



LEON COUNTY SHERIFF'S OFFICE

General Order 41.8 *Domestic Violence*

<i>EFFECTIVE:</i>	<i>REVISED:</i>	<i>RESCINDS:</i>
1 October 1998	10 July 2017	8 August 2014

A. PURPOSE: The purpose of this policy is to establish guidelines for the Sheriff's Office response to allegations of domestic violence.

B. SCOPE: This policy applies to all Sheriff's Office members.

C. DISCUSSION:
N/A

D. POLICY: It shall be the policy of the Leon County Sheriff's Office to reduce the incidence and severity of domestic violence, protect victims of domestic violence, provide victims with support through a combination of law enforcement and community services, and promote officer safety by ensuring that members are fully prepared to effectively deal with domestic violence calls for service. Members shall respond to reports of domestic violence and will document the findings of subsequent investigations in accordance with the provisions of this general order and Florida Statutes. [CFA 15.09]

E. DEFINITIONS:

AGGRAVATED STALKING - As defined by Section 784.048, F.S., it is stalking plus the additional element of: 1) A credible threat with intent to place a person in reasonable fear of death or bodily injury; or 2) Violation of a domestic violence injunction, repeat violence injunction, or any other similar court order.

DOMESTIC VIOLENCE - As defined by Sections 741.30 and 784.046, F.S., means 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 who is, or was, residing in the same single dwelling unit.

DOMESTIC VIOLENCE INJUNCTION - A judicial order that both directs the respondent to do a specific act and/or prohibits him/her from doing other acts. The primary objective is to prevent further injury.

FAMILY/HOUSEHOLD MEMBER - As defined by Section 741.30, F.S., means spouses, former spouses, persons related by blood or marriage, persons who are, or

have, resided together as a family, and persons who have a child in common, regardless of whether they have been married or have resided together at any time.

REPEAT VIOLENCE - As defined by Section 784.046, F.S., means two incidents of violence or stalking committed by the respondent, one of which must have been within six (6) months of the filing of the petition for injunction for protection against repeat violence, that are directed against the petitioner or the petitioner's immediate family.

STALKING - As defined by Section 784.048, F.S., any person who willfully, maliciously, and repeatedly follows or harasses another person.

F. PROCEDURE:

1. Consolidated Dispatch Agency (CDA) Responsibilities:

- a. The Consolidated Dispatch Agency shall dispatch a deputy(s) in all situations involving domestic violence. The priority of a domestic violence call shall be gauged in accordance with the priority criteria prescribed by generally applicable agency procedures.
- b. Whenever possible, two deputies should be dispatched to the scene if the event is in progress or the involved parties are still present.
- c. In addition to basic information obtained, the CDA member will attempt to obtain follow up and scene safety information using domestic violence priority dispatch protocols. The CDA dispatcher will relay this information to the deputies responding to a domestic violence call.
- d. Consolidated Dispatch Agency personnel shall not ask the victim whether she/he plans to participate in any later prosecution.
- e. If the crime is in progress, Consolidated Dispatch Agency personnel should keep the complainant on the phone and ask him/her not to hang up the phone even if they are away from it, provided the victim is not in any immediate danger. If the member cannot remain on the telephone with the victim, the member should attempt to call back periodically to check on the progress of events and relay this information to the deputies.
- g. For 9-1-1 or other emergency call hang-ups, where call location information is available, Consolidated Dispatch Agency personnel shall always attempt to call back and dispatch a deputy.
- h. Consolidated Dispatch Agency personnel shall not cancel the law enforcement response to a domestic violence complaint, regardless if the request is made during the initial call or a follow-up call. However, the deputy(s) shall be advised of the request.

