

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 1: CRIMES AGAINST THE PERSON

§ 1467. Mandatory Arrest for Crimes Involving Domestic Violence Violation of Protective Orders, and Violation of Conditions of Release.

(a) Except as provided in (b) or (c) of this section, a law enforcement officer, with or without a warrant, shall arrest a person if the officer has probable cause to believe the person has, either in or outside the presence of the officer, within the previous 12 hours

(1) Committed a crime involving domestic violence, except an offense under 6 CMC § 1101 or § 1102, whether the crime is a felony or a misdemeanor;
or

(2) Violated a condition of release imposed by a court pursuant to 6 CMC § 6407.

(b) If a law enforcement officer receives complaints of domestic violence from more than one person arising from the same incident, the officer shall evaluate the conduct of each person to determine who was the principal physical aggressor. If the officer determines that one person was the principal physical aggressor, the other person or persons need not be arrested. In determining whether a person is a principal physical aggressor, the officer shall consider

(1) Prior complaints of domestic violence;

(2) The relative severity of the injuries inflicted on each person;

(3) The likelihood of future injury from domestic violence to each person;

and

(4) Whether one of the persons acted in defense of self or others.

(c) A law enforcement officer is not required to make an arrest under (a) of this section if the officer has received authorization not to arrest from the Attorney General or an Assistant Attorney General assigned to the criminal division of the Attorney General's Office.

(d) When investigating a crime involving domestic violence, a law enforcement officer may not threaten or suggest the possible arrest of all persons involved in the same incident in a manner that would have a tendency to discourage requests for intervention by law enforcement in incidents involving domestic violence.

(e) In addition to the contents of any other report, a law enforcement officer who does not make an arrest after investigating a complaint of domestic violence, or who arrests two or more persons based on the same incident, shall describe in writing the reasons for not making an arrest or for arresting more than one person.

(f) A person may not bring a civil action for damages for a failure to comply with the provisions of this section.

Source: PL 14-9, § 3 (1507), modified.

Commission Comment: See the comment to 6 CMC § 1461 regarding PL 14-9 and the codification herein.