

# WEST PALM BEACH POLICE DEPARTMENT

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## III-9 DOMESTIC VIOLENCE

**EFFECTIVE: 10/01/2007**

CALEA Standards: 74.1.2, 74.2.1

CFA Standards: 18.14, 32.01, 32.02

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**I. POLICY:** The West Palm Beach Police Department investigates all allegations of domestic violence as defined in F.S.S. The objective of this procedure is to reduce the incidence and severity of domestic violence, protect victims of domestic violence, provide them with support through a combination of law enforcement and community services, and promote officer safety by ensuring that officers are fully prepared to effectively deal with domestic violence calls. Domestic violence investigations will be actively pursued and an arrest is the preferred response when probable cause exists. High priority will be assigned to ensure victim safety and referral to appropriate services.

### **II. DEFINITIONS:**

A. DOMESTIC VIOLENCE - Any assault, battery, sexual assault, sexual battery, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

B. 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 have 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.

C. COVERED RELATIONSHIP - Persons related by blood or marriage and persons who are biological parents of the same child. This includes same gender and non-marital relationships because it is the condition of "residing together as if a family" that is controlling, not the specifics of the sexual relationship between the parties.

D. PETITIONER FOR AN INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE - Any family or household member who is the victim of any act of domestic violence or has reasonable cause to believe he or she is about to become the victim of any act of domestic violence.

E. RESPONDENT - Spouse or former spouse of the petitioner or any other person who is or was residing within a single family dwelling unit with the petitioner as if a family, or a person with whom the petitioner has a child in common, regardless of whether the petitioner and respondent are or were married or residing together as if a family.

F. EX PARTE HEARING - A hearing conducted by the court in which only the complaining party appears to give testimony.

G. PRIMARY AGGRESSOR - The person determined to be the most significant, rather than the first, aggressor.

### **III. DISPATCH PROCEDURE:**

A. Whenever Dispatch Operations receives notification of a domestic incident, police unit(s) will be dispatched.

1. Based on the information available, the call taker (ECO) will prioritize the domestic call in the same manner as any other call for police assistance following the current approved communications procedures.

2. Whenever possible, two (2) officers will be dispatched to the scene.

3. In addition to the information normally gathered, an effort will be made to determine the following and relay it to officers responding to the call:
  - a. Whether there is a need for medical treatment.
  - b. The suspect's actions against the victim.
  - c. Whether the suspect is present and, if not, the suspect's name, description, and possible whereabouts.
  - d. Whether weapons, dangerous animals or other threats to officer safety are present at the scene.
  - e. Whether the offender is under the influence of alcohol or other drugs.
  - f. Whether anyone else, including children, is present at the scene.
  - g. Whether the victim has a current injunction or equivalent order.
  - h. The complaint history at the location.
4. Dispatch Operations personnel will ascertain whether the victim has special needs, which may include, but not be limited to, situations in which the victim is hearing impaired and/or does not speak English.
  - a. Dispatch Operations personnel will inform the officer of the special need and will attempt to make available to the officer(s), at the scene or via phone or radio, the appropriate resources.
  - b. Whenever possible, an interpreter resource should not be affiliated or related to the victim or the suspect.
5. Dispatch Operations personnel **will not** ask the victim whether he or she plans to participate in any subsequent prosecution.
6. When the crime is in progress, Dispatch Operations personnel will attempt to keep the complainant on the phone provided the victim is not in immediate danger. If the victim cannot remain on the phone, the complaint taker should attempt to call back periodically to check on the progress of the event and relay this information to responding units.
7. Dispatch Operations personnel will not cancel a police response to a domestic violence complaint. The dispatcher will advise the responding officer of any request to cancel the response.

