

“Keep Orlando a safe city by reducing crime and maintaining livable neighborhoods.”

ORLANDO POLICE DEPARTMENT POLICY AND PROCEDURE

1109.23, DOMESTIC/DATING VIOLENCE AND CIVIL PROCESS

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1. PURPOSE

The Orlando Police Department maintains their primary concerns regarding domestic violence are victim safety and offender accountability.

2. POLICY

The Orlando Police Department has a pro-arrest policy regarding domestic violence cases. When probable cause is established, an arrest will be made, regardless of the victim’s willingness to cooperate with the prosecution. When probable cause cannot be established, every effort shall be made to assure the safety of victims and children.

3. DEFINITIONS

Certified Copy of Injunction: An injunction that has an original seal, typically in red ink.

Dating Violence: 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:

1. A dating relationship must have existed within the past six months;
2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
3. 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.

Dating Violence Injunction: An injunction that may be issued against an individual (Respondent) with whom the victim (Petitioner) has or has had a continuing and significant relationship of a romantic or intimate nature within the past six months. Dating violence does not include violence in a casual acquaintanceship or violence between individuals who have only socialized 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 as defined below.

Domestic Violence Injunction: An injunction that may be issued against a spouse or former spouse, a person related by blood or marriage, a person that they are presently living with or have formerly lived with, as if a family, or against someone with whom they have a child in common, regardless whether they were ever married or lived with them.

Domestication of Injunctions: The domestication of an injunction is the registration of a foreign (out of state) injunction, which has already been served in the other jurisdiction. This only has to occur following the service of the injunction, unless it deals with child custody matters. In these cases, the injunction has to first be domesticated or registered by the court.

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 (may include homosexual relationships), or persons who have a child in common (does not require marriage or shared residence).

First Call Program: This program seeks to connect victims of intimate partner violence with advocates immediately at the scene. The purpose of this program is to increase the likelihood that a victim of intimate partner violence will accept the services needed.

No Contact Order: An order that is issued at first appearance by a judge for Domestic Violence-related cases that prohibits the suspect (arrestee) from having contact with the victim as a condition of release (pre-trial) while out on bond.

No Hostile Contact Order: This order allows the suspect or arrestee to have contact with the victim.

Primary Offender/Aggressor: While there is no clear and all-encompassing definition of a primary aggressor, several factors should be evaluated while making this determination. When identifying the primary offender or aggressor, consider evidence such as injuries, witness statements, and how law enforcement became alerted to the incident. Past history of the combatants can be helpful in determining the primary aggressor. Consider the following: Who initiated the physical contact? Have there been threats to kill, commit suicide, withhold parental rights or remove children? Have

there been attempts to control one's movements, associations, or social interactions? Have attempts to separate been met with an increase in violence? Is there any stalking or harassing behavior that can be confirmed through texts or videos? Due consideration should be given to whether a person was simply defending him or herself.

Repeat Violence Injunction: An injunction that may be issued if someone has committed two separate acts of violence or stalking, one being within the last six months.

Stalking: Any person who willfully, maliciously, and repeatedly follows or harasses another person commits misdemeanor stalking. If the stalking includes a credible threat with intent to place that person in reasonable fear of death or bodily injury, the crime becomes aggravated stalking, a felony. It is also aggravated stalking to stalk someone in violation of a domestic violence injunction, repeat violence injunction, or court-imposed prohibition of conduct against the person or the person's property.

Stalking Injunction: An injunction that may be issued if someone has been the victim of stalking. These injunctions are available to all individuals, including those individuals not covered by the Domestic Violence Injunctions.

4. PROCEDURES

4.1 INVESTIGATION OF DOMESTIC VIOLENCE CASES

4.1.1 COMMUNICATIONS RESPONSIBILITIES

Communications personnel can assist in the prosecution of domestic violence cases by obtaining valuable information at the time the call for service is placed. The operator should never ask the victim if he or she wishes to prosecute. Once the required information has been obtained, the operator should attempt to obtain the full name of the victim (if different from the caller); the full name, location, and description of the suspect; and a brief description of the crime. Copies of 9-1-1 tapes will be provided to the State Attorney's Office upon request through the tasking process. Normally, requests will be routed from the Criminal Intake Unit directly to Communications to accommodate the request.

