

PALM BEACH GARDENS POLICE DEPARTMENT

RESPONDING TO DOMESTIC OR DATING VIOLENCE

POLICY AND PROCEDURE 4.2.1.4

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PURPOSE: To establish guidelines for the law enforcement response to allegations of domestic or dating violence.

SCOPE: This policy and procedure applies to all members.

REVIEW RESPONSIBILITIES: All Bureaus

POLICY: The intent of this policy is to reduce the incidence and severity of domestic or dating violence, protect victims of domestic or dating violence, provide victims with support through a combination of law enforcement and community services, and to promote officer safety by ensuring that officers are fully prepared to effectively deal with domestic or dating violence calls for service. Domestic or dating violence investigations shall be actively pursued and an arrest shall be the preferred response in situations in which probable cause exists. High priority shall be assigned to ensuring the safety of victims and to referral of victims to appropriate services. Consistent with this, the following procedures are adopted.

PROCEDURES

1. COMMUNICATIONS PROCEDURES

- a. Emergency Communications Operators (ECO) shall dispatch units in all situations involving domestic or dating violence.
 - i. The priority of a domestic or dating violence call shall be gauged in accordance with the priority criteria prescribed by department policy and procedures.
- b. Whenever possible, ECOs should dispatch two units to the scene.
 - i. The on-duty road patrol supervisor shall also be notified.
- c. In addition to the information normally gathered, an effort should be made to determine the following and relay it to officers responding to a domestic or dating violence call:
 - i. Whether there is a need for medical treatment;

- ii. Suspect's actions against the victim;
- iii. Whether the suspect is present and, if not, the suspect's name, relationship to the victim, description, and possible whereabouts;
- iv. Whether the suspect is aware that law enforcement has been called and/or has made any threats toward responding officers;
- v. Whether weapons, dangerous animals, or other threats to officer safety are present at the scene;
- vi. Whether the suspect is under the influence of alcohol or drugs;
- vii. Whether there is anyone else at the scene, including children;
- viii. Whether the victim has a current injunction or equivalent order; and
- ix. Complaint history at the location.

2. INITIAL RESPONSE AND ENTRY

- a. In responding to domestic or dating violence calls, officers should keep in mind the hazards and risks involved in these types of calls.
- b. Officers should always speak personally with the complainant/victim.
 - i. If refused entry, officers should be persistent about seeing and speaking alone with the victim.
 - 1. If access to this person is refused, the officers should request that the ECO attempt to contact the victim by phone.
 - a. If access is still refused and the officers have probable cause to believe that a victim is in imminent danger, the officers are to notify the on-duty patrol supervisor and, upon approval of the patrol supervisor, may proceed under the search warrant exigent circumstances exception.
 - i. Officers need not wait for approval when immediate intervention is needed to stop in-progress harm to a victim, for example, when the officers can see or hear a suspect battering the victim.

3. ON-SCENE INVESTIGATION

- a. The initial actions of the responding officer(s) should be to ensure the safety of all persons at the scene. This includes:
 - i. Separating the victim and offender physically, verbally, and, if possible, visually (if circumstances permit, move them into separate rooms);
 - ii. Taking possession of all involved weapons and securing any other weapons which pose an immediate threat at the scene, seizing such items only in accordance with law;
 - iii. Assessing the severity of injuries to parties and applying or calling for the appropriate level of aid for any injured parties; and
 - iv. Locating and checking the welfare of any children and others at the scene.
- b. Steps of the on-scene investigation should include the following:
 - i. Interview all parties and potential witnesses, including children (recognizing the unique sensitivities of children in domestic or dating violence situations) and neighbors, as appropriate.
 - 1. These persons should be interviewed separately and out of visual/hearing range of each other if, possible.
 - ii. If communications are impaired by the special needs (for instance the person is hearing impaired or does not speak English) of any party, the officer, where possible, should request that appropriate resources be made available via phone or at the scene.
 - iii. Determine if the relationship is "domestic or dating" as defined by Florida law and what crime(s) occurred.