#### **IV. INITIAL CONTACT:**

- A. The responding officer(s) will approach the scene of a domestic dispute as one of high risk.
- B. The officer will obtain all available information from Dispatch Operations before arriving at the scene and will notify Dispatch Operations upon arrival.
- C. Initial Contact:
  1. The responding officer(s) should identify themselves as police officer(s), explain the reason for their presence and request entry into the home. If refused entry, the officer(s) should be persistent about seeing and speaking alone with the victim. If access to the person is refused, the officer(s) should request the dispatcher attempt to contact the victim by phone.
  2. If access is still refused, officer(s) must consider the totality of the circumstances to determine if any emergency exists which would justify an immediate entry of the premise to determine the safety and welfare of the occupants. The assistance of supervisory or command personnel should be requested as time and circumstances permit.

#### **V. 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 will include, but not be limited to,
  1. Taking possession of all involved weapons and securing any other weapons that pose an immediate threat at the scene, seizing only in accordance with law.

2. Separating the victim from the suspect physically, verbally, and, if possible, visually. When possible, officers should maintain visual contact with one another.
3. Controlling and removing the assailant when immediate arrest is warranted.
4. Assessing the severity of injuries to parties and administering first aid and/or requesting emergency medical assistance.
5. Inquiring about the nature of the dispute.
6. Locating and checking on the welfare of any children and others at the scene.
7. Identifying all occupants/witnesses on the premises.
8. Separating occupants/witnesses from the victim and the accused.

B. The officer(s) should interview all parties as fully and as soon as circumstances allow, including children (recognizing the unique sensitivities of children in domestic violence situations) and neighbors as appropriate. These persons should be interviewed separately and out of visual/hearing range of one another.

1. When witnesses provide any information about prior incidents, the officer(s) will document such incidents to establish a pattern.
2. Children should be interviewed in a manner appropriate to the children's age. Signs of trauma and any apparent healing of abuse wounds on the child should be noted by the officer(s). If signs of abuse and/or neglect are noted, standard procedures for juvenile cases must be followed. If immediate medical attention is needed, emergency medical assistance must be requested.
3. Officer(s) responding to and investigating domestic incidents will identify all children within the family unit, especially any and all children under 16 years of age present at the crime scene when the incident occurred. Where appropriate, children should be interviewed and checked for possible injuries. All evidence relating to the presence of a child during a domestic incident will be included in the Offense Incident Report.
4. DCF will be contacted through the 1-800-96-ABUSE registry on all domestic violence incidents (regardless of arrest being made immediately or warrant being filed) that occur in the presence of a minor.

C. When communication is hindered by special needs, i.e. hearing impairment or a language barrier, the officer will request the appropriate resources be made available at the scene or via telephone.

D. Determine if the relationship is "domestic" (as defined by F.S.S.) and what crimes occurred.

E. Determine the nature and extent of all injuries, including defensive wounds (ex. on the inside of the arms or palms of hands).

F. Ascertain whether a female victim is pregnant and whether and how the suspect was aware of her condition. Obtain the name of a health provider, if possible.

G. Accurately identify and arrest the "primary," or "dominant," aggressor- a process that involves determining which party, if any, used violence more significantly during and incident, rather than which party used first violence. Use the following factors to assist in determining the primary aggressor along with the judgment of the officer:

1. The comparative severity of any injuries inflicted by and between the parties.
2. Whether any such person has made threats of future harm against another party or another.

3. Actions taken in self-defense or to protect oneself.
4. History of domestic abuse initiated by one party against the other.
5. Existence or previous existence of orders for protection.

H. The victim's safety and privacy should be ensured by interviewing the victim in an area apart from the assailant, witnesses, and bystanders. When questioning the victim, the officers should use supportive interview techniques. Ask the victim about previous domestic incidents, their frequency, and severity. The officer should not tell the victim what decision has been made concerning arrest until all available information has been collected.

I. Officers will record in writing or with a tape recorder:

1. 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. Officers will note the exact words spoken by the person and use quotation marks in that portion of the Offense Incident Report to properly attribute the statement as verbatim. Officers will note the time frame in which the statement was made in relation to the incident and record the emotional state of the speaker at the time the statement was given.
2. Any relevant statements made by the suspect.