4.1.2 PATROL RESPONSIBILITIES/GATHERING EVIDENCE

Officers will investigate allegations of domestic or dating violence thoroughly and attempt to establish probable cause when conducting investigations by adhering to the following:

- a. Patrol officers will tactically approach a domestic violence or dating violence scene, listening for any spontaneous statements, while looking for a potential weapon or any additional evidence that will help establish probable cause. Entry will be made with the approval of the complaining party or if exigent circumstances exist.
- b. Interview combatants separately, out of visual/hearing range of each other.
- c. Determine if the relationship is domestic or a dating relationship and what crime occurred.
- d. Determine who is the primary aggressor if there are co-combatants. Note defensive injuries on the inside of the arms or palms of the hands.
- e. Do NOT ask victims if they will prosecute or ask them to sign an intent-to-prosecute statement. Instead, they should be asked to write a statement. Statements should be obtained prior to making an arrest, if possible.
- f. Obtain witness statements from household members, including children. If children are too young to write a statement, their statement should be audio-recorded. Even if children did not witness the incident, their names and ages should be recorded in the Incident Offense Report if they were present at the scene. This will enable the sentencing to be enhanced upon conviction if children under the age of 16, who are a family or household member, are present. Neighbors should be contacted as possible witnesses.
- g. Photographs will be taken to document all visible injuries, smeared makeup, disheveled clothing, broken furniture, or disarray in the home, which supports the allegation that a crime of domestic violence has

occurred. Photographs of the scene, and of the victim and suspect on the scene, shall also be taken for identification purposes. Members may encourage victims to take additional pictures of their injuries and provide medical reports documenting the incident. Victims may be provided a link for them to upload any digital evidence that the victim may have. Members shall canvas the area for surveillance footage or additional evidence when it is reasonably believed to exist.

- h. Investigating officers shall record "excited utterances/spontaneous statements" made by any of the principals involved in the incident. The demeanor of the person who made the statement should be described, illustrating how the person was "excited."
- i. Look for signs of strangulation such as markings on the neck, petechiae (tiny red spots/splotches on the neck), hoarseness of voice, coughing, urination, burst blood vessels, difficulty breathing, and lapses in time in the victim's account of the incident which may indicate periods of unconsciousness. If there are signs of strangulation or if the victim states that he or she was strangled or choked, the investigating officer shall ask the victim if their breathing was impaired by the subject or if the victim passed out, almost passed out or lost consciousness as a result of the subject's actions.
- j. If the victim goes to the hospital, the victim should be asked to sign a medical release form provided by the hospital authorizing the release of medical records. This should be included in the case package, which is forwarded to the State Attorney's Office. Names and business addresses of medical personnel should be recorded.
- k. Officers must notify the Department of Children and Families (DCF) of all domestic or dating violence investigations involving violence among household members where the violent behavior demonstrates a wanton disregard for the child's safety or could reasonably result in injury to the child. Therefore, officers shall notify DCF in the following situations: 1) where a child was present or could have witnessed (by sight or sound) the violence, 2) a household member was charged with a felony domestic or dating violence offense, 3) a victim of household violence requires medical attention or hospitalization, or 4) when an officer believes DCF's intervention is necessary for the welfare of the child. Officers are reminded that, per state statute, they are Mandated Reporters. The Department of Children and Families Hotline is 1.800.96ABUSE. The notification of DCF shall be documented (to include the DCF employee's name and employee identification number) in the Incident Offense Report or investigative supplement.
- l. It is helpful to obtain a criminal history of the suspect to determine if they have been convicted of a prior battery. In this case, any subsequent battery shall be charged as a felony [pursuant to s. 784.03\(2\), Fla. Stat.](#) Also, checking the past history of the suspect and victim may assist with the investigation and also assist in determining whether there is a pattern emerging in regard to possible stalking and/or threat of further harm.
- m. In cases with a non-cooperative victim, documentation is key. Any officers who assist in a meaningful way or observe injury shall complete a supplemental report. Investigating officers should, after reading Miranda, ask the defendant clarifying questions. Investigating officers should collect emergency contact information for the victim and request that the victim sign a medical disclosure while on scene. Investigating officers should consider recording any cell phone footage or other evidence that the victim has, especially if the investigating officer believes that the victim may later withhold such evidence. Members may send a digital evidence link (e.g., Axon Citizen Link) to the victim so that they may later upload digital evidence.

