name, the name of the person requesting the assistance and a 24-hour contact phone number.

- Obtain as much information as possible about the victim/witness and the type of crime involving the victim/witness. Confirm that the victim/witness has been made aware of the threat.
- Obtain as much information as possible about the suspect involved as well as the source and reliability of the information concerning the threat.
- The officer receiving such information will complete a report documenting all information supplied by the requesting agency and the information will be placed on an Information/Incident Notice for distribution to all shifts.
- Information concerning the victim/witness will be immediately forwarded to the agency requesting the assistance.

Domestic Violence & Protection Order Violations

ORC 2935.032 requires that the Miami Township Police Department have a policy regarding violations of domestic violence incidents or protection order violations. Certain requirements are placed upon police officers in these situations. Officers of the Miami Township Police Department responding to calls of domestic violence or violations of protection orders or consent agreements shall:

Definitions

Domestic Violence means any of the following; A) knowingly cause or attempt to cause physical harm to a family or household member; B) recklessly cause serious physical harm to a family or household member; C) by threat of force, knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member, D) committing any act with respect to a child that would result in the child being an abused child, as defined in section 2151.031 of the Ohio Revised Code.

Domestic Dispute means that the victim/complainant and a family or household member engaged in a dispute which neither person implied, threatened, attempted or caused physical harm to another family or household member.

Family or Household Member means any of the following who is residing or has resided with the offender; A) Spouse, a person living as a spouse, or a former spouse of the offender; B) Parent or a child of the offender, or another person related by consanguinity or affinity to the offender; C) Parent or a child of a spouse, person living as a spouse, or former spouse of the offender or another person related by consanguinity or affinity to a spouse, person living as a spouse or a former spouse of the offender.

Person Living as a Spouse means a person who is living or has lived with the offender in a common-law marital relationship (including same sex couples), who otherwise are cohabiting with the offender, who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question, or who is the natural parent of the offender's child.

Response

Officers will respond without undue delay to all reported alleged incidents of domestic

violence and/or violation of a protection order or consent agreement pursuant to this department's policy regarding vehicle operation. Upon arrival the officer(s) shall conduct an investigation into the incident to determine if an incident of Domestic Dispute, Domestic Violence and/or Violation of a Protection Order occurred. Should such investigation find reasonable grounds that such act(s) occurred then the officer(s) shall take the appropriate action pursuant to this policy and/or the requirements of the Ohio Revised Code.

An officer has reasonable grounds to believe that an incident of domestic violence or a violation of a protection order has occurred if: a) a person executes a written statement alleging domestic violence or a violation of a protection order; b) no written statement is executed, but the officer, based upon trustworthy information given to them by the alleged victim or witness to the offense concludes that there are reasonable grounds; c) the officer witnessed the offense.

Reporting Requirements

An officer shall file a written report or make a computerized data entry upon the establishment, or receiving a report from any person, that an incident of Domestic Dispute, Domestic Violence or Violation of a Protection Order has occurred. This report shall document the incident, the reporting officer's observation of the persons involved, visible injuries, any weapons involved or alleged to be involved, statements obtained from all involved persons and witnesses of the incident. The officer shall document in writing with the report when such required information is not obtained.

An officer shall not require that the victim consent to the filing of charges or sign a complaint against the violator as a prerequisite to filing a report or executing an arrest pursuant to an act of domestic violence.

An officer shall take a written statement containing information as to the incident being reported and information which indicates: a) the frequency and severity of any prior incidents; b) the number of times the victim has called for assistance; c) the disposition of those requests for assistance, if known, from each victim of an incident of domestic violence or violation of a protection order.

When an officer has reasonable grounds to make an arrest of the person(s) involved in the domestic violence or violation of protection order incident, but does not make an arrest, the reporting officer shall indicate in the written report of the incident a statement detailing the reasons for not making such arrest(s).

The officer shall, when the alleged offender has been granted pretrial release of a prior charge of domestic violence or violating a protection order and has violated one or more conditions of the pretrial release, document in writing the facts and circumstances of the violation in the report of the incident.

Investigation Procedure

Upon arrival, the officer shall separate the victim and the offender into different areas at

the scene. Such separation should remove the victim and offender from the sight and sound of each other.