J. If a criminal violation has occurred and an arrest is made, the officer should ensure the collection and preservation of all physical evidence reasonably necessary to support prosecution. This includes evidence substantiating the victim's injuries, evidentiary articles that substantiate the attack (weapons, torn clothing, etc.) and evidence documenting the crime scene. The officer will ensure that color photographs are taken of visible injuries to the victim. Officers will request a crime scene technician, if necessary.

K. Officers will obtain sworn written or taped statements from the victim and any witnesses, including children, as appropriate.

1. The officer should attempt to obtain a sworn a written or taped statement from the suspect as well.

L. If Dispatch Operations has not advised the officer of the existence of an "Injunction for Protection Against Domestic Violence", the officer should ask the victim whether there is such an order and, if so, can the victim produce a copy. If a copy of the order is available, the officer should examine any restrictions imposed by the order so the officer can determine whether there is probable cause to believe the order has been violated.

## **VI. ARRESTS:**

A. Arrest is the preferred response to domestic violence when probable cause exists. Whenever a law enforcement officer determines upon probable cause that an act of domestic violence has been committed within the jurisdiction, the officer may arrest the person suspected of its commission and charge such person with the appropriate crime. The decision to arrest and charge will not require consent of the victim. When complaints are received from two or more parties, the officer will evaluate each complaint separately and determine the primary aggressor.

B. When determining probable cause, officers will consider their observations and any statements by involved parties and any witnesses, including children. Officers will proactively determine all of the crimes committed.

C. Factors which will **NOT** be considered in determining whether an arrest will be made include, but are not limited to,

1. Marital status; sexual orientation; race; religion; profession; age; disability; cultural, social, or political position; or socio-economic status of either party.

2. Ownership or tenancy rights of either party or the fact the incident occurred in a private place.
3. Victim's request that an arrest not be made.
4. Belief the victim will not cooperate with criminal prosecution or the arrest may not lead to a conviction.
5. Verbal assurances the violence will stop.
6. The fact the suspect has left the scene.
7. Disposition of police calls involving the same suspect or victim.
8. Denial by either party that the abuse occurred when there is evidence of domestic abuse.
9. Lack of a court order restraining or restricting the suspect.
10. Concern about reprisals from the suspect.
11. Adverse financial consequences that may result from the arrest.
12. Chemical dependency or intoxication of the parties.
13. Assumptions as to the tolerance of violence by cultural, ethnic, religious, racial, or occupational groups.
14. Absence of visible injury or complaints of injury.
15. Presence of children or the immediate dependency of children on the suspect.

D. The officer(s) making the arrest will inform the arrestee that domestic violence is a crime and the State of Florida, not the victim, is responsible for the prosecution. The responding officers will not initiate discussion of nor accept a complaint withdrawal or have the victim sign a waiver of prosecution form.

E. When the officer(s) determine a crime has been committed and the suspect has left the scene, the officer(s) will make every attempt to:

1. Conduct a search of the immediate area,
2. Obtain information from the victim and witnesses as to where the suspect might have gone, and/or
3. Prepare the paperwork necessary to referral to the Office of the state Attorney to file for an arrest warrant.

F. Pursuant to F.S.S. 905.15 (7) (A), a law enforcement officer may arrest a person without a warrant when there is probable cause to believe that the person has committed an act of domestic violence.

1. Note that any law enforcement officer who acts in good faith and exercises due care in making an arrest pursuant to this subsection is immune from civil liability that otherwise might result by reason of his or her action.

G. Officers will 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 by any party for intervention by law enforcement.

H. When no arrest is made, the victim will be so notified and informed of the following:

1. Advise the victim of the procedures for obtaining a warrant.

2. Encourage the victim to contact available community resources to assist domestic violence victims.
3. The officer will not become involved in the disposition of personal property.
4. In the absence of a warrant or probable cause to believe a crime has occurred, the officer will remain neutral and be concerned primarily with maintaining the peace and safety of those present.