2. Initial Response and Entry: [CFA 15.09A]

a. In responding to domestic violence calls, deputies shall act in accordance with agency policy for responding to high hazard calls.

b. Entry:

- 1) If refused entry, the deputies should be persistent about seeing and speaking alone with the victim. If access to this person is refused, the deputies should request that the Consolidated Dispatch Agency attempt contact with the victim by phone.
- 2) If access is still refused and extenuating and/or exigent circumstances exist, which give the deputies reason to believe that someone is in imminent danger, the deputies are to proceed in accordance with state statutes and agency guidelines.

3. On-Scene Investigation: [CFA 15.09B]

a. The initial actions of the responding deputy(s) should be to ensure the safety of all persons at the scene. This should include:

- 1) Separating the victim and offender physically, verbally and if possible, visually (if circumstances permit, move them into separate rooms);
- 2) Taking possession of all involved weapons and securing any other weapon which may pose an immediate threat at the scene, seizing only in accordance with law;
- 3) Assessing the severity of injuries to parties and applying or calling for the appropriate level of aid for any injured parties; and
- 4) Locating and checking the welfare of any children and others at the scene.

b. Steps of the on-scene investigation should include the following:

- 1) Interview and obtain sworn written or taped statements from all parties and potential witnesses, 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 each other, if possible.
- 2) If communications are impaired by special needs of any party (for instance, the person is hearing impaired or does not speak English), the deputy, where possible, should request that appropriate resources be made available via a phone or at the scene.
- 3) Determine if the relationship is “domestic” and what crime(s) occurred, in accordance with Florida Statutes.

- 4) Determine the nature and extent of all injuries, including defensive wounds, pursuant to Chapter 741, F.S.
- 5) Ascertain whether a female victim is pregnant and whether and how the suspect is aware of the condition. Obtain the name of the health care provider, if possible.
- 6) Determine who the primary aggressor is using the following facts and the deputy's judgment:
 - a) Extent of any injuries inflicted;
 - b) Fear of physical injury because of past or present threats;
 - c) Actions taken in self-defense or to protect oneself;
 - d) History of domestic abuse perpetrated by one party against the other; and
 - e) Existence or previous existence of orders for protection.
- 7) Record in writing:
 - a) Any statements of the victim, the suspect and/or witnesses. Note the exact words used, using quotation marks; indicate the approximate time frame when the statements were made; and record the emotional condition of the speaker.
 - b) Any relevant statements, including self-serving ones, made by the suspect.
- 8) Collect and record physical evidence and, where appropriate, take digital photographs and/or videos of injuries and property damage. Request a Crime Scene detective, if needed.
- 9) The deputy should attempt to obtain a written or taped statement from the suspect.
- 10) Any written or taped statements obtained during the course of the investigation shall be submitted in accordance with agency procedures.

4. Arrests: [CFA 15.09C]

- a. Whenever a deputy determines there is probable cause that an act of domestic violence has been committed, the deputy may arrest the person suspected of its commission and charge such person with the appropriate crime. The decision to arrest and charge shall not require the consent of the victim or consideration of the relationship of the parties. Deputies shall notify

their supervisor whenever they decide not to make an arrest upon determining that probable cause exists to believe an act of domestic violence has occurred. The reasons for this decision must be documented and articulated in an offense report.

- b.** When determining probable cause, the deputy(s) should pro-actively determine all the crimes for which there is probable cause, based on their observations and any statements by parties involved and any witnesses, including children.
- c.** Factors which should not be considered in determining whether an arrest will be made include:
 - 1)** Marital status, sexual orientation, race, religion, profession, age, disability, cultural, social or political position or socioeconomic status of either party;
 - 2)** Ownership, 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 that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction;
 - 5)** Verbal assurances that the abuse will stop;
 - 6)** The fact that the suspect has left the scene;
 - 7)** Disposition of previous police calls involving the same victim or suspect;
 - 8)** Denial by either party that the abuse occurred when there is evidence of domestic abuse;
 - 9)** Lack of court order restraining or restricting the suspect;
 - 10)** Concern about reprisals or restricting the suspect;
 - 11)** Adverse financial consequences that might result from 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; and
 - 15)** Presence of children or the immediate dependency of children on the suspect.

