A. **Purpose**

It is the purpose of this policy to prescribe preliminary courses of action Public Safety Officers should take in response to domestic violence incidents.

B. **Policy**

This agency maintains that the nature and seriousness of crimes committed between family/household members are not mitigated solely because of the relationships or living arrangements of those involved. It is the policy of this department that domestic violence be treated with the same consideration as violence in other enforcement contexts and, consistent with this policy, that officers combine the use of appropriate community services with enforcement of the law to (1) break the cycle of domestic violence by preventing future incidents or reducing the frequency and/or seriousness of such incidents, (2) protect victims of domestic violence and provide them with support, and (3) promote officer safety when dealing with domestic abuse situations.

C. **Definitions**  **SC 16-25-10**

**Family/household member:** persons who fit into one of the following categories:

* Spouses;

* Former Spouses;

* Male and female who are cohabiting, or have formerly cohabited; or
Persons who have a child in common.

**Domestic violence**: where a family or household member commits or attempts to commit the following types of offenses against another: SC 16-25-20

- cause physical harm or injury to a person’s own household member, or
- offer or attempt to cause physical harm or injury to a person’s own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.

### D. Procedure

1. **Dispatcher Procedure**

   The Dispatcher who receives a domestic violence call can provide the responding officers with vital information that could save the victim’s and the officer’s lives. The Dispatcher will give a domestic violence call the same priority as any other life-threatening call and will, whenever possible, dispatch at least two officers to every incident.

   a. In addition to information normally gathered, an effort should be made to determine and relay the following to responding officers:

      1) Whether the suspect is present and, if not, the suspect’s description and possible whereabouts;
      2) Whether weapons are involved;
      3) Whether anyone has been injured;
      4) Whether the offender is under the influence of drugs or alcohol;
      5) Whether there are children present;
      6) Whether the victim has a current protective or restraining order; and
      7) Whether there is a history of domestic violence complaints at that location.

   b. Dispatchers shall not cancel public safety response to a domestic violence
complaint based solely on a follow-up call from the location requesting such cancellation. However, the Dispatcher shall advise the officers of the complainant’s request. Public Safety Officers will respond to all domestic violence calls regardless of the complainant’s request.

2. Responding Officer Procedures

a. On-Scene Investigation

When responding to a domestic violence call, the officers shall:

1) Physically separate parties involved in domestic violence;

2) Restore order by gaining control of the situation;

3) Take control of all weapons used or threatened to be used in the crime;

4) Assess the need for medical attention and call for medical assistance if indicated;

5) Interview all parties;

6) Collect and record evidence and, where appropriate, take color photographs of injuries and property damage;

7) Complete the incident report necessary to fully document the officer’s response, whether or not a crime was committed or an arrest made;

8) Give the victim the incident report number; and

9) If the offender has left the scene and a crime has been committed, the officers will do the following:

   a) Search the immediate area if potentially worthwhile;

   b) Obtain information from victim and witnesses as to where the offender might be;

   c) Assist in seeking an arrest warrant; and

   d) Refer the matter to the investigative unit.
b. Arrest  **SC 16-25-70**

1) A law enforcement officer may arrest, with or without a warrant, a person at the person’s place of residence or elsewhere if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under provisions of Section 16-25-20 (A) or (E), or 16-25-65 even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate police department.

2) A law enforcement officer **must arrest**, with or without a warrant, a person at the person’s place of residence or elsewhere if physical manifestations of injury to the alleged victim are present and the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of Section 16-25-20 (A) or (E), or 16-25-65 even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate police department.

3) In effecting a warrantless arrest under this section, a law enforcement officer may enter the residence of the person to be arrested in order to effect the arrest where the officer has probable cause to believe that the action is reasonably necessary to prevent physical harm or danger to a family or household member.

4) If the law enforcement officer receives conflicting complaints of domestic or family violence from two or more household members involving an incident of domestic or family violence, the officer shall evaluate each complaint separately to determine who was the primary aggressor. If the officer determines that one person was the primary physical aggressor, the officer must not arrest the other person accused of having committed domestic or family violence. In determining whether a person is the primary aggressor, the officer shall consider:

   a) Prior complaints of domestic or family violence;

   b) The relative severity of the injuries inflicted on each person taking into account injuries alleged which may not be easily
visible at the time of the investigation;

c) The likelihood of future injury to each person;

d) Whether one of the persons acted in self-defense; and

e) Household member accounts regarding the history of domestic violence.

5) A law enforcement officer must not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage requests for intervention by law enforcement by a party.

6) A law enforcement officer who arrests two or more persons for a crime involving domestic or family violence must include the grounds for arresting both parties in the written incident report and must include a statement in the report that the officer attempted to determine which party was the primary aggressor pursuant to this section and was unable to make a determination based upon the evidence available at the time of the arrest.

7) When two or more household members are charged with a crime involving domestic or family violence arising from the same incident and the court finds that one party was the primary aggressor pursuant to this section, the court, if appropriate, may dismiss charges against the other party or parties.

8) No evidence other than evidence of violations of domestic or family violence found as a result of a warrantless search is admissible in a court of law.

9) In addition to the protection granted to the law enforcement officer and law enforcement agency under the South Carolina Tort Claims Act, a law enforcement officer is not liable for an act, omission, or exercise of discretion under SC 16-25-70 unless the act, omission, or exercise of discretion constitutes gross negligence, recklessness, willfulness, or wantonness.

10) The officer should emphasize to the victim and the offender that the criminal action is being initiated by the state and not the victim.

c. Statutory offense of criminal domestic violence of a high and aggravated
nature.  **SC 16-25-65**

1)  The elements of the common law crime of assault and battery of a high and aggravated nature are incorporated in and made a part of the offense of criminal domestic violence of a high and aggravated nature when a person violated the provisions of Section 16-25-20 and the elements of assault and battery of a high and aggravated nature are present.

2)  A person who commits the crime of criminal domestic violence of a high and aggravated nature is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned not more than ten years, or both.

d.  Victim Assistance/Crime prevention

Many victims of domestic violence feel trapped in violent relationships because they are unaware that domestic violence is a crime or that resources are available to help them. Also, the offenders may have threatened further violence if the victim attempts to leave or seek assistance. Therefore, officers are required to provide the following assistance to victims, batterers and, where appropriate, the children of these individuals;

1)  Advise all parties about the criminal nature of family violence, its potential for escalation, and that help is available.

2)  Secure medical treatment for victims.

3)  Ensure the safety of the children.

4)  Remain on the scene until satisfied that there is no threat to the victim.

5)  Remain on the scene to preserve the peace if one person needs to remove personal (not joint) property.

6)  Provide the victim with referral information for legal or social assistance and support.

7)  Where necessary, transport the victim to an available shelter or suitable alternative safe haven.
8) If children need to be removed from the home, contact a supervisor.

The Chief or his Designee shall immediately notify the State Law Enforcement Division if there is a death resulting from an incident occurring on the property of the institution or if the officer or another official of the institution is in receipt of a report alleging that an act of criminal sexual conduct has occurred on the property of the institution.

Upon notification, the State Law Enforcement Division shall participate in a joint investigation of the death or alleged act of criminal sexual conduct. In the case of a death, the State Law Enforcement Division shall lead the investigation.