

## 2.412 DOMESTIC VIOLENCE

The agency accepts, investigates, and reports on all incidents, even those made anonymously, of domestic violence occurring within this agency's jurisdiction or involving employees of this agency.

### 2.412.02 Response to Domestic Violence Calls

A. Initial information to be obtained by Communications personnel includes, but is not limited to determining:

1. If callers are at the same location as the incidents;
2. When incidents occurred;
3. If assailants are on the scene;
4. Descriptions of assailants;
5. If assailants have weapons;
6. If there are weapons at the scene;
7. If there are any injuries or sexual assaults;
8. If drugs and/or alcohol are involved;
9. The number of people, including children, on the scene;
10. If officers have responded to the scene for domestic violence calls before; and
11. If protective orders have been issued against assailants.

B. Calls will not be canceled based on callers' requests.

C. At least two officers will be dispatched to domestic violence calls that are in-progress or that just occurred.

1. Supervisors will respond and assist officers in determining the levels of police responses to incidents of domestic violence.
2. Officers will, when practical, await backup when responding to in-progress or just occurred domestic violence calls.
3. Officers should comply with victims' requests to meet at alternate locations if assailants are still at domestic violence scenes.
4. Officers will identify themselves upon their arrival, request permission to enter the premises, and attempt to contact complainants and/or victims.
  - a. If confronted by persons who decline assistance, officers should insist that all others present at the premises come to the door to determine whether domestic violence has occurred.

b. Officers should enter residences only when invited and when significant opposition to the invitation is not displayed. If officers' presence antagonizes assailants, officers should employ non-confrontational methods to assist abused parties.

c. Officers do not have the authority to break doors or force entries when contacting persons who decline assistance, refuse to bring or allow others in the premises to come to the door to determine whether domestic violence has occurred, display significant opposition to domestic violence inquiries, etc.

d. Nothing in this directive restricts officers' authority to break doors to serve arrest warrants when entry is denied, suppress affrays, and remove children believed by officers to be in immediate danger, or protect evidence from destruction.

e. Officers will not forcibly enter residences merely to obtain complainants' clothing or personal items.

### 2.412.04 Investigating Incidents of Domestic Violence (1.1.3)

A. Victim / witness services include, but are not limited to:

1. Ensuring victims obtain medical assistance;
2. Ensuring domestic violence victims are presented and explained their rights as contained in **Crime Victim and Witnesses: Your Rights and Services** brochures consistent with **FL § 4-503** and **2.436 Victim / Witness Services**;
3. Advising victims they may obtain free report copies through the agency;
4. Assisting complainants with contacting local service providers;
5. Informing victims of the protective order process, including office locations for the Clerk of the Court and District Court Commissioners;
6. Reviewing with complainants procedures that are intended to ensure their immediate safety;

7. Arranging for transportation to safe locations where they can obtain assistance when:
    - a. Officers believe complainants will be best served by providing this service; and
    - b. Complainants have no reasonable means of transportation;
  8. Assessing situational lethality, advising victims of assessments, and encouraging victims to leave if officers believe there will be any threats to victims' safety when officers leave; and
  9. Advising assailants:
    - a. That pursuit of victims could constitute violations of the stalking statute;
    - b. That domestic violence exists in the relationship and such conduct is criminal; and
    - c. To seek help from local service providers before other incidents occur.
- C. Evidentiary duties and responsibilities include, but are not limited to:
1. Ensuring recorded media of related phone calls and radio conversations are retained for potential use as evidence;
  2. Ensuring photographs are taken of crime scenes, any initial injuries of victims and witnesses, and any injuries one to three days post incident;
  3. Documenting "excited utterances" made in the presence of officers;
  4. Identifying and seizing weapons or objects used as weapons;
  5. Seizing clothing that may be evidence;
  6. Interviewing all victims and witnesses, including children and neighbors, obtaining written statement when possible; and
  7. Collecting as evidence; notes, writings, correspondence, etc. made by victims, suspects, and children that may be relevant to the case.
- D. Officers may remove firearms from scenes of domestic violence consistent with **FL § 4-511**.
1. **FL § 4-511** does not authorize searches of dwellings for firearms, but residents may lead officers to firearms in areas of the dwellings for which they have legal standing to enter.
2. Firearm owners do not have to be parties to domestic violence acts in order for officers to seize weapons.
  3. Firearms will be impounded consistent with **2.500 Property & Evidence**. Impounding officers will tell owners that the weapons will be held by this agency pending disposition of related court cases or surrendered consistent with **FL § 4-506**.
- E. Arrests will be made as allowed and mandated by law.
- F. When probable cause exists, but on-scene arrests cannot be made because assailants are not on-scene or the law does not authorize warrantless arrests, officers will:
1. Actively assist victims in obtaining charging documents; or
  2. Apply for charging documents themselves when victims would best be served by this action or are physically incapacitated.
- G. Officers will ensure investigative interviews are conducted and documented, lookouts are broadcast, and active searches for assailants are conducted when assailants are not on-scene and probable cause exists for arrests.
- H. Officers leaving scenes will attempt to ensure the environment is safe and the potential for danger is unlikely.
1. Factors that officers may use to assist in making this decision include, but are not limited to:
    - a. Abusers having threatened or attempted to kill the victims or themselves;
    - b. Abusers having access to weapons and/or has used them against victims;
    - c. Victims recently considering leaving the relationships and abusers are aware of it;
    - d. Abusers threatening the victims or the children;
    - e. Abusers holding victims or children against their will;
    - f. Abusers following victims;
    - g. Abusers controlling whom victims can see and what they do;
    - h. Abusers showing physical aggression or violence against victims in public;
    - i. Abusers being depressed;
    - j. Alcohol or drugs contributing to the violence;