- d. The deputies making an arrest should inform the arrestee that domestic violence is a crime and that the State of Florida, not the victim, is responsible for the prosecution. The responding deputies shall not initiate discussion of or accept a complaint withdrawal, or have the victim sign a waiver of prosecution form.
- e. If the deputies determine that a crime has been committed and that the suspect has left the scene, the deputies will make every attempt to:
 - 1) Conduct a search of the immediate area and issue a “BOLO”;
 - 2) Obtain information from the victim and witnesses as to where the suspect might be located; and
 - 2) Prepare an *Offense/Incident Report* and complete other appropriate paperwork for referral to the investigative unit for follow-up.
- f. Dual Arrests:
 - 1) The agency shall discourage dual arrests in order to avoid arresting the victim. Where there are allegations that each party assaulted the other, the deputy 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.,6) above.
 - 2) If the primary aggressor alleges that she/he is also the victim of domestic violence, then it is imperative that the deputy thoroughly investigate the allegation to determine whether it was an act of self-defense or an act of aggression. If it was a separate act of aggression, then the deputy shall make an arrest or file an *Offense/Incident Report*. If the deputy concludes that it was an act of self-defense, no arrest shall be made of the secondary aggressor. If dual arrests are made, the facts supporting each arrest must be clearly documented.
- g. Deputies 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.
- h. If no arrest is made, the victim shall be so informed and be notified that they can request to have the case reviewed by the State Attorney’s Office.

5. Victim Support Services: [CFA 15.09D]

- a. The deputy shall attempt to identify and utilize resources to assist in the investigation.
 - 1) The agency’s Victim Advocate Unit should be contacted if criteria is met and the circumstances deem the assistance appropriate; and

- 2) If the deputy's interactions are impeded with non-English speaking citizens (e.g., victims, witnesses, suspects) or citizens with communication disabilities, an independent interpreter may be utilized. However, the deputy should avoid the use of friends, family or neighbors serving as the primary interpreter for the investigation.
- b. The deputy shall attempt to gain the victim's trust and confidence by showing understanding, empathy, patience and respect for personal dignity and using language appropriate to the age, educational level and emotional condition of the victim.
- c. In accordance with Chapter 741, F.S., the deputy must:
 - 1) Assist the victim in obtaining any needed medical treatment;
 - 2) Inform the victim of the availability of a certified domestic violence center; and
 - 3) Give the victim a copy, and have them sign for receiving a "Legal Rights and Remedies Notice to Victims" brochure in English or Spanish as appropriate, which provides:
 - a) A telephone number for the local domestic violence center (the victim should also be informed of other specialized domestic violence resources available in the community);
 - b) Information about the right to file a criminal complaint with the State Attorney's Office; and
 - c) Information about injunctions for protection.
- d. Deputies should:
 - 1) Convey to the victim concern for their safety;
 - 2) Inform the victim about how to get an injunction in the fastest possible manner;
 - 3) Advise the victim that the incident report will be sent to the local domestic violence center;
 - 4) 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;
 - 5) Ask the victim if she/he wants to be notified of the suspect's release from jail;

