

ADA ELLIOTT ON DOMESTIC VIOLENCE²

The authority to arrest without a warrant in a domestic violence case is found in NMSA 1978, Section 31-1-7 (Arrest without warrant; liability).

A. . . . a peace officer may arrest a person and take that person into custody without a warrant when the officer is at the scene of a domestic disturbance and has probable cause to believe that the person has committed an assault or a battery upon a family or household member . . .

"Family or household members" means spouses, former spouses or persons residing with each other.

B. No peace officer shall be held criminally or civilly liable for making an arrest pursuant to this section, provided he acts in good faith and without malice.

DA HAS TWO REQUESTS FOR POLICE OFFICERS

1. Do not offer or accept a waiver from a victim.
2. Require a written or recorded statement from the victim AT THE SCENE.

This is absolutely essential . . . we must have something to "remind" the victim of what happened and what she/he said at the time. Victims, often by the very next day, refuse to give a statement. This is unfortunate but understandable given the tremendous pressures they have.

The attached questions will protect you, the victim, and assist the prosecution of the case. My thanks to Kathy Wright and Art Weidemann, Supervisors of Family Crimes Division.