- k. Victims feeling they are in more danger now than they have been in the past.
2. Officers who believe any of these indicators are present will tell victims that they are at risk for future serious physical injury and encourage them to leave their residences.
- I. Officers are responsible for ensuring the Division of Parole and Probation is notified if arrestees are under the jurisdiction of that agency.

#### **2.412.06 Mandatory Domestic Violence Arrests**

- A. Consistent with **Criminal Procedure (CP) § 2-204**, officers will arrest assailants if there is probable cause to believe that crimes of domestic violence have been committed and:
  1. The person battered meets the definition of “victim of domestic violence” consistent with **FL § 4-501** and **§ 4-513** and as previously described in this directive;
  2. There is evidence of physical injury; and
  3. Unless the person is immediately arrested;
    - a. The person may not be apprehended;
    - b. The person may cause injury to the person or damage to the property of one or more persons; or
    - c. The person may tamper with, dispose of, or destroy evidence; and
  4. A report to the police was made within 48 hours of the alleged incident.
- B. Incidents involving victims that do not meet the definition of “victim of domestic violence” will be investigated, acted upon, and reported on consistent with the crimes that are determined to have taken place.
- C. Factors to consider when determining probable cause may include, but are not limited to:
  1. Visible injuries and whether they are offensive or defensive in nature;
  2. Evidence of victim’s non-visible injuries, such as a blow to the stomach causing the victim to wince and hold the affected area;
  3. Torn clothing, disheveled appearance;
  4. Furniture in disarray;
  5. Need for medical attention;

6. Corroborating statements of witnesses who can verify violence or the threat of violence;
  7. Threats and the presence of weapons;
  8. Visibly upset children;
  9. Demeanor of the suspect;
  10. History of violence or repeat calls for service;
  11. Existence of a Protective Order;
  12. Refusal of suspect to allow the victim to be interviewed out of the suspect’s presence, and the victim complies; and
  13. Demeanor of the complainant.
- D. Factors to disregard in determining probable cause may include, but are not limited to:
    1. Marital status;
    2. Race or ethnic background;
    3. Sexual orientation;
    4. Location;
    5. Verbal assurances that the violence will stop;
    6. Financial consequences of arrest to the suspect and/or victim;
    7. Refusal of victim to prosecute;
    8. Complainant’s statement that they did not want the suspect arrested;
    9. Denial from either party that abuse occurred, despite evidence to the contrary;
    10. Claims by the suspect that the complainant provoked the abuse;
    11. Suspect is a police officer, public official, or person of stature in the community; and
    12. Evidence that the suspect or victim is under the influence of drugs or alcohol.
  - E. Officers will attempt to obtain written, post-Miranda statements from arrestees.

#### **2.412.08 Mutual Battery & Dual Arrest**

- A. Dual arrests should be avoided when investigations reveal parties acted in self-defense.
  1. Primary aggressors should be arrested.
  2. Both parties should be arrested if they committed domestic offenses meeting the criteria of the law and neither was acting in self-defense.
  3. Parties defending themselves from assaults should not be arrested.