**VII. DUAL ARRESTS:**

A. When there are allegations that each party battered the other; officers will determine whether there is sufficient evidence to conclude that one of the parties is the primary aggressor based on criteria set forth in Section V, G, 1-5.

B. When the primary aggressor alleges he or she is also the victim of domestic violence, it is imperative the officer thoroughly investigate the allegation to determine whether it was an act of self defense or an act of aggression.

1. If it is determined to be a separate act of aggression and probable cause exists, the officer will make an arrest or file for a warrant for prosecution of the secondary aggressor.
2. If the officer concludes it was an act of self defense, no arrest will be made of the secondary aggressor.
3. If dual arrests are made, the facts supporting each arrest will be clearly documented.

**VIII. VICTIM SUPPORT:**

A. Officers will attempt to identify and utilize resources to assist with non-English speaking victims, witnesses, suspects, and/or neighbors. The officer should avoid using family, friends, or neighbors as the primary interpreter during the investigation.

B. The officer will attempt to gain the victim's trust and confidence by showing patience, understanding, and respect for personal dignity and using language appropriate to the age, educational level, and emotional condition of the victim.

C. In accordance with F.S.S. Chapter 741, the officer will:

1. Assist the victim in obtaining any necessary medical treatment;
2. Inform the victim of the availability of a certified domestic violence center; and
3. Give the victim a copy of the Legal Rights and Remedies Notice to Victims of Domestic Violence.

D. Officers will:

1. Convey to the victim concern for his or her safety.
2. Inform the victim the phone number for the Office of the State Attorney is available in the victim/witness brochure provided.
3. Advise the victim a copy of the Offense Incident Report will be sent to the Victim Services Center.
4. Advise the victim of what to expect with regard to the processing of the case, including the probability the accused may be in custody for only a short period of time.
5. Ask the victim if he or she wants to be notified of the suspect's release from jail. Officers will complete a Victim Notification Form.

6. Inform the victim that domestic violence is a crime and the sole responsibility for decisions regarding whether charges are filed is with the State and not the victim.

7. If an arrest is not made, inform the victim of the reasons and his or her options independent of law enforcement as indicated in the domestic violence packet.

8. 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 reduced.

F. If a party is leaving, the officer will remain at the scene for a reasonable period of time while the person gathers necessities for a short-term absence from home.

1. Out of the hearing range of the suspect, the officer will obtain from the victim who is leaving his or her temporary address and phone number.

G. If the victim requests to go to a shelter, he or she will be referred to a certified domestic violence shelter. The officer will arrange for or provide transportation to the shelter if the victim is approved for intake or arrange for or provide transportation to an alternative location of the victim's choice in the local area.

H. Officers will ensure the appropriate care of children as victims or dependants.

1. In child abuse situations, the officer is required by F.S.S. 415 to call the Abuse Registry (Appendix A).

2. If, as a result of arrests or hospitalizations, there is no parent, legal guardian, or relative to either care for the children or direct the officer as to the appropriate temporary placement for the children, the officer will contact the Abuse Registry to advise placement. The officer will indicate in the Offense Incident Report the identity and address of the person taking custody of the children.

I. When an elderly, disabled, or otherwise dependent adult is either a victim of the violence or reliant on the victim or suspect who can no longer provide care, the officer will call the Abuse Registry.

**IX. ADDRESS CONFIDENTIALITY PROGRAM:**

A. The Address Confidentiality Program (ACP) has been created by the State Attorney General to provide victims of domestic violence an opportunity to escape their abusers through the assignment of a confidential address. This is through the creation of F.S.S.

B. An officer encountering a person on any type of call who presents an "Address Confidentiality Card" will use the address printed on the card instead of the actual home address of the person presenting the card. This will help to ensure that an abuser does not obtain the actual address of the victim through the release of a police report as public record.