- iv. Determine the nature and extent of all injuries, including defensive wounds (e.g., on the inside of the arms and palms of the hands), pursuant to Chapter 741 F.S.S.
- v. Ascertain whether a female victim is pregnant and whether and how the suspect is aware of her condition.
 - 1. Obtain the name of the health care provider if possible.
- vi. Determine who is the primary aggressor using the following factors and the officer's judgment:
 - 1. Extent of the injuries inflicted,
 - 2. Fear of physical injury because of past or present threats,
 - 3. Actions taken in self-defense or to protect oneself,
 - 4. History of domestic or dating abuse perpetrated by one party against the other, and
 - 5. Existence or previous existence of orders for protection.
- c. Record in writing or with a recorder:
 - i. Any statements of the victim, suspect, and/or witnesses which may be categorized as exceptions to the hearsay rule (including excited utterances and spontaneous statements).
 - 1. Note the exact words used, using quotation marks;
 - 2. indicate the approximate time frame when the statements were made;
 - 3. record the emotional condition of the speaker
 - ii. Any relevant statements, including self-serving ones, made by the suspect.
- d. Collect and record physical evidence and, where appropriate:
 - i. Document the injuries and property damage with digital images or video
 - ii. Seize plain view evidence
 - iii. Request a crime scene technician if needed
- e. If possible, consistent with Chapter 741 F.S.S., obtain sworn written or recorded statements from the victim and any witnesses, including children, as appropriate.
 - i. The officer should attempt to obtain a written or recorded statement from the suspect as well.
 - ii. These statements should be submitted in accordance with department procedure.

4. ARRESTS

- a. Arrest is the preferred response to domestic or dating violence when probable cause exists.
 - i. When probable cause has been established that an act of domestic or dating violence has occurred, an arrest should be made pursuant to Chapter 901 F.S.S.
 - ii. Any person arrested for an act of domestic or dating violence shall be transported to the Sheriff's Detention Center (adults) or the juvenile assessment center (juveniles).
- b. When determining probable cause, the officer should consider his/her observations and any statements by parties involved and any witnesses, including children.
 - i. Determine all the crimes for which there is probable cause (including, but not limited to, sexual battery, threats of violence amounting to assault, battery on a pregnant female, child abuse or neglect, violation of injunctions, stalking, etc.).
- c. Factors which should NOT be considered in determining whether an arrest will be made include:
 - i. Marital status; sexual orientation; race; religion; profession; age; disability; cultural, social or political position; or socioeconomic status of either party;
 - ii. Ownership, tenancy rights of either party, or the fact that the incident occurred in a private place;
 - iii. Victim's request that an arrest not be made;
 - iv. Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction;
 - v. Verbal assurances that the abuse will stop;
 - vi. The fact the suspect has left the scene;

- vii. Disposition of previous police calls involving the same victim or suspect;
- viii. Denial by either party that the abuse occurred when there is evidence of domestic or dating abuse;
- ix. Lack of a court order restraining or restricting the suspect;
- x. Concern about reprisals against the victim;
- xi. Adverse financial consequences that might result from the arrest;
- xii. Chemical dependency or intoxication of the parties;
- xiii. Assumptions as to the tolerance of the violence by cultural, ethnic, religious, racial or occupational groups;
- xiv. Absence of visible injury or complaints of injury; and
- xv. Presence of children or the immediate dependency of children of the suspect.
- d. The officers making an arrest will inform the arrestee that:
 - i. Domestic or dating violence is a crime and that the State of Florida, not the victim, is responsible for the prosecution.
 - ii. The responding officers shall not initiate discussion of or accept a complaint withdrawal, or have the victim sign a waiver of prosecution form.
- e. If the officers determine that a crime has been committed and the suspect has left the scene, the officers will:
 - i. Conduct a search of the immediate area;
 - ii. Obtain information from the victim and witnesses as to where the suspect might be located; and
 - iii. If unable to locate the suspect and make a custodial arrest, prepare a complaint affidavit and complete other appropriate paperwork for referral to the State Attorney's office.
- f. The department discourages dual arrests in order to avoid arresting the victim.
 - i. Where there are allegations that each party assaulted the other, the officer shall determine whether there is sufficient evidence to conclude that one of the parties is the primary aggressor based on the criteria set forth in Section 3-b-vi above.
 - ii. If the primary aggressor alleges that he/she is also the victim of domestic or dating violence, then it is imperative that the officer thoroughly investigate the allegation to determine whether it was an act of self-defense or an act of aggression.
 - iii. If it was a separate act of aggression, then the officer shall make an arrest or file a request for prosecution on the secondary aggressor.
 - 1. If the officer concludes that it was an act of self-defense, no arrest shall be made of the secondary aggressor.
 - iv. If dual arrests are made, the facts supporting each arrest must be clearly documented.
- g. Officers shall not threaten, suggest, or otherwise indicate the possible arrest of all parties or the removal of children from the home, with the intent of discouraging requests for intervention by law enforcement by any party.
- h. If no arrest is made, the victim shall be so informed and be notified that he/she can request to have the case reviewed by the State Attorney's Office and the procedure for doing so.