- 6) Tell the victim that domestic violence is a crime and that the sole responsibility for decisions regarding whether charges are filed rests with the State and not the victim;
 - 7) If an arrest is not made, inform the victim of the reasons and of their options independent of law enforcement (as indicated in the “Rights and Remedies” pamphlet); and
 - 8) Advise the victim to notify the agency of any additional incidents or new information.
- e. The deputy should not leave the scene of the incident until the situation is under control and the likelihood of further violence has been eliminated. If the victim is leaving, the deputy should remain at the scene for a reasonable period of time while the victim gathers necessities for a short-term absence from home. The deputy should ask a victim who is leaving the home for their temporary address and phone number out of hearing of the perpetrator.
 - f. If the victim requests to go to a shelter, they shall be referred to a certified domestic violence shelter. The deputy shall arrange for or provide transportation to the certified shelter if the victim is approved for shelter intake or arrange for or provide transportation for the victim to an alternate location of the victim’s choice in the local area.
 - g. Care of children: Deputies shall see to the appropriate care of children as victims or dependents.
 - 1) In child abuse situations, the deputy is required by Chapter 415 Florida Statutes to call the Abuse Registry at [800-96-ABUSE (1-800-962-2873)].
 - 2) If, as a result of arrests and/or hospitalizations, there is no parent, legal guardian, or relative to either care for the children or direct the deputy as to the appropriate temporary placement of the children, the deputy should contact the Abuse Registry at the number above for purposes of determining placement. The deputy should indicate in the report the identity and address of the person taking custody of the children.
 - h. Care of Dependent Adults: 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 deputy should make appropriate arrangements for the person’s care. In the case of abuse, the deputy shall call the Abuse Registry [1-800-96-ABUSE (1-800-962-2873)].
 - i. If indicators of future violence exist, the deputy should speak to appropriate agency authorities to arrange for increased patrol in the area.

6. Report Writing: [CFA 15.09F]

- a. In accordance with Chapter 741, F.S., the deputy shall prepare a written report if there has been an allegation of domestic violence, regardless of whether or not an arrest is made. If no arrest is made, the report shall include a description of any observed injuries and the reason(s) no arrest was made. A copy of the report shall be sent free of charge to the nearest certified domestic violence center within 24 hours.
- b. A *Violent Crimes Report form* or the electronic reporting system should be utilized by the deputy and it should clearly indicate that it meets the statutory criteria of being a *domestic* case. A domestic violence report should include, but need not be limited to:
 - 1) Information provided by Consolidated Dispatch Agency personnel (the deputy should consider the evidentiary value of the 9-1-1 call);
 - 2) Descriptive information regarding the victim and suspect, including demeanor of each;
 - 3) Written and oral statements obtained from the victim and suspect (including excited utterances and their approximate time frame) and an explanation if written statements were not obtained;
 - 4) A list of witnesses and their statements (including excited utterances and their approximate time frame) and the identities of all deputies on the scene;
 - 5) A description and location of observed injuries, description of medical treatment rendered and statements about whether an offer of 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 photographs taken and of what;
 - 8) A description of steps taken to locate the suspect if they were not at the scene;
 - 9) 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);
 - 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) of the parties involved;
 - 13) An indication that the victim received the “Rights and Remedies” pamphlet;
 - 14) If no arrest was made, an indication that the deputy advised the victim of the reasons why an arrest was not made;
 - 15) Any information that may be relevant to the assessment of bond; and
 - 16) The name and phone number of a person (e.g., a family member, employer) who can contact the victim.
- c. The victim’s name and contact information should not be redacted from forms going to the local certified domestic violence center, except in cases involving sexual battery, child abuse, a lewd or lascivious act or indecent assault upon or in the presence of a child.
 - d. The deputy should, when appropriate, request that the victim sign a release of medical records form (related to any domestic violence incidents), and should fill out the victim notification form.

7. Follow-up Investigation, Referral and Report Writing: [CFA 15.09E]

- a. A follow-up investigation may be required and should include:
 - 1) Interviewing victims who were physically or emotionally unable to be properly interviewed or to provide a statement. The victim should be re-contacted for this purpose or to obtain additional details relevant to the investigation.
 - 2) Taking photographs of victim injuries that may not have been apparent/visible at the time of the initial response.
 - 3) Interviewing neighbors or other potential witnesses.
- b. In the supplemental follow-up report, the investigating detective shall document the steps of the investigation. This will include documenting interviews and any other tasks performed pertinent to the investigation.
- c. In cases in which a physical arrest was not made, the related report and charging documents required by the State Attorney’s Office should be forwarded as soon as possible to the State Attorney’s Office for review. If a warrant is issued, the detective should attempt to serve or to make service of the warrant as soon as possible.
- d. The agency should ensure that a copy of the original report has been forwarded to the certified domestic violence center as required by law.