C. The following are exempt from Public Records Requirements and from disclosure by the Address Confidentiality Program:

- 1. Name of program participant.
- 2. Residential addresses, school addresses, and/or work addresses.
- 3. Corresponding telephone numbers.
- 4. Social Security Number.

D. Persons seeking placement in the program may be referred to the Victim Advocate at the 15<sup>th</sup> Circuit Attorney General's Office (Appendix B).

**X. INITIAL RESPONSE-REPORT WRITING:**

A. The officer will prepare a written report when there has been an allegation of domestic violence, regardless of whether or not an arrest has been made. If no arrest is made, the report will include a description of any observed injuries and the reason(s) no arrest was made.

1. A copy of the report will be sent free of charge to the Victim Services Center within 24 hours by administration.

B. The report will be labeled "Domestic Violence" and will include, but not be limited to:

1. Information provided by Dispatch Operations personnel (the officer will consider the evidentiary value of the 911 call).

2. Descriptive information regarding the victim, suspect and the demeanor of each.

3. Written and oral statements obtained from the victim and suspect, including excited utterances and their approximate time frame. If statements were not obtained, an explanation why not.

4. A list of witnesses and their statements, including excited utterances and their approximate time frame, and the identities of all officers on the scene.

5. A description and location of all observed injuries, description of medical treatment rendered, and whether medical treatment was refused.

6. The name of the medical treatment provider and the names of any other health care providers, including EMS personnel.

7. A description of all other physical evidence including whether or not photographs were taken, or the need for follow-up photographs.

8. A description of the steps taken to locate the suspect if he or she was not at the scene.

9. A list of threats to the safety of the victim and children (e.g. threats made, killing of pets, substance use or abuse, unusual behavior, and/or abuse history).

10. Information regarding whether children were present and how they were cared for.

11. Information regarding whether an injunction is in effect and, if it is, reference to this order and a copy if possible.

12. A statement regarding any special needs, including language barriers, disabilities, etc., of the parties involved.

13. Officers will provide victims with a copy of the Domestic Violence Packet. The packet is available in English and Spanish. The victim must sign and return to the officer the receipt contained in the packet to acknowledge receiving it. This information will be included in the report.

a. Officers will write the case number and date and sign the receipt and submit it with the original incident report.

14. When an arrest has been made, or the suspect is known and probable cause exists, the officer will complete a "Domestic Violence Probable Cause Affidavit".

a. Officers will then make four (4) copies of the original and route them appropriately.

b. Officers will ensure that original signatures appear on the appropriate copies.

15. If no arrest was made, an indication the officer advised the victim of the reasons why an arrest was not made.

16. The name and phone number of a family member or person who can contact the victim.

#### **XI. FOLLOW-UP INVESTIGATION, REFERRAL, AND REPORT WRITING:**

A. A follow-up investigation may be required and may include:

1. Interviewing victims who were physically or emotionally unable to be properly interviewed or to provide a statement.
  - a. The victim should be re-contacted to obtain details relevant to the investigation.
2. Taking photographs of the victim's injuries that were not apparent at the time of the initial investigation.
3. Interviewing neighbors or other potential witnesses.
4. Ascertaining whether the suspect is on parole, probation and/or pre-trial release and obtaining the name and phone number of the appropriate parole, probation, or pre-trial officer.

B. In the follow-up report, the investigator will document all pertinent steps of his or her investigation.

C. In cases in which a physical arrest was not made, the related police report and charging documents required will be forwarded within ten (10) business days after the investigation is completed to the office of the State Attorney for review. The police report and charging documents (filing packet) will include all police reports, copies of the written or taped victim, witness and/or suspect statements, copies of photographs, and copies of 911 phone transmissions, if applicable.

1. When a warrant is issued and the suspect is thought to be in the Department's jurisdiction, every effort to serve the warrant should be made as soon as possible.

