

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 2: Prevention of Public Offenses

§ 40.6. Record of reported incidents of domestic abuse—Reports

Cite as: 22 CNCA § 40.6

A. It shall be the duty of every law enforcement agency to keep a record of each reported incident of domestic abuse as provided in subsection (B) of this section and to submit a monthly report of such incidents as provided in subsection (C) of this section.

B. The record of each reported incident of domestic abuse shall:

1. Show the type of crime involved in the domestic abuse;
2. Show the day of the week the incident occurred;
3. Show the time of day the incident occurred; and
4. Shall include a Lethality Assessment conducted upon a preliminary investigation of domestic violence. This assessment shall include, but not be limited to, the following information:
 1. Has the accused ever used a weapon against the victim or threatened the victim with a weapon?
 2. Has the person threatened to kill the victim or the children of the victim?
 3. Does the victim believe the accused will try to kill the victim?
 4. Has the accused ever tried to choke the victim?
 5. Is the accused violently or constantly jealous of the victim or does the accused control most of the daily activities of the victim?
 6. Does the person have a gun or can get a gun easily?
 7. Has the victim left or separated from the person after living together or being married?
 8. Is the person unemployed?
 9. Has the person ever tried to kill himself or herself?
 10. Has the person ever tried to kill the victim or a family member or anyone else?
 11. Does the victim have a child that the person knows is not his or her own child?
 12. Does the person follow or spy on the victim or leave the victim threatening messages?

13. Is there anything else that worries the victim about his or her safety and if so, what worries the victim?

C. Based upon the results of the lethality assessment, referrals to shelters, domestic violence intervention programs and other social services shall be provided to the victim.

D. If the results of the lethality assessment indicate a referral is suggested, the assessing officer shall implement the protocol referral process to a domestic violence advocate from a certified or tribal program as follows:

1. Advise the victim of the results of the assessment;
2. Advise the victim that based on the results of the assessment the officer will call the domestic violence hotline to allow the victim to speak with an advocate;
3. If the victim does not want to speak with an advocate, the officer shall document the refusal on the form.

E. Regardless of the results of the lethality assessment, referral information for shelters, domestic violence programs and other social services shall be provided to the victim.

F. Regardless of the results of the lethality assessment, the officer shall submit the lethality assessment form to the office of the Attorney General and One Fire.

G. The Office of the Attorney General, in conjunction with One Fire, shall maintain a database of all alleged abusers and victim(s) of domestic violence and crimes against children. This database shall be searchable by the alleged abuser's name and victim's name(s) and contain all lethality assessments received by the Attorney General and/or One Fire. The contents of such database shall be exempt from public disclosure pursuant to 67 CNCA § 105(A)(3).

H. A monthly report of the recorded incidents of domestic abuse shall be submitted to the Cherokee Nation Marshal and the Director of the Oklahoma State Bureau of Investigation on forms provided by the State Bureau of Investigation for such purpose.

Historical Data

LA 10-90, eff. November 13, 1990. Amended LA 52-21, eff. December 13, 2021.