

Commonly Asked Questions about Domestic Battery

1. If the police are called to a domestic incident, are they required to make an arrest?

There is no statutory requirement that an arrest be made. However, local policy results in an arrest at any such incident, and sometimes more than one party is arrested.

2. Can the "victim" in a domestic violence case simply drop the charges?

No. The State of Illinois, through the office of the State's Attorney, is in charge of the case on behalf of the victim.

When a police report is made, it is made as if under oath. Making a false police report is a crime. Therefore, if the victim of an act of domestic violence tells the police about it and later changes his or her mind, that person can be subpoenaed, or compelled, to appear at the trial and give testimony against the accused. If the victim tells a different story at trial than was told to the police, that person can be charged with a criminal act.

Failure to appear at trial if subpoenaed can also result in being found in contempt of court. Victims who change their minds once a case has commenced will not be taken seriously.

3. What about an Order of Protection?

An Order of Protection is a separate proceeding which can, and often does, occur simultaneously with criminal proceedings for domestic battery. It is an added measure of protection for victims of domestic violence and carries an added array of penalties for those who are found to have committed such acts. While they begin as civil matters, they do carry the possibility of criminal punishment for violations.

As with domestic battery, victims who commence such actions should be prepared to follow through with them.

RESOURCES

A Woman's Fund 384-4462
A Woman's Place Shelter 384-4390
Toll-free 800-384-4390
<http://www.awomansfund.org/awp/tour.html>

Family Service
Family Counseling 352-0099
First call for Help (hotline) 352-6300

<http://famservcc.org>

Illinois Coalition Against Domestic Violence 217-789-2830

<http://www.ilcadv.org>

U of I RESOURCES

Counseling Center 333-3704
<http://www.counselingcenter.uiuc.edu>

Dean of Students 333-0050
<http://www.odos.uiuc.edu/>

Student Legal Service 333-9053
<http://www.odos.uiuc.edu/sls>

**THE INFORMATION CONTAINED
HEREIN IS NOT INTENDED AS A
SUBSTITUTE FOR LEGAL ADVICE.
STUDENTS WHO ARE CONFRONTED
WITH LEGAL PROBLEMS OR WHO
NEED SPECIFIC ADVICE ARE
ENCOURAGED TO SEEK ASSISTANCE
FROM A LICENSED ATTORNEY AT
STUDENT LEGAL SERVICE.**

University of Illinois at Urbana-Champaign
STUDENT LEGAL SERVICE

DOMESTIC BATTERY



A person commits domestic battery if he or she intentionally or knowingly, without legal justification, by any means, causes bodily harm to any family or household member. Battery is physical contact of any insulting or provoking nature.

STUDENT LEGAL SERVICE

324 Illini Union
Office Open: 8:30-Noon, 1-4:30 M-F

<http://www.odos.uiuc.edu/sls>
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Who are your “family or household” members?

- ⇒ Spouse
- ⇒ Former spouse
- ⇒ Parents
- ⇒ Children
- ⇒ Stepchildren
- ⇒ Roommate(s) and former roommate(s)
- ⇒ Person who “allegedly” has a child in common
- ⇒ Person who has or has had a dating relationship



Examples of Battery

- ☒ hair pulling
- ☒ slapping
- ☒ pushing
- ☒ any offensive touching of a person



Accidental physical contact is not criminal battery, but may be subject to civil damages if harm results.

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What to do if you are a victim

- ☑ During an attack, call for help, scream loudly, escape if you can.
- ☑ Call the police; the police must attempt to protect you from further abuse. Calling the police will make repeat abuse less likely in most cases.
- ☑ Seek medical attention.
- ☑ Save evidence – medical records, photos, etc.
- ☑ Press charges.



What to do if you are the alleged perpetrator

- ⇒ When the police arrive, be polite, do not argue.
- ⇒ Use your right to remain silent. “Admit” nothing.

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- ⇒ Obtain an attorney at Student Legal Service or retain private counsel.
- ⇒ Obey all court orders – “No Contact” means NO contact with the alleged victim, not even through a third party.
- ⇒ Self defense may be available if the alleged victim physically attacked you and your response was appropriate.
- ⇒ Court Supervision is NOT available for Domestic Battery, but it may be possible to amend charges to simple battery, which is subject to Court Supervision.

PENALTIES:

First Offense:

Class A Misdemeanor, up to 364 days in Jail, \$2,500 fine, Mandatory Counseling.

Second Offense:

Class 4 Felony, 1-3 years imprisonment.

A charge of Domestic Battery can subject an alleged perpetrator to Student Discipline, which forbids physical abuse.

Conviction on the Criminal charge is not necessary for the University to issue sanctions, which can include dismissal from the University.