NOTE: Members are encouraged to inform victims about the possibility of obtaining an injunction, but should not simply tell the victim to, "Go get an injunction." Members should let the victim know that obtaining an injunction is a multi-step process, however, there are resources at the courthouse to assist victims through this process. For additional information members should refer victims to <https://myorangeclerk.com/Divisions/Family/Restraining-Orders>.

4.1.3 "FIRST CALL" PROGRAM FROM HARBOR HOUSE

The officer must first determine whether the case has a cause or concern for high lethality (i.e., battery by strangulation, aggravated battery, aggravated assault, etc.). Once the scene is secure, the officer shall call the "First Call" law enforcement number (407.703.2897) for Harbor House. This can be done using the victim's phone or another phone. The officer should dial the number, introduce themselves, and give a brief synopsis of the incident to the advocate. The officer will then give the phone to the victim. After the initial conversation and upon

completion of the investigation, the officer can depart the scene. The officer must document, in the initial police report and on the domestic violence worksheet, whether "First Call" was initiated.

4.1.4 EXISTENCE OF PROBABLE CAUSE

If probable cause is established that an act of domestic or dating violence has occurred and the offender is located, officers must make a physical arrest. The officer must charge the substantive offense (e.g., battery, assault, sexual battery, etc.) and include "Domestic Violence" or "Dating Violence" in parentheses, i.e., Battery (Domestic Violence), [section 784.03, Fla. Stat.](#) Officers shall NOT charge [sections 741.28](#), [741.30](#) or [784.046](#), Fla. Stat., when the relationship between the offender and the victim makes the substantive offense an instance of domestic violence or dating violence. Domestic or dating violence are not crimes; rather, domestic violence are specific types of substantive offenses. Additionally, officers shall do their best to correctly label substantive offenses as dating violence or domestic violence because improper labeling may affect the victim's ability to obtain services for said victims.

The Domestic/Dating Violence Worksheet (Attachment A) shall be completed for all battery and domestic/dating violence arrest cases and included with the APS package. (These forms are available in the Quartermaster Unit.) The requested attachments (including contact sheets or copies of photographs) will be obtained for inclusion in any filing or supplemental packages, which will be forwarded to the State Attorney's Office. In domestic violence situations between intimate partners (NOT familial relationships as in brothers, sisters, cousins, etc.), the responding officer shall fill out the Domestic Violence Assessment Checklist (Attachment B). The Domestic Violence Assessment Checklist (Attachment B) shall be provided to the Violent Crimes Unit by the end of tour of duty (i.e., by email to assaultandbattery@orlando.gov or by hand).

When conducting the Domestic Violence Assessment Checklist (Attachment B), members must fully document the victim's responses on the form. The member shall advise a victim of the results of the assessment and refer the victim to the nearest locally certified domestic violence center if:

1. The victim answers "yes" to any of the questions 1-4;
2. The victim answers "no" to the questions 1-4, but "yes" to at least four of questions 5-11; OR
3. As a result of the victim's question 12, the member believes the victim is in a potentially lethal situation.

If a victim does not, or is unable to, provide information to the member sufficient to allow the member to administer the assessment, the officer must document the lack of the assessment in a written police report and refer the victim to the nearest locally certified domestic violence center.

NOTE: Members must NOT include the name or location of the domestic violence center to which the victim was referred to in a probable cause statement, written police report, or incident report.

In misdemeanor cases involving domestic violence or dating violence incidents, where an arrest is not made, the investigating officer will continue trying to locate the suspect for the remainder of their tour of duty. If the suspect is not located, charges should be filed with the State Attorney's Office per the current issue of P&P 1202, Filing Criminal Cases, or a warrant may be obtained depending on the severity of the violence, escalation of violence from prior incidents (reported or not) and the current threat of danger which exists for the victim. The victim's responses in Attachment B may assist in determining if a warrant should be sought. Further consideration should be given to obtaining a warrant if other incidents are pending in the judicial process. The investigating officer's supervisor should review the case (Officer's report, Attachment B, and the victim's verbal and/or written statements) to determine if a warrant should be obtained in these misdemeanor cases.