5. VICTIM SUPPORT

- a. The officer shall attempt to identify and utilize resources to assist in his/her interactions with non-English speaking citizens (e.g., victims, witnesses, suspects) or citizens with communication disabilities.
 - i. The officer should avoid whenever possible the use of friends, family, or neighbors serving as the primary interpreter for the investigation.
- b. The officer shall attempt to gain the victim's trust and confidence by:
 - i. showing understanding and patience

- ii. respect for personal dignity
- iii. using language appropriate to the age, educational level and emotional condition
- c. In accordance with Chapters 741 and 784 F.S.S, the law enforcement officer must:
 - i. Assist the victim in obtaining any needed medical treatment
 - ii. Inform the victim of the availability of a certified domestic or dating violence center
 - iii. Give the victim a brochure of the "Legal Rights and Remedies Notice to Victims" in English or Spanish as appropriate, which provides:
 - 1. A telephone number for the local domestic or dating violence center (the victim should also be informed of other specialized domestic or dating violence resources available in the community),
 - 2. Information about the right to file a criminal complaint with the State Attorney's Office
 - 3. Information about injunctions for protection.
- d. Officers should:
 - i. Convey to the victim concern for his/her safety;
 - ii. Inform the victim about how to get an injunction in the fastest possible manner;
 - iii. Advise the victim that the incident report will be sent to the local domestic or dating violence center;
 - iv. Advise the victim of what to expect in the near future with regard to the processing of the case by the system, including an assessment of the probability that the accused may be in custody for only a short period of time;
 - v. Ask the victim if he/she wants to be notified upon the suspect's release from jail (and so indicate on the victim/witness notification form);
 - vi. Tell the victim that domestic or dating violence is a crime and that the sole responsibility for decisions regarding whether charges are filed is with the State and not the victim;
 - vii. If an arrest is not made, inform the victim of the reasons and his/her options independent of law enforcement as indicated in the "Rights and Remedies" pamphlet; and
 - viii. Advise the victim to notify the department of any additional incidents or new information.
- e. The officer should not leave the scene of the incident until the situation is under control and the likelihood of further violence has been eliminated.
 - i. If the victim is leaving, the officer should remain at the scene for a reasonable period of time while the victim gathers necessities for a short-term absence from home.
 - 1. The officer should ask a victim who is leaving the home for his/her temporary address and phone number out of hearing range of the perpetrator.
- f. If the victim requests to go to a shelter, he/she shall be referred to a certified domestic or dating violence shelter.
 - i. The officer shall arrange for or provide transportation:
 - 1. to the shelter if the victim is approved for shelter intake
 - 2. to an alternative location of the victim's choice in the local area
- g. Officers shall see to the appropriate care of children as victims or dependents.
 - i. In child abuse situations, the officer is required by Chapter 415 F.S.S. to call the abuse registry (1-800-96-ABUSE).
 - ii. If, as a result of arrests and/or hospitalizations, there is no parent, legal guardian, or relative to either care for the child(ren) or direct the officer to the appropriate temporary placement of the child(ren), the officer should contact the abuse registry at the number above for the purposes of determining placement. The officer should indicate in the report the identity and address of the person taking custody of the child(ren).