D. The officer's Division Commander or designee will ensure the initial police report is submitted to Information Systems. This excludes victim/witness statements or other materials deemed to be a part of an active criminal investigation as defined in F.S.S. Information Systems will provide copies of such reports to the nearest locally certified domestic violence center within 24 hours of the agency's completion of the report.

1. All domestic violence cases will be reported to a domestic violence center. Those incidents involving only a domestic dispute do not need to be forwarded.

E. Domestic Violence incidents will be classified as Domestic.

1. "Domestic Dispute" - This classification should be used to describe an occurrence when no criminal offense occurred and the parties appear to have a covered relationship.
2. "Domestic Violence" - This classification should be used to describe an occurrence when a threat to use violence is involved (an assault without battery) between parties that appear to have a covered relationship.
3. "Domestic (battery, aggravated battery, sexual assault, etc...)"- This classification should be used when the parties have a covered relationship and one of the statutory covered criminal offenses occurred.
4. Violation of an Injunction for Protection Against Domestic Violence - Any person who willfully violates the provisions for protection against domestic violence, issued pursuant to F.S.S. by refusing to vacate the dwelling that the parties share, or returning to said property, will, in addition to any penalty which may be imposed through contempt of court proceedings, be guilty of a misdemeanor of the second degree. Unlike the warrantless probable cause arrests mentioned above, this offense must occur in the officer's presence.

**XII. OFFICER INVOLVED DOMESTIC VIOLENCE CASES:**

## A. Responsibilities of officer(s) responding to the incident:

1. Immediate action will be taken to ensure the safety of the victim.
2. The responding officer(s) will follow the procedure as previously outlined in this policy.
3. The investigating officer(s), upon discovery the suspect is a law enforcement officer, will request a field supervisor respond to the scene.
4. The responding officer(s) will conduct an investigation under the direction of the field supervisor. Should it be necessary to make an arrest, the field supervisor will assist in effecting the arrest.
5. Should the incident involve a member of this police department and the investigation warrants an arrest, the field supervisor will have the responsibility of effecting the arrest.
6. The appropriate Captain in the arrested officer's chain of command will be notified immediately by the arresting supervisor.

## B. Any West Palm Beach Police Officer who has been arrested for Domestic Violence will:

1. Immediately provide oral notification to the on duty Shift Commander naming the investigating police department. The Shift Commander will then notify the appropriate Captain.
2. An investigation of the incident and/or arrest will be initiated at this point and the duty status of the involved officer will be determined by the Chief of Police or a designee.

## C. Any West Palm Beach Police Officer who has been served with an injunction for protection against domestic violence will:

1. Within 24hrs, provide written notification to the appropriate Bureau Commander. A copy of the injunction for protection against domestic violence (if applicable) will be attached.
2. Upon being served with an injunction for protection against domestic violence, the officer will immediately surrender his/her Department issued firearm and any personal firearms to the on-duty shift lieutenant as is consistent with all applicable federal and state laws.
  - a. The lieutenant or designee will complete a report of the incident and will place the firearm(s) necessary for the officer to carry in a secure area accessible to all shift commanders.
  - b. The shift commander or designee will place any other firearms into Evidence/Property for safekeeping.
3. Prior to going on regular duty and/or any extra duty detail, the officer will meet with a shift commander and the shift commander will issue the necessary firearm(s) to the officer to be carried for the duration of the shift or extra duty detail.
  - a. The officer will not travel to or from work in uniform and will not participate in the take home vehicle program.
4. At the end of the shift and/or extra duty detail, the officer will meet with the shift commander. The officer will surrender his or her firearms to the shift commander who will place them back into the secure area.
5. This procedure will be followed until the Order for Protection Against Domestic Violence is rescinded or the case is disposed of in court.

6. Any adjudication reached by the court to include a plea of nolo contendere, a guilty plea, adjudication withheld, or a conviction will result in the officer losing the right to carry a firearm per Federal Law.

D. When any officer is involved in an on-going domestic violence case, he or she will keep the Department informed of the status of the case.