In felony cases involving domestic violence or dating violence incidents, a warrant should be obtained depending on the severity of the violence, escalation of violence from prior incidents (reported or not) and the current threat of danger which exists for the victim. Generally, a Watch Commander's approval is not necessary to obtain an

arrest warrant. The decision not to obtain a warrant for felony domestic/dating violence cases shall be approved by the on-duty Watch Commander. The notified Watch Commander's name shall be included in the narrative of the incident report. All supporting documentation (APS) should be scanned into LERMS and forwarded to the State Attorney's Office immediately.

When investigating claims of mutual combat, the officer shall make every effort to determine the primary aggressor. Persons who are merely engaged in self-defense should never be arrested. Dual arrests are strongly discouraged but are allowed where two separate acts of violence occurred that were not necessary for self-defense. If two separate acts occurred, two separate Incident Offense Reports should be generated under two different case numbers. Officers must articulate in each arrest affidavit and report the grounds for arresting both persons.

Occasionally, officers will encounter violations of federal statutes regarding domestic violence issues. These will involve violations such as interstate stalking, interstate domestic violence, possessing firearms or ammunition when listed as a respondent in an injunction for protection, or possessing firearms or ammunition after a conviction for misdemeanor domestic violence. Officers will document these situations in an Incident Offense Report, which will then be referred to the appropriate federal agency for investigation or prosecution.

4.1.5 AFTER-HOURS PROCEDURES FOR EMERGENCY ARREST AND SEARCH WARRANT

Applications for emergency search warrants and arrest warrants for individuals whose location is specifically known are appropriate where a suspect would escape or evidence would be lost if immediate action is not taken. The suspect's location should be specifically known at the time the warrant is sought. Alternatively, an emergency warrant can be sought if the suspect's identity is known but his/her location is unknown and the suspect is a threat to the safety and welfare of a citizen or the community. Emergency warrants of these types should be sought only when law enforcement is waiting to immediately proceed on the search or arrest warrant. In cases involving felony domestic/dating violence incidents that do not meet the criteria of an emergency warrant, applications for non-emergency warrants shall be completed and submitted by the primary officer. Officers shall use the current version of the Affidavit for Arrest Warrant template found under the Add-Ins tab/Investigative Forms/Warrants-Orders in MS Word (See Policy 1210 Arrest Warrant Juvenile Custody Orders for further instruction)

Once the warrant is signed, a Watch Commander shall determine if the apprehension may be made by on-duty personnel or if circumstances require notification of the OPD Fugitive Investigative Unit supervisor. See Orlando Police Department Policy 1210, Arrest Warrants and Juvenile Custody Orders, and the eWarrant Reference Manual for additional information. Upon obtaining any e-warrant an email will be sent to arrestwarrant@ocfl.net and assaultandbattery@orlando.gov with a copy of the warrant attached. The e-mail to Violent Crimes will also include the victim's immediate contact information for follow-ups by the assigned detectives. All felony warrants will also be forwarded to FIU@orlando.gov

Until the warrant is obtained, officers shall continue their efforts to apprehend the offender and ensure that the victim is in a shelter and/or other safe location.

4.1.6 LACK OF PROBABLE CAUSE

If probable cause cannot be established this information will be documented on the Incident Offense Report. Officers shall not threaten, suggest, or otherwise indicate the possible arrest of all parties, or the removal of the children from the home with the intent of discouraging requests for intervention by law enforcement by any party. If there is a lack of probable cause, the victim shall be so informed. Victims and persons alleging domestic violence or dating violence will receive a pamphlet explaining legal rights and remedies and will be advised of the availability of shelters. Also, efforts to assure future safety will be made (i.e., transportation to shelter). If probable cause cannot be established, an Officer will not file charges at-large for the State Attorney to review.

4.1.7 REPORTING

All allegations of domestic violence, dating violence, or any alleged crimes between persons with a domestic/dating relationship will be documented in an Incident Offense Report and distributed in accordance with Florida Statute. The narrative portions of the Incident Offense Report and the Charging Affidavit will contain pertinent information including the case disposition. All reports will include a description of injuries observed, the reasons why an arrest was not made (if applicable), the reasons why two or more persons were arrested (if applicable), notification to DCF (if applicable), all charges filed (if applicable), and a statement that the legal rights and remedies pamphlet was given to the victim. A list of Domestic Violence and Dating Violence Report Reminders may be found on OPD ONLINE under Training References. Note: Do NOT include whether a victim was transported to Harbor House of Central Florida or any other shelter in the incident report. If a victim accepts transportation to Harbor House of Central Florida or any other shelter, a notification should be made to the Violent Crimes Unit supervisor via email to assaultandbattery@orlando.gov for investigative follow-up.