- h. When an elderly or disabled adult is either a victim of the violence or reliant on the victim or suspect who can no longer provide care, the officer should make appropriate arrangements for the person's care.
 - i. In case of abuse, the officer shall call the abuse registry (1-800-96-ABUSE).
- i. If indicators for future violence exist, the officer should arrange for increased patrol in the area.

6. INITIAL RESPONSE REPORT WRITING

- a. In accordance with Chapters 741 and 784 F.S.S., the officer shall prepare a written incident report if there has been an allegation of domestic or dating violence, regardless of whether an arrest has been made.
 - i. If no arrest is made, the report shall include the reasons no arrest was made.
 - 1. A copy of the report shall be sent free of charge to the nearest certified domestic or dating violence center within 24 hours.
- b. The report prepared by the officer should specify "Domestic or Dating Violence" on its face and should include, but need not be limited to:
 - i. Information provided by communications operators (the officer should consider the evidentiary value of the 9-1-1 call);
 - ii. Descriptive information regarding the victim and suspect, including demeanor of each;
 - iii. Written and oral statements obtained from the victim and suspect (including excited utterances and their approximate time frame)
 - 1. an explanation if written statements were not obtained;
 - iv. A list of witnesses and their statements (including excited utterances and their approximate time frame)
 - 1. the identities of all officers on the scene;
 - v. A description and location of observed injuries,
 - 1. description of medical treatment rendered
 - 2. statement about whether an offer of medical treatment was refused;
 - vi. The name of the medical treatment provider
 - 1. the names of any other health care providers, including EMS personnel;
 - vii. A description of other physical evidence including photographs taken and of what;
 - viii. A description of steps taken to locate the suspect if he/she was not at the scene;
 - ix. A list of indicators of threats to future victim and child safety (e.g., threats made, including history of abuse, killing of pets, use of substances, other unusual behavior);
 - x. Information regarding whether children were present and how they were cared for;
 - xi. Information regarding whether an injunction was in effect and, if it was, reference to this order and a copy if possible;
 - xii. A statement regarding any special needs (including language barriers, disabilities) of the parties involved;
 - xiii. An indication that the victim received the "Rights and Remedies" pamphlet;
 - xiv. If no arrest was made, an indication that the officer advised the victim of the reason(s) why an arrest was not made;
 - xv. Any information that may be relevant to the assessment of bond; and
 - xvi. The name and phone number of a person (e.g., family member, employer) who can contact the victim.
- c. The victim's name and contact information should not be redacted on forms going to a local certified domestic or dating violence center, except in cases involving:
 - i. sexual battery,
 - ii. child abuse,
 - iii. a lewd or lascivious act,

- iv. indecent assault upon or in the presence of a child.
- d. The officer should, when appropriate, request that the victim sign a release of medical records (related to any domestic or dating violence incidents) form and complete the victim notification form.

7. FOLLOW-UP INVESTIGATION, REFERRAL AND REPORT WRITING

- a. A follow-up investigation may be required and could include:
 - i. Interviewing victims who were physically or emotionally unable to be properly interviewed or to provide a statement.
 - 1. The victim should be re-contacted for this purpose or to obtain additional details relevant to the investigation.
 - ii. Obtaining images of victim injuries that may not have been apparent or visible at the time of the initial response.
 - iii. Interviewing neighbors and other potential witnesses.
 - iv. Ascertaining if the suspect is on parole, probation and/or pretrial release.
 - 1. Obtaining the name and phone number of the appropriate probation/parole/pretrial officer.
- b. In the supplemental follow-up report, the investigating officer shall document the steps of the investigation.
 - i. This will include documenting interviews and any other tasks performed pertinent to the investigation.
- c. For cases in which a physical arrest was not made, the related incident report and charging documents required by the State Attorney's Office should be forwarded within two business days after the investigation is completed, or as soon as possible, for review.
- d. Records shall ensure that a copy of the original report has been forwarded to the certified domestic or dating violence center as required by law.