1. In cases where an officer has a temporary injunction extended to a "permanent" injunction, the officer should be given a psychological evaluation to determine his or her fitness for duty and/or be referred to a batterers' intervention program.

2. Copies of the results of the "fitness for duty" evaluation will be supplied to the Internal Affairs Section and to the Division Commander of the evaluated officer for final written recommendations to the Chief of Police.

### **XIII. INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE:**

A. This section of the procedure applies to both temporary and final domestic violence injunctions and repeat violence injunctions which result from a domestic violence situation.

B. Upon determination of probable cause, an officer may make a physical arrest of the respondent if he or she willfully and knowingly violates a term of an injunction by:

1. Refusing to vacate the shared premises within the time limit stated on the injunction.

2. Going to the petitioner's residence, school, place of employment, or specified place regularly frequented by the petitioner and any named family member or household member of the petitioner.

3. Committing an act of domestic violence against the petitioner.

4. Committing any other violation of the injunction through an intentional threat, word, or act to do violence to the petitioner.

5. Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly unless the injunction allows indirect contact through a third party.

C. An officer will make an arrest for a **criminal** violation of an injunction pursuant to F.S.S.

1. Pursuant to Section 901.15 (6), a law enforcement officer may arrest a person without a warrant when there is probable cause to believe that the person has knowingly committed an act in violation of an Injunction for Protection Against Domestic Violence, which creates a threat of imminent danger to the petitioner (the victim of domestic violence) or household members. The law enforcement officer may make a warrantless arrest even over the objections of the petitioner, if necessary.

2. Prior to effecting an arrest, the officer will ensure that the respondent was previously served with a certified copy of the injunction. After proper service of the respondent, the injunction is valid and enforceable in all counties of the State of Florida.

a. The Department will enforce foreign injunctions, i.e. out of state orders, pursuant to applicable state and federal laws.

b. When a foreign injunction cannot be verified, the officer will obtain a written or taped sworn statement from the petitioner which will include an admission that the injunction was served upon the respondent and the order is still in effect.

3. For example, if the respondent was previously served with a domestic violence injunction which provides that the respondent is not to go to the petitioner's place of employment and the respondent violated the injunction by going there and doing some act which creates a threat of significant danger to the petitioner, then the officer may make a warrantless probable cause arrest.

D. An officer will not base his or her decision to arrest on his or her perception of the prosecutor's ability to prosecute the case. This is a court order not subject to the officer's interpretation.

E. Officers may not arrest persons for **civil** violations of court orders. For civil violations, the petitioner should be referred to the Clerk of the Court.

F. When the respondent is charged solely with committing an act in violation of an injunction for protection against domestic violence which has created a threat of significant danger to the petitioner, then the respondent should be charged as follows:

1. "Contempt of Court - Violation of Domestic Violence Injunction" Cite Section 900.04, Florida Statutes

G. If the respondent is found in possession of a firearm, the Bureau of Alcohol, Tobacco and Firearms should be notified immediately (see Appendix C).

#### **XIV. CIVIL PROCESS- SERVICE OF INJUNCTION FOR PROTECTION AGAINST DOMESTIC VIOLENCE:**

A. When an officer has responded to a Domestic Violence call for service and the petitioner (victim) has an order to be served and the respondent is present, the following procedure will be followed:

1. The officer will review the order noting that the judge has initialed each relevant paragraph and/or has written directions pertinent to the case in narrative form on the order.
2. The officer will explain the order to the respondent emphasizing what he or she can and cannot do.
3. The officer will advise the respondent of the court date that is written on the injunction.
4. The officer will sign the bottom of the order and include his or her ID number and the words "West Palm Beach Police Department" and give a copy to the respondent.
5. If the respondent refuses to take the copy of the order, the order is still considered served.
6. Officers will not use any force to administer the order. However, officers may use that degree of force necessary for protection or to prevent an escalation of violence.