It is a statutory requirement to forward domestic violence and dating violence reports to Harbor House within 24 hours. Reports must be submitted by the reporting officer and approved by the supervisor prior to the end of shift. Additionally, the following steps shall be taken by the reporting officer:

- **Complete the Domestic Violence/Dating Violence Assessment Checklist for Intimate Partners Only (Attachment B)**
- **If a victim refuses to answer questions, the top portion to include the case number MUST still be completed.**
- **Email the checklist to DV@orlando.gov prior to the end of tour of duty. Paper copies will not be accepted due to delays in receiving them.**

A Violent Crimes Supervisor or designee will provide copies of all domestic violence reports to Harbor House that do not fit the criteria of an active investigation per Florida Statute [741.29](#).

4.1.8 OFFICER/PUBLIC OFFICIAL AS A SUSPECT

Circumstances may arise where a police officer or public official is the alleged perpetrator of domestic or dating violence. Officers responding to investigate these cases shall maintain neutrality and objectivity throughout the investigation. A suspect officer/public official will be processed in the same manner as any other citizen suspect. If probable cause exists, an arrest will be made in accordance with this policy. A Watch Commander will be notified as soon as possible and will respond to the scene of the investigation. The Watch Commander will assure that the suspect officer's chain of command is notified and the appropriate disciplinary process initiated if they are employed at the Orlando Police Department. If the suspect is an officer with another agency or public official, the agency or department will be notified.

If any Orlando Police Department officer or other employee is arrested for an act of domestic or dating violence or is served with a domestic or repeat violence injunction, the serving or arresting officer is required to notify the suspect/respondent employee's section commander or the on-duty Watch Commander immediately.

A mandatory EAP referral shall be initiated any time an Orlando Police Officer is arrested or formally charged with any offense constituting an act of domestic violence.

Refer to Policy 1617, Relief of Duty, Alternative Duty and Limited Duty, for a Watch Commander's responsibilities.

4.1.9 SUSPECT TAKEN INTO CUSTODY

If the officer suspects that the arrestee is on probation, the officer shall make notification directly to the probation office of this circuit by calling their predesignated service line at 407.836.3022 (24 hours a day) and leaving the appropriate information to include the name of the defendant, race, sex, date of birth, name of the arresting officer, agency, case number, charge and how the officer obtained information that the arrestee may be on probation (i.e., teletype, victim advised, etc.)

4.1.10 CARE OF DEPENDENTS

Officers shall see to the appropriate care of dependent children or adults. If there is no parent, legal guardian, or relative to care for the dependent, the officer shall contact the Abuse Registry at 1.800.96.ABUSE (962.2873) for purposes of determining placement. The officer should indicate in the report the identity and address of the person taking custody of the dependent. Status or placement of children should not affect arrest decisions. Harbor House will ensure sheltered children have transportation to and from the school they are currently enrolled in Harbor House will also shelter pets.

4.1.11 VICTIM ADVOCATE/SAFETY ISSUES

If a victim needs a Victim Advocate immediately, the officer should phone a counselor at Harbor House of Central Florida or the Orange County Center Against Domestic Violence (407.886.2856) and ask the victim to speak by phone with the counselor. Orange County Sheriff's Office also has Victims' Advocates who are available to respond to these incidents. Advocates can also be located at the Orange County Courthouse (5th floor, room 520), at BRC, and are often on site at OPH (2nd floor, by SVU). Advocates can assist with securing alternative housing, funding travel to and from court, doctor's appointments, job interviews, etc.

For other services and after hours assistance, victims shall be referred to the local domestic violence shelter. Officers may assist victims with transportation to the shelter with supervisory approval.

2.12 CID RESPONSIBILITIES

The Violent Crimes Unit supervisor or designee will review all domestic and dating violence Incident Offense Reports and assign open cases to officers or detectives as deemed appropriate. Detectives will investigate assigned cases and be available to patrol officers during work hours to offer advice regarding domestic and dating violence investigations. Violent Crimes Unit detectives will assist with follow-up as necessary and be available for call-out per the current issue of P&P 1103, Call-Out Procedures.