8. OFFICER INVOLVED DOMESTIC OR DATING VIOLENCE CASES

- a. Responding to the call:
 - i. If communications operators receive a call for assistance at a scene where an officer from this department is alleged to be a domestic or dating violence offender, a supervisor will be notified.
 - 1. Additionally, other department members will be notified in accordance with department policy addressing procedures for when officers are alleged perpetrators of crime.
 - ii. The responding officer should ensure that a supervisor has been notified and otherwise handle the situation on scene in a manner consistent with the policies used in all domestic or dating violence cases.
 - iii. If an arrest is made, applicable department policies related to duty status, assignment, suspension, etc., will be followed.
 - iv. If a criminal investigation is required, applicable department policy should be followed.
 - 1. This investigation should be completed before the subject officer is interviewed by department members for any administrative investigation associated with the event.
- b. An administrative investigation should be opened to determine if the officer has violated any departmental policies.
- c. When an officer is served with a protective injunction, he/she is required to notify the on duty supervisor prior to the beginning of his/her next shift.
 - i. Further, the officer is required to keep the supervisor informed of the status of his/her case.

- ii. If the officer is a first responder and/or likely to investigate high stress calls (including domestic or dating violence), the department shall consider a temporary reassignment (if the officer is not already on administrative leave).
- d. In cases where the temporary injunction is extended to become a "permanent" injunction, the officer shall be sent for a psychological evaluation to determine his/her fitness for duty.
- e. Department policy regarding an officer's possession of weapons while under a final order of injunction or following his/her conviction for domestic or dating violence shall be consistent with state and federal laws.
- f. Any officer who witnesses or otherwise has firsthand or well-founded knowledge of a domestic or dating violence incident involving another officer in the department must report that incident to a supervisor.
- g. If this department makes a domestic or dating violence related arrest of a law enforcement officer from another agency, that other agency shall be notified of the arrest, the specific charge and the time of the arrest, prior to the end of the shift during which the arrest was made.
- h. If an officer is arrested for a domestic or dating violence incident, he/she must notify his/her supervisor before the beginning of his/her next shift or sooner if possible.

9. RESTRAINING AND PROTECTIVE ORDERS

- a. This policy applies to both temporary and final domestic or dating violence injunctions and repeat violence injunctions which result from a domestic or dating violence situation.
- b. Upon determination of probable cause, an officer may make a physical arrest of the respondent if he/she willfully and knowingly violates a term of the injunction by:
 - i. Refusing to vacate the shared premises within the time limits stated in the injunction;
 - ii. Going to the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family member or household member;
 - iii. Committing an act of domestic or dating violence against the petitioner;
 - iv. Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner; or
 - v. Telephoning, contacting or otherwise communicating with the petitioner directly or indirectly unless the injunction specifically allows contact through a third party.
- c. An officer should make an arrest for a criminal violation of the terms of an injunction pursuant to Chapter 741 F.S.S. (domestic violence injunctions) or Chapter 784 F.S.S. (repeat violence or dating violence injunctions).
- d. An officer should not base his/her decision to arrest on his/her perception of the prosecutor's ability to prosecute the case, as this is a court order not subject to the officer's interpretation.
- e. Officers may not arrest persons for civil violations of court orders.
 - i. For civil violations, the petitioner should be referred to the Clerk of the Court.
- f. After proper service of an injunction upon a respondent, the injunction is valid and enforceable in all counties of the State of Florida.
 - i. It is important to verify that a respondent has been properly served the injunction prior to arresting him/her for same.

10. TRAINING

- a. All officers shall receive a minimum of four hours of training in domestic and dating violence every four years. Key topics to be covered in this training include:
 - i. Use and application of current Florida and federal statutes as they relate to domestic or dating violence;
 - ii. Dynamics of domestic or dating violence;
 - iii. Verification, enforcement and service of injunctions;

- iv. Duties and responsibilities of law enforcement in response to domestic or dating violence calls; and
- v. Assisting victims.
- b. Periodic or roll call training should address the components of this policy and legal/legislative updates related to domestic or dating violence.

11. GLOSSARY

Dating Violence: means violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- a. A dating relationship must have existed within the past 6 months;
- b. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- c. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.
- d. The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

Domestic Violence : any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

Family or Household Member: spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

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