B. At this point the order is served and the officer must complete the "Proof of Service" portion of the paperwork to make the necessary entry into FCIC. When completing the "Proof of Service" document, the officer will note the following:

1. The issue date of the order is the date the judge signed it.
2. The expiration date of the order is 15 days after the issue date.
3. Full name and complete physical description of the respondent must be included for entry into FCIC.
4. The preceding procedure must be followed to ensure compliance with F.S.S. If the "Proof of Service" is not completed in full and faxed to the Palm Beach County Sheriff's Office (Appendix D), our Department will not be able to verify service, thus efforts to follow-up by arrest and prosecution will be futile.

C. The officer will give the petitioner's copy back to her or him if there is one.

1. If there is no copy for the petitioner, the officer will advise her or him to return to the Clerk's Office to obtain a copy and to carry it on their person after it is obtained.

D. Officers serving an injunction for protection against domestic violence will complete a report and include the following:

1. The date and time the service was attempted.

2. The name of the officer serving the order.
3. The reason for non-service, if applicable.
4. The method of service.
5. The location of service or attempted service.
6. To whom the process was served or on whom executed.
7. Name of the person on whom the injunction was served.

**XV. REFERENCES:**

- F.S.S. Title XLIII Domestic Relations, Ch. 741- Husband and Wife.
- F.S.S. Ch. 784 Assault; Battery; Culpable Negligence.
- F.S.S. 119.07(3) (d) Inspection, examination, and duplication of records; exemptions.
- F.S.S. Ch. 415 Protection From Abuse, Neglect, And Exploitation.
- F.S.S. Ch. 465 Ch. Pharmacy.
- F.S.S. 741.29 Domestic Violence; investigation of incident; notice to victims of legal rights and remedies; reporting.
- F.S.S. 741.30 Domestic Violence; powers and duties of courts and clerk; petitions; notice and hearing, temporary injunctions; issuance of injunctions; enforcement.
- F.S.S. 790.233 Possession of firearm or ammunition prohibited when person is subject to an injunction against committing acts of domestic violence; penalties.
- F.S.S. 901.15(7) When arrest by officer without warrant is lawful.
- SOP # IV-12 Victim/Witness Guidelines.
- SOP # IV-15 Juvenile procedures.
- SOP # IV-22 Internal Affairs Function.
- Rule # 2-7.

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**Delsa R. Bush, Chief of Police**

Original issue: 10/20/92  
Revised: 10/01/2007  
I.D. # 1160

History: SOP # changed to III-9 on 01/01/2005, SOP # changed to 18.14 on 06/01/99  
Old SOP # 6.050.007  
Revision Dates: 06/01/1999, 01/01/2005, 10/01/2005, 10/01/2007

Job Title Task Files: Dispatch Operations, Patrol Sgt., Division Commander

**APPENDIX A**

1. YWCA Domestic Assault Shelter, Harmony House, West Palm Beach, Fl. (561) 640-9844
2. Domestic Assault Project, Palm Beach County Courthouse, 5th. Floor, West Palm Beach, FL. (561) 355-2383 or 274-1500
3. Abuse Hotline 1-800-96-ABUSE.
4. Home Safe at the Children's Place- (561) 832-6185 or 433-0060.

**APPENDIX B**

Contact information for the Address Confidentiality Program (ACP) is as follows:

1. Barbara Cavanaugh- Victim Advocate, Attorney General's Office, 15<sup>th</sup> Circuit  
1515 North Flagler Drive, 9<sup>th</sup> Floor,  
WPB, FL 33401-2299  
Ph.- 561-837-5000 EXT.168 Fax- 561-837-5108
2. Victim Services Information and referral Line- 800-226-6667

**APPENDIX C**

Bureau of Alcohol, Tobacco and Firearms (561) 623-4200

**APPENDIX D**

To enter "Proof of Service" for injunction for protection against domestic violence with P.B.S.O. FAX (561) 688-3469