8. Member Involved Domestic Violence Cases: [CFA 15.09G]

a. Responding to the call:

- 1)** If the Consolidated Dispatch Agency receives a call for assistance at a scene where a deputy is alleged to be a domestic violence offender, a supervisor will be notified.
- 2)** The responding deputy should ensure that a supervisor has been or will be notified and the deputy shall otherwise handle the situation on-scene in a manner consistent with this General Order
- 3)** If an arrest is made, the Watch Commander shall be notified and applicable agency policies related to duty status, assignment, suspension, etc., will be adhered to. The Watch Commander shall make necessary chain of command notifications.
- 4)** If a criminal investigation is required, applicable agency policy should be followed. In the absence of agency policy, this investigation should be completed before the suspect officer is interviewed by agency members for any internal affairs investigation associated with the event.

b. An Internal Affairs Investigation shall be opened to determine if the deputy has violated any agency policies.

c. When a deputy is served with any protective injunction, they are required to notify the Sheriff or Chief of Staff via chain of command without unnecessary delay. Further, the deputy is required to keep their supervisor informed of the status of their case.

d. In cases where the temporary injunction is extended to become a “permanent” injunction, the deputy may be sent for a psychological evaluation to determine their fitness for duty and/or be referred to an intervention program.

e. In these situations, the deputies’ ability to work extra-duty or off-duty employment shall be governed by the guidelines provided in *General Orders* 22.3 and 22.12 respectively.

f. Agency policy regarding a deputy’s possession of weapons while under a final order of injunction or following their conviction for domestic violence shall be consistent with state and federal laws.

g. Any member who witnesses or otherwise has firsthand or well-founded knowledge of a domestic violence incident involving another deputy in the agency must report that incident to a supervisor.

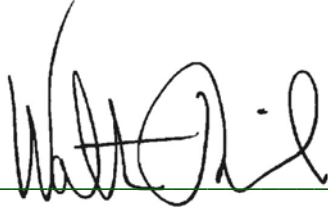
- h. If a deputy is arrested for a domestic violence incident, they must notify the Sheriff or Chief of Staff via chain of command without unnecessary delay.
- i. If a member is involved in a domestic violence investigation by any law enforcement agency, they shall notify the Sheriff or Chief of Staff via chain of command without unnecessary delay.

9. Restraining and Protective Orders:

- a. This section 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, a deputy may make a physical arrest of the respondent if she/he willfully and knowingly violates a term of the injunction by:
 - 1) Refusing to vacate the shared premises within the time limits stated on the injunction;
 - 2) 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 a household member;
 - 3) Committing an act of domestic violence against the petitioner;
 - 4) Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner, or
 - 5) Telephoning, contacting or otherwise communicating with the petitioner directly or indirectly unless the injunction specifically allows indirect contact through a third party.
- c. A deputy should make an arrest for a criminal violation of the term of an injunction pursuant to Chapter 741, Florida Statute (domestic violence injunctions) or Chapter 784, Florida Statute (repeat violence injunctions).
- d. A deputy should not base their decisions to arrest on their perception of the prosecutor's ability to prosecute the case, as this is a court order not subject to the deputy's interpretation.
- e. Deputies 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. After proper service of an injunction upon a respondent, the injunction is valid and enforceable in all counties of the State of Florida. It is important to verify that a respondent has been properly served the injunction prior to arresting him/her for violating same.

- g.** Out of state protective orders; the agency should enforce foreign (i.e., out of state) injunctions pursuant to applicable state and federal laws. If the respondent is found in possession of a firearm, federal authorities should be notified immediately.
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APPROVED: _____
WALT MCNEIL
SHERIFF, LEON COUNTY

A handwritten signature in black ink, appearing to read 'Walt McNeil', is written over a horizontal line.