



**University of Kansas  
Public Safety Office**  
1501 Crestline Drive  
Suite 120  
Lawrence, KS 66045-1501

## Department Policy No. 421

### Stalking

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**Approved by: Leadership Team**

**Distribution: All Personnel**

**Review Schedule: Annual**

#### I. PURPOSE

The principal purpose of this policy is to establish guidelines and procedures to be followed by police officers and other personnel involved in the police response to reports of stalking.

#### II. POLICY

It is the policy of this department to respond to reports of stalking, take actions appropriate to the situation, document the incident and actions taken, and provide resources to victims.

#### III. DEFINITIONS

**Stalking:** A term defined by state law (K.S.A. 21-5427(a)) as:

1. Recklessly engaging in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear;
2. Engaging in a course of conduct targeted at a specific person which the individual knows will place the targeted person in fear for such person's safety or the safety of a member of such person's immediate family; or
3. After being served with, or otherwise provided notice of, any protective order included in K.S.A. 21-3843, prior to its repeal or K.S.A. 2012 Supp. 21-5924, and amendments thereto, that prohibits contact with a targeted person, intentionally or recklessly engaging in at least one act described in the definition of "course of conduct" that violates the provisions of the order and would cause a reasonable person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear.

**Course of conduct:** A term defined by state law (K.S.A. 21-5427 (f)(1)) means two or more acts over a period of time, however short, which evidence a continuity of purpose. A course of conduct shall not include constitutionally protected activity nor conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct shall include, but not be limited to, any of the following acts or a combination thereof:

1. Threatening the safety of the targeted person or a member of such person's immediate family.
2. Following, approaching or confronting the targeted person or a member of such person's immediate family.

3. Appearing in close proximity to, or entering the targeted person's residence, place of employment, school or other place where such person can be found, or the residence, place of employment or school of a member of such person's immediate family.
4. Causing damage to the targeted person's residence or property or that of a member of such person's immediate family.
5. Placing an object on the targeted person's property or the property of a member of such person's immediate family, either directly or through a third person.
6. Causing injury to the targeted person's pet or a pet belonging to a member of such person's immediate family.
7. Any act of communication.

**Communication:** A term defined by state law (K.S.A. 21-5427 (f)(2)) means to impart a message by any method of transmission, including, but not limited to: telephoning, personally delivering, sending or having delivered, any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer.

**Computer:** A term as defined by state law (K.S.A. 21-5427 (f)(3)) means a programmable, electronic device capable of accepting and processing data.

**Conviction:** A term as defined by state law (K.S.A. 21-5427 (f)(4)) includes being convicted of a violation of K.S.A. 21-3438, prior to its repeal, this section or a law of another state which prohibits the acts that this section prohibits.

**Immediate Family:** A term as defined by state law (K.S.A. 21-5427 (f)(5)) means father, mother, stepparent, child, stepchild, sibling, spouse, or grandparent of targeted person; any person residing in the household of the targeted person; or any person involved in an intimate relationship with the targeted person.

#### **IV. RESPONSE PROCEDURES**

##### **A. Responsibility of Dispatchers**

1. Upon receipt of a call of stalking, dispatchers will elicit needed response information, such as, location of the caller, injuries, weapons involved, number of people involved, and a description of suspect(s) leaving the location and will immediately dispatch officers and medical assistance, if injuries are involved, to the location.
2. Dispatchers will keep the caller on the phone, if possible, while officers are responding and will attempt to gather additional information, such as the existence of any protective orders, and provide any changes or additional information to the responding officer(s).

##### **B. Responsibility of Responding Officers**

1. The responding officers should interview the victim and the suspect as fully as circumstances allow. The officers should be alert to possible incriminating statements.

2. Officers should interview the victim in an area apart from the suspect, witnesses, and bystanders out of respect and concern for the victim's safety and privacy. Officers should ask the victim about previous stalking incidents, their frequency and severity. Officers should not tell the victim what action they intend to take until all available information has been collected.
3. If the suspect is still at the scene, the suspect must be given Miranda warnings before being questioned. If the suspect has fled the scene, the officers should solicit information as to the possible whereabouts of the suspect (place of employment, relatives, friends, etc.) and attempt to make contact with the suspect.
4. If the dispatcher has not advised the officer of the existence of a protective order, the officers should ask the victim whether there is such an order, and, if so, if the victim can produce a copy and what police department or court officer might have a copy. Officers should contact the police department or court office specified by the victim to verify the existence and effective period of the order. Officers should carefully note the restrictions imposed by the order so that the officers may determine whether there is probable cause to believe the order has been violated. Violation of a protective order in conjunction with probable cause for stalking raises the severity level of the stalking to a felony. It may also be in violation of K.S.A. 21-5808 or K.S.A. 21-5924.
5. Officers should interview any witnesses as fully and as soon as circumstance allow. If witnesses provide information about prior incidents, the officers should document such incidents to establish a pattern.
6. Officers should investigate the criminal history of the suspect to determine if the suspect has any previous stalking convictions. Second or subsequent convictions raise the severity level of stalking to a felony, even without a violation of a protective order.
7. Officers should collect and preserve all physical evidence reasonably necessary to support prosecution, including evidence substantiating the stalking such as photos, victim and witness statements, and digital or video recordings.
8. If the victim is injured, officers should encourage the victim to seek an emergency room examination.
9. All physical evidence should be collected, noted in reports, and logged as in other criminal investigations pursuant to current directives.