4.2 CIVIL PROCESS

4.2.1 SERVING CIVIL PROCESS

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:

- a. The officer will review the order noting that it is a certified copy and that the judge has initialed each relevant paragraph and/or has written directions pertinent to the case in narrative form on the order.
- b. The officer will explain the order to the respondent emphasizing what the order specifies.
- c. The officer will advise the respondent of the court date that is written on the injunction.
- d. The officer will sign the bottom of the order and include his or her ID number and the words "Orlando Police Department" and give a copy to the respondent.
- e. If the respondent refuses to take the copy of the order, the order is still considered served. The officer should note on the original order that the respondent refused to sign the order and that "service" has been affected.
- f. 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.

4.2.2 PROOF OF SERVICE

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:

- a. The issue date of the order is the date the judge signed it.

- b. The expiration date of the order is 15 days after the issue date.
- c. A complete physical description of the respondent must be included for entry into FCIC.
- d. The preceding procedure must be followed to ensure compliance with Chapter 741, Fla. Stat. The "Proof of Service" must be completed in full and faxed during the shift, but no later than 24 hours, to the Orange County Sheriff's Office as required by law. This step is necessary to verify service and to ensure follow-up by arrest and prosecution.

4.2.3 PETITIONER'S COPY

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

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

4.2.4 REPORT REQUIRED

Officers serving or attempting to serve an injunction for protection against domestic violence or dating violence will complete a report and include the following:

- a. The date and time the service was served or attempted.
- b. The name of the officer serving the order.
- c. The reason for non-service, if applicable.
- d. The method of service.
- e. The location of service or attempted service.
- f. To whom the process was served or on whom executed.

Persons seeking civil injunctions should be advised to seek private counsel. Officers should refer victims to the Harbor House of Central Florida Hotline at 407.886.2856 for injunctions after normal business hours and on weekends.

4.3 VIOLATION OF PRE-TRIAL RELEASE

Generally, officer's do not have the authority to arrest for violation of an offender's pretrial release conditions and only the court may revoke pretrial release and issue a warrant. See [section 907.041, Fla. Stat.](#) However, officers may arrest for a violation of an offender's pretrial release conditions if the conditions were ordered in a dating or domestic violence case.

[Section 741.29\(6\), Fla. Stat.](#), makes it a misdemeanor to willfully violate a condition of pretrial release if the original arrest was for an act of domestic violence. [Section 784.046\(15\), Fla. Stat.](#), makes it a misdemeanor to willfully violate a condition of pretrial release if the original arrest was for an act of dating violence. A common pretrial release condition in domestic and dating violence cases is a No Contact Order. Pretrial release conditions are case specific and, as a result, are only in effect when the court case is pending. Violations of [sections 741.29](#) and [784.046\(15\), Fla. Stat.](#), are non-view offenses. See [§ 901.15\(13\), Fla. Stat.](#)

If probable cause is established that a violation of either of the above sections has occurred and the offender is located, officers must make a physical arrest. **If the offender cannot be located, officers must complete an informational report and e-mail the report to the prosecutor assigned to the case in which pretrial release conditions were ordered within 24 hours of probable cause being established.** Completing an information report and e-mailing it to the prosecuting attorney is necessary to prevent the State Attorney's Office from resolving the case without the benefit of new information. The assigned prosecutor can be found in the State Attorney's Case Management System website.

Pretrial release conditions are not entered into FCIC. Officers can verify whether a subject has pretrial release conditions, including a No Contact Order, in an open domestic or dating violence case by contacting Pretrial Services at 407.254.7500, 24 hours a day, 7 days a week.

4.4 FOREIGN PROTECTION (OUT-OF-STATE) ORDERS/OTHER IN-STATE JURISDICTIONS

4.4.1 ENFORCEMENT

Foreign (out-of-state) protection orders and those from other in-state jurisdictions are accorded full faith and credit by the courts in Florida and enforcement of its terms by law enforcement agencies is required if certain criteria are met. Officers must verify the identity of the parties and must determine that the order has not expired. They shall use reasonable efforts to verify service prior to taking action. Service may be verified by obtaining a sworn statement from the petitioner that the petitioner has knowledge that the respondent was served because the petitioner was present at the time of service, the respondent told the petitioner that he or she was served, another person told the petitioner the respondent was served, or the respondent told the petitioner he or she knows of the content of the order and date of the return hearing. Also, a statement under oath from the respondent (acknowledging service) is acceptable as proof of service.