Conduct interviews with the victim, offender and witnesses; each separate and apart from each other. A written statement may be obtained from each person involved to record victim's statements. Should a person refuse to provide a written statement to an officer, the officer shall document this refusal, and shall personally document on a supplemental report to the incident report any relevant statements about the incident made by the person refusing to provide a written statement.

Evidence will be collected and processed by officers in the same manner as would occur in the investigation of any other crime and pursuant to department evidence handling procedures. Evidence shall include, but not be limited to: documented observation of the injury or injuries of the victim(s) including any medical examination which corroborates the injury; evidential articles that substantiate the incident including any weapon or any item, thing or device used as a weapon; photographs taken of injuries or of the scene; and/or a written description of the scene.

Determination of Offense

When an officer has determined that there are reasonable grounds to believe an offense of domestic violence or violation of a protection order has occurred and the person who committed the offense is present or reasonably accessible the preferred course of action shall be for the officer to arrest the person who committed the offense. If there are reasonable grounds to believe that family or household members have committed the offense, the preferred course of action shall be for the officer to arrest the primary physical aggressor if present or cause an arrest warrant to be filed if the aggressor has fled.

In determining who is the primary physical aggressor the officer should consider all relevant circumstances including: a) any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain, b) whether the alleged violence was caused by a person acting in self-defense, c) each person's fear of physical harm, if any, resulting from the other person's threatened use of force against any person or resulting from the other person's use or history of the use of force against any person, and the reasonableness of that fear, and d) the comparative severity of any injuries suffered by the person(s) involved in the alleged offense.

Upon investigation of an incident where the officer has determined that there are reasonable grounds to believe an offense of domestic violence, violation of a protection order or violation of a consent agreement has occurred and there are reasonable grounds to believe that a person knowingly caused serious physical harm to another or knowingly caused or attempted to cause physical harm to another by means of a deadly weapon or dangerous ordnance, as defined in section 2923.11 of the Ohio Revised Code, then, regardless of whether the victim of the offense was a family or household member of the offender, the officer shall treat the incident as felonious assault, shall consider the

offender to have committed and the victim to have been the victim of felonious assault, shall consider the offense that was committed to have been felonious assault in determining the manner in which the offender should be treated, and shall comply with whichever is applicable:

- Unless the officer has probable cause to believe that, during the incident, the offender who committed the felonious assault and one or more other persons committed offenses against each other, the officer shall arrest the offender who committed the felonious assault pursuant to section 2935.03 of the Ohio Revised Code and shall detain the offender pursuant to that section until a warrant can be obtained, and the arrest shall be for felonious assault.
- If the officer has probable cause to believe that, during the incident, the offender who committed the felonious assault and one or more other persons committed offenses against each other, the officer shall determine in accordance with Division (B) (3) (d) of section 2935.03 of the Ohio Revised Code which of those persons is the primary physical aggressor, if the offender who committed the felonious assault is the primary physical aggressor, the officer shall arrest that offender for Felonious Assault pursuant to section 2935.03 of the Ohio Revised Code and shall detain the offender pursuant to that section until a warrant can be obtained, and the officer is not required to arrest but may arrest pursuant to section 2935.03 of the Ohio Revised Code any other person who committed an offense but who is not the primary physical aggressor. If the offender who committed the felonious assault is not the primary physical aggressor, the officer is not required to arrest that offender nor any other person who committed an offense during the incident but may arrest any of them pursuant to section 2935.03 of the Ohio Revised Code and detain them pursuant to that section until a warrant can be obtained.

Upon investigation of an incident where the officer has determined that there are reasonable grounds to believe an incident of domestic violence, violation of a protection order or violation of a consent agreement has occurred and that there are reasonable grounds to believe that a person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, knowingly caused serious physical harm to another or knowingly caused or attempted to cause physical harm to another by means of a deadly weapon or dangerous ordnance, as defined in section 2923.11 of the Ohio Revised Code, then, regardless of whether the victim of the offense was a family or household member of the offender, the officer shall treat the incident as aggravated assault, shall consider the offender to have committed and the victim to have been the victim of aggravated assault, shall consider the offense that was committed to have been aggravated assault in determining the manner in which the offender should be treated, and shall comply with which ever of the following is applicable:

- Unless the officer has reasonable cause to believe that, during the incident, the offender who committed the aggravated assault and one or more other persons committed offenses against each other, the officer shall arrest the offender who

committed the aggravated assault pursuant to section 2935.03 of the Ohio Revised Code and shall detain him pursuant to that section until a warrant can be obtained, and the arrest shall be for aggravated assault.