## **V. THE ARREST DECISION**

- A. The responding officers should arrest the assailant whenever arrest is authorized under K.S.A. 22-2401. If the officers decide not to arrest, they must include in the report of the incident a detailed explanation of the reasons why an arrest was not made.
- B. Officers will need to evaluate all aspects of the situation to determine if probable cause exists to arrest the suspect for a misdemeanor or felony violation of the stalking statute and/or any other statute.
- C. K.S.A. 22-2401 addresses arrest by a law enforcement officer. A law enforcement officer may arrest a person under any of the following circumstances:
  1. The officer has a warrant commanding that the person be arrested.

2. The officer has probable cause to believe that a warrant for the person's arrest has been issued in this state or in another jurisdiction for a felony committed therein.
  3. The officer has probable cause to believe that the person is committing or has committed:
    - a. a felony; or
    - b. a misdemeanor, and the law enforcement officer has probable cause to believe that:
  4. The person will not be apprehended or evidence of the crime will be irretrievably lost unless the person is immediately arrested;
  5. The person may cause injury to self or others or damage to property unless immediately arrested; or
  6. The person has intentionally inflicted bodily harm to another person.
  7. Any crime, except a traffic infraction, that has been or is being committed by the person in the officer's view.
- D. It is the officers' responsibility to decide whether a felony or misdemeanor arrest should be made. The officers, therefore, should not consider the victim's opposition to arrest and should emphasize to the victim, and to the accused as well, that the criminal action thus initiated is the State's action, not the victim's action.
- E. If the officers arrest for the commission of a crime, the officers should confiscate all weapons used or threatened to be used in the commission of crime, and such weapons should be held as evidence for the prosecution.

#### **VI. EFFECTING THE ARREST**

- A. The responding officers should take the suspect into custody as soon as the officers determine that a misdemeanor or felony warrant-less arrest is appropriate. If the suspect has fled the scene, the officers should initiate procedures to pursue and apprehend the suspect as promptly as possible. If a warrant is necessary, the officers should obtain and execute the warrant as soon as practical.
- B. When the suspect is a minor (under age 18), the provisions of the policy shall be fully applicable, except that detention should be effected and the juvenile proceeded pursuant to current directives.
- C. If, upon examination of the suspect, the responding officers determine that a voluntary or involuntary commitment to a mental health facility is required, the officers should detain the accused and follow current commitment procedures. The officers should not allow the possibility of mental illness to preclude a valid criminal arrest.

#### **VII. PROCEDURE WHEN ARREST IS NOT AUTHORIZED, OR IF AUTHORIZED, IS NOT MADE**

- A. If arrest is not authorized because of the absence of probable cause to believe that a crime was committed, or if arrest is authorized but not made (for reasons to be detailed in the incident report), the officer should:
  1. Explain to the victim the reasons that the arrest is not being made.
  2. Advise the victim of procedures for filing a criminal complaint.

3. Encourage the victim to contact the victim/witness coordinator from the District Attorney's office regarding counseling and other services available to victims of stalking.

#### **VIII. OTHER ON-SCENE ASSISTANCE TO VICTIMS**

- A. Whether or not an arrest is made, the responding officers should notify the victim of the following:
  1. Emergency and medical telephone numbers.
  2. The address and telephone numbers of the prosecutor's office the victim should contact to obtain information about victims' rights pursuant to K.S.A. 74-7333 and K.S.A. 74-7335 and amendments thereto.
  3. The name and address of the crime victims' compensation board and information about possible compensation benefits.
  4. A statement advising the victim that the details of the crime may be made public.
  5. A statement of victims' rights under K.S.A. 74-7333 and K.S.A. 74-7335 and amendments thereto.
  6. A list with phone numbers of community resources available to assist in stalking situations.
  7. The case number, date and officer's name and department phone number.
- B. A card detailing the above information along with blank spaces for the case number, date and officer's name will be available for use by the officers.
- C. Officers should instruct the victim to report each incident of stalking, keep a log of all stalking behaviors, cease any contact or communication with the suspect and retain all communications from the suspect.

#### **IX. WRITTEN REPORT AND DATA COLLECTION**

- A. Whether an arrest is made or not, a standard offense report shall be completed on all incidents and a copy sent to the Kansas Bureau of Investigation.

#### **X. TRAINING**

- A. New officers and dispatchers will receive instruction covering:
  1. The department's stalking policy, procedures, reports, and associated materials.
  2. Community resources available to stalking victims and intervention techniques they can use.