If the officer cannot determine whether or not the respondent was served, the officer should write an Incident Offense Report and forward it to CID for follow-up.

A protected person may provide a sworn affidavit stating that "to the best of my knowledge and belief, the attached certified copy of the foreign order, docket/case # _____ issued in the State of _____ is currently in effect as written and has not been superseded by any other order and that the respondent has received a copy of it." The protected person should also describe how they believe the respondent was served. However, officers may enforce a protection order.

4.4.2 REGISTERING A FOREIGN ORDER/ORDER FROM OTHER IN-STATE JURISDICTION

A protected person may register a foreign order by presenting a certified copy to any sheriff in this state and requesting that it be registered.

4.4.3 FOREIGN ORDERS INVOLVING CHILD CUSTODY/OTHER IN-STATE JURISDICTION ORDERS

Matters pertaining to child custody, visitation, and support are not enforceable until domestication (registration) of the foreign order/other in-state jurisdictions unless the order is a "pick-up order" requiring the immediate return of a child.

4.4.4 SERVING A FOREIGN INJUNCTION/ORDERS FROM OTHER IN-STATE JURISDICTIONS

If a victim asks an officer to serve the injunction on a respondent, the officer should do so and advise the Sheriff's Office as currently required. Before the enforcement of foreign protection order or orders from other in-state jurisdictions, officers should confirm the identity of the parties present and review the order to ensure it has not expired. A certified copy of the injunction is required. The certified order with the latest date is the order which supersedes all others.

4.5 CRIMINAL VIOLATION OF INJUNCTION

A law enforcement officer may make a non-view warrantless arrest when there is probable cause that the person has knowingly committed an act in violation of an injunction for protection (domestic violence injunction, dating violence injunction, repeat violence injunction, stalking injunction or foreign protection order). Statements should be obtained. The officer must first verify that the injunction has previously been served on the suspect prior to the violation and arrest. This may be done by calling 407.836.4573 during business hours or 407.836.4527 after hours or through Teletype. If the suspect is not located, charges should be filed at large. Filing packages and supplemental arrest packages must include a copy of the injunction and proof of service.

It is a first-degree misdemeanor to willfully violate an injunction for protection against domestic violence or a foreign protection order accorded full faith and credit pursuant to [section 741.315, Fla. Stat.](#), by:

- a. Refusing to vacate the dwelling that the parties share.
- b. Going to or being within 500 feet of the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member.
- c. Committing an act of domestic violence against the petitioner.
- d. Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner.
- e. Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party.
- f. Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle whether or not that vehicle is occupied.
- g. Defacing or destroying the petitioner's personal property including the petitioner's motor vehicle.
- h. Refusing to surrender firearms or ammunition if ordered to do so by the court. [§ 741.31, Fla. Stat.](#)

It is a first-degree misdemeanor to willfully violate an injunction for protection against repeat violence, sexual violence, dating violence or a foreign protection order accorded full faith and credit pursuant to [section 741.315, Fla. Stat.](#) by:

- a. Refusing to vacate the dwelling that the parties share.
- b. Going to the petitioner's residence, school, place of employment or a specified place frequented regularly by the petitioner and any named family or household member.
- c. Committing an act of repeat violence, sexual violence or dating violence against the petitioner.
- d. Committing any other violation of the injunction through an intentional unlawful threat, word or act to do violence to the petitioner.
- e. Telephoning, contacting or otherwise communicating with the petitioner directly or indirectly unless the injunction specifically allows indirect contact through a third party ([§ 784.047, Fla. Stat.](#)).

Note: If a separate crime is committed and the victim does have an active injunction, a felony warrant may be obtained. Additionally, there may be cases in which a warrant may be obtained for a misdemeanor violation of injunction. These cases, which should include exigent circumstances (previous history of violence, multiple credible threats, etc.), should be approved by the officer's/detective's supervisor and lieutenant. A police legal advisor shall be notified. The Violent Crimes Unit supervisor can also be consulted.