- If the officer has reasonable cause to believe that, during the incident, the offender who committed the felonious assault and one or more other persons committed offenses against each other, the officer shall determine in accordance with Division (B) (3) (d) of Section 2935.03 of the Ohio Revised Code which of those persons is the primary physical aggressor, if the offender who committed the aggravated assault is the primary physical aggressor, the officer shall arrest that offender for aggravated assault pursuant to section 2935.03 of the Ohio Revised Code and shall detain the offender pursuant to that section until a warrant can be obtained, and the officer is not required to arrest but may arrest pursuant to section 2935.03 of the Ohio Revised Code any other person who committed an offense but who is not the primary physical aggressor. If the offender who committed the aggravated assault is not the primary physical aggressor, the officer is not required to arrest that offender or any other person who committed an offense during the incident but may arrest any of them pursuant to section 2935.03 of the Ohio Revised Code and detain them pursuant to that section until a warrant can be obtained.

When investigating an incident of domestic violence where the officer determines that a deadly weapon has been used or displayed the officer shall seize the weapon as contraband pursuant to Section 2935.03. The officer shall file any charges appropriate for the possession, display, use or misuse of the weapon.

Should the determination be that the incident was one of a Domestic Dispute the officer shall complete a report of domestic dispute, indicating that the person(s) involved were advised of the domestic violence statute and that the complainant or person(s) involved indicated that no offense of domestic violence occurred.

- The officer shall provide to the person(s) involved information as to obtaining assistance to resolve future disputes (Counseling Center, Women's Helpline, etc.) by providing a copy of the Victim Assistance Program pamphlet provided by the Victim Assistance Program.

To provide for acceptable alternatives to arrest, an officer may elect not to arrest in a domestic violence situation where no serious physical harm has occurred or weapon been used, if the victim(s) and offender(s) involved in the incident agree that the situation can be resolved without arrest.

- If any alternative to arrest is utilized, the facts supporting the action(s) of the officer(s) shall be completely documented.
- The reporting officer shall provide information as to obtaining assistance to resolve current and future disputes (Counseling Center, Women's Helpline, etc.).
- Any alternative to arrest shall be approved by the shift supervisor.

- When an alternative to arrest is used all required paperwork utilized to document a domestic violence complaint shall be completed.

Unless the arrest is required by law, when an arrest is the preferred course of action the officer may choose not to effect an arrest when due to exigent circumstances the arrest would create a condition which would prevent the effective and efficient delivery of law enforcement services to the citizenry to the extent that such condition would pose a threat to the safety and security of the citizenry as a whole.

Officers may not fail to arrest an offender when the arrest of the offender is warranted or required by this policy because of a shortage of detention facility space or that the arrest would contribute or cause such a shortage of space.

55.2.3 Assistance, Preliminary Investigation

The Miami Township Police Department will provide the following services to victim/witnesses, at a minimum, during preliminary investigations. Upon completion of the initial investigation, the officer shall do all of the following:

- Give information to the victim/witness about applicable services which would include but not limited to compensation programs, counseling programs, county victim advocacy programs, etc. through referral and/or issuance of the crime victim packet.
- Advise the victim what to do should the suspect or others threaten or otherwise intimidate them. Provide the victim with a business card with the emergency response telephone number.
- Provide information on how to obtain the report number of the incident and explain fully the subsequent steps in the processing of the case.
- Provide the victim the reporting officer's name, and the telephone number of the police department (this can be accomplished by giving the victim the officer's business card). Advise victim they may call to report additional information or to receive information regarding the status of the case.

55.2.4 Assistance, Follow-Up Investigation

The Miami Township Police Department will provide the following services, at a minimum, during the follow up investigation:

- If in the opinion of the investigating officer, supervisor or other competent authority, the impact of a crime on a victim/witness has been unusually severe, the investigating officer shall make periodic contact to determine whether the victim/witnesses needs are being met and/or additional assistance is needed.
- Provide an explanation to the victim/witness of the procedures involved in the prosecution of their case and their role in those procedures, unless such explanation would interfere with the appropriate and successful prosecution of the case.