4.6 POSSESSION OF FIREARMS/AMMUNITION

[Section 790.233, Fla. Stat.](#), states it is illegal to possess a firearm or ammunition after imposition of final injunction for protection against domestic violence. Therefore, you shall make an arrest based on this probable cause.

4.7 STALKING CASES

Officers should investigate alleged stalking incidents thoroughly and arrest perpetrators when appropriate. If the suspect is not located and the officer feels there is a high probability of violence, the officer should obtain an arrest warrant immediately. Officers should continue to attempt to locate and arrest suspects who are wanted for aggravated stalking. If probable cause exists for aggravated stalking and a suspect has not been located, the investigating officer shall notify the watch commander, who will determine if further investigation is needed (such as a stakeout, obtaining a warrant, requesting assistance from other units such as CID or TAC, etc.). All incidents should be documented on an initial police Incident Offense Report. If probable cause exists for aggravated stalking, the investigating officer shall obtain a warrant.

It's a third-degree felony to willfully, maliciously, and repeatedly follow, harass, or cyberstalk another person and make a credible threat to that person. It is also a third degree felony under Aggravated Stalking to repeatedly communicate

with or contact the petitioner in violation of an active injunction. Obtaining an arrest warrant should be considered in these cases. In all felony cases involving domestic violence or dating violence, a warrant should be obtained.

4.8 EXEMPTION FROM PUBLIC RECORDS DISCLOSURE

VICTIMS:

[Article I, Section 16\(5\)](#) of the Constitution of the State of Florida, aka: "Marsy's Law," outlines the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information of the victim. The victim's name is NOT exempt under Marsy's Law. The triplicate "Victim Request for Confidentiality" (Attachment C), available in the Quartermaster Unit, shall be completed for a victim requesting the exemption. See the current version of P&P 1131.

Any information (including name, address, photograph, etc.) that reveals the identity of a victim of sexual battery, sexual offense, or child abuse is exempt from public records disclosure as provided in Florida Statutes, Chapter 119. These exemptions are automatic and do not require that the victim request anonymity.

WITNESSES/OTHER PARTIES:

[Section 119.071\(4\)\(d\)](#), Fla. Stat., outlines additional exemptions of certain information relating to current and former sworn or civilian law enforcement personnel, correctional and correctional probation officers, prosecutors, and judges by excluding from public inspection: home addresses, personal telephone numbers, dates of birth, and photographs. The same statute exempts certain information relating to family members of such personnel by excluding from public inspection: names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel, and the names and schools and locations of schools and daycare facilities attended by the children of such personnel.

Public records law provides for additional protections for victims and witnesses that are not required to be invoked. While those protections are generally less robust than the protections offered under Marsy's law, they are available automatically and for witnesses or other individuals that may not qualify for Marsy's Law.

NARRATIVE:

If any form is completed regarding the confidentiality of information, the member shall include a statement in the narrative of the Incident Offense Report indicating such. Members shall also check "Non-Disclosure," if applicable, when completing their report. Completed forms shall be routed to the Report Review/Information Unit for entry.

4.9 DOMESTIC VIOLENCE RESPONSE TEAM

The Domestic Violence Response Team is made up of permanent police officers who have volunteered and/or have been selected to participate. Ideally, there will be representatives from all watches and sectors of the City on the team. These officers will receive additional training on domestic violence issues and will become a resource to fellow officers. A Violent Crimes Unit Supervisor or anyone so designated by the Chief of Police will be the Team Coordinator.

When possible, a DVRT member shall offer their assistance in all domestic or dating violence incidents. When practical, DVRT members should take the primary role in the initial investigation for a domestic or dating violence incident.

4.10 VICTIMS BROCHURES

In addition to the Victims' Rights brochure, victims of domestic violence, repeat violence, sexual violence and stalking will also be given a domestic violence brochure: "Notice of Legal Rights and Remedies for Victims of Domestic Violence, Repeat Violence, Sexual Violence, Stalking," the triplicate "Victim Request for Confidentiality" which is available in the Quartermaster Unit. [§ 741.29, Fla. Stat.](#)

5. FORMS AND APPENDICES

ATTACHMENT A- Domestic/Dating Violence Worksheet

ATTACHMENT B- Domestic/Dating Violence Assessment Checklist

ATTACHMENT C – Victim Request for Confidentiality

ATTACHMENT D- Exempt from Public Record