- When possible, schedule interviews, line-ups and other required contacts or appearances at the victim/witness' convenience. Provide transportation as necessary for such needs.
- When possible and as permitted by law or rules of evidence, promptly return property to the victim/witness which was taken as evidence.
- Whenever necessary and reasonable, arrange for a victim/witness advocate to assist the victim/witness during follow-up investigation.
- If required, ensure copies of incident and supplement reports are forwarded to local prosecutor's office

55.2.5 Assistance, Suspect Arrest

The case investigator when possible and appropriate will contact the victim/witness when a suspect is arrested, the charges filed and the arrested suspect is in custody.

Whenever the investigating officer becomes aware of changes in the arrested person's custody status, the officer shall attempt to notify the victim or witness of the current status and location of the offender, if known.

Witnesses and victims should be notified in person or by phone of all required upcoming court appearances as soon as possible in advance of scheduled appearances by personal contact by the investigating officer and/or the arresting officer. Such notification should not be left up to the court or the prosecutor but should be made by police in addition to other agencies.

Officers should be prepared and voluntarily provide any information on the criminal justice system and concerning the victim/witnesses' responsibilities. Other information or services should be provided, such as directions to the courthouse and courtroom; and, when necessary, translators for deaf persons or persons who do not speak or understand English. Victims and witnesses should be notified of court advocacy availability, if needed.

Officers may discuss with and encourage the prosecutor to include victims in plea bargaining situations, whenever possible. In the event that a plea bargain is made, the officer should attempt to explain the situation to the victim/witness.

The Investigating Officer will ensure that contact is made with victims/witnesses involved in criminal prosecutions notifying them of the disposition of the case and expressing the appreciation of the police department for their participation in the prosecution of the offense.

55.2.6 Next of Kin Notification

All notifications of next of kin of deceased, seriously ill or injured persons shall be carried out promptly and in a considerate manner. When possible and/or requested, assistance should be obtained from the clergy, a relative or close friend of the person notified.

Notification requests from another law enforcement agency should be backed by a teletype message, fax message, or some other form of confirmation. Non law enforcement agencies should be asked to provide similar confirmation. The notification shall not be unduly delayed while awaiting confirmation. If possible, a person representing the requesting agency may accompany the Miami Township Officer on the notification.

The following procedures should be considered when making notification of accidents, seriously ill or injured persons, or of a death, regardless of where the incident occurred.

- Gather medical information about the family, if possible, perhaps through the office of a physician named in the injured or deceased's billfold or purse. This can prepare you if the person to be notified has been a heart patient or has some other health calamity that may be aggravated by the notification. If a physician is identified, ask the physician to accompany you on the notification, if possible.
- Go to the family and make the notification in person. Do not call the family.
- Go in pairs. If available, take one of these persons, in this order of preference:
 - Department Chaplain
 - The Family's Clergy
 - Another Family Member or Close Friend
 - Victim/Witness Advocate
 - Command Staff Member
 - Shift Supervisor
 - Another Officer on the Shift
- Discuss your feelings with the notification partner on the way to the notification. Expressing your own anger and fears in advance will help you in the delivery of the news.
- After identifying yourself, ask to enter. Try to avoid making the notification on the doorstep.
- Sit down with the family once inside. Never make the notification while family members are standing.
- Inform simply, and directly, such as, "I'm very sorry to inform you I have come with some bad news. Your (kin's relationship) has (taken ill, been injured, been involved in an accident, has died)."
- Restraint is usually only necessary in the event the subject tries to harm themselves or another.
- Answer all questions as honestly as possible.
- Offer to make calls or be of any other assistance possible.
- Do not leave the family alone. Stay until some other family members, friends or clergy have arrived.
- If identification of a body is required, offer to transport or assist the family member to the identification site.
- The next day, call back and offer further updates or offers of assistance. Above

all, let the family know you care. Should you not be available to make contact the next day, arrangements are to be made through the shift supervisor for a department member to make contact the following day.

- Supervisors should not hurry this process. If done correctly, it could take an hour or more.
- If the family is not home when you go to make a notification:
 - Contact neighbors and ask if they know when the family may return, or where they can be reached. Neighbors may also know where the family attends church, giving you means to contact the family clergy to assist you.
 - Look for clues such as real estate signs that could indicate the family is out of the area.