4. Officers who have probable cause to believe that mutual batteries occurred will consider whether one of the parties acted in self-defense.
  5. Individuals may legitimately act in self-defense when:
    - a. They actually believe they were in immediate and imminent danger of bodily harm;
    - b. The belief was reasonable; and
    - c. No more force was used than was reasonably necessary for defense in light of the threatened or actual harm.
  6. Officers should consider that the extent of victims' injuries do not substantiate suspects' claims of self-defense when injuries are severe enough to demonstrate intent to do great bodily harm and officers have probable cause to believe suspects committed the offenses.
- B. Officers will consider primary aggressor factors to decide whether one of the parties' actions constitute acts of primary aggression. These factors include, but are not limited to:
1. A history of committing crimes of violence;
  2. Being a current or past respondent of a protective order;
  3. Threatening the other party;
  4. Carrying out threats; and/or
  5. Being more capable than the other party of being assaultive.
- C. Officers will not consider verbal provocation, outside of "fighting words" as acts of primary aggression or justification for assaultive behavior.

#### 2.412.10 Domestic Stand-Bys

- A. Domestic stand-bys will be conducted consistent with **FL § 4-502**.
- B. Officers will accompany complainants to the family home, as necessary, so complainants may collect their clothing and that of children in their care, personal effects, including medicine and medical devices required for their immediate needs.
  1. Victims whose names appear on leases, titles, etc., have the right to enter the premises to collect their effects.

2. Victims whose names are not on leases, etc., do not have the right to enter the premises and officers do not have the authority to forcibly enter the premises. In such cases, officers will:
  - a. Suggest that complainants petition the courts for protective orders;
  - b. Seek other legal means to enable complainants to obtain their property; or
  - c. Refer complainants to local domestic violence service providers for assistance.
- C. Officers will not act as arbitrators in disputes over household property, enforce one party's claim against the other, or tolerate assaultive behavior or disorderly conduct. Parties should be advised to consider consulting lawyers and preparing separation agreements covering the disposition of household property, vehicles, etc.

#### 2.412.12 Protective Orders (74.2.1)

- A. Those persons who can file for protective orders are current or former spouses or current or former cohabitants as defined in **FL § 4-501** and **§ 4-513**. Victims who do not meet these criteria may be eligible to file for peace orders under **Courts and Judicial Proceedings (CJ) Title 3, Subtitle 15 – Peace Orders**. See also **2.427 Peace Orders**.
- B. Complainants can apply for protective orders:
  1. At offices of the Clerk of the District Court or Clerk of the Circuit Court, anytime they are open; or
  2. At District Court Commissioners when court clerk offices are not open.
- C. Judges may issue mutual protective orders if they find that mutual abuse has occurred, both parties acted primarily as aggressors and neither party acted primarily in self-defense.
- D. Interim protective orders:
  1. May be issued by District Court Commissioners without judicial review; and
  2. Must undergo judicial review for the issuance of temporary protective orders within a maximum of two days when District Court Judges are sitting after the issuance of interim protective orders, unless the court continues the matter.

- E. Interim, temporary, and final protective orders must be served before enforcement actions can be taken, and then for only those forms of relief specified in the orders.
- F. The agencies of primary responsibility for serving protective orders issued in Baltimore County are:
  - 1. Baltimore County Police Department (BCPD) for orders issued through the District Court; and
  - 2. Office of the Sheriff for Baltimore County (OSBC) for orders issued through the Circuit Court.
- G. This agency may serve orders obtained directly by our officers or may facilitate the service of orders held by allied agencies.
- H. If protective orders have been filed, but not served, and subjects named in the orders are present, the appropriate allied agency will be requested to respond and serve the orders. Officers will advise the subjects that protective orders have been filed and request they standby to be served by officers. Officers will not detain persons who decline to wait for service of the orders.
- I. Consistent with **FL § 4-508.1**, officers must arrest, with or without warrants, respondents who violate the terms or conditions described in protective orders issued by this state, other states, or Indian Tribes if the persons seeking assistance of officers:
  - 1. Have filed copies of protective orders with the district or circuit court; or
  - 2. Display or present to officers copies of out-of-state or Indian Tribe protective orders that appear to be valid on their face. To determine if protective orders are valid on their face, officers will look for information that includes, but is not limited to:
    - a. Names of parties;
    - b. Date orders were issued;
    - c. Expiration dates, unless issuing jurisdictions issue non-expiring orders;
    - d. Terms and conditions placed on abusers;
    - e. Name of issuing clerk; and
    - f. Signature of judicial officer.
- J. When told of the existence of protective orders, but no documents are presented, officers will ensure MILES queries are conducted and any resulting information verified through originating agencies before taking any service or enforcement actions.
  - 1. If verified, officers will make arrests for any violations of arrestable conditions.
  - 2. If not verified, officers will not take action based on the possibility of protective orders and will document the non-verification in incident reports.
- K. The terms and conditions of protective orders can be modified or rescinded only by issuing courts.
- L. Protective order respondents are prohibited from making straw purchases of regulated firearms or possessing regulated firearms.
- M. Officers contacting individuals in the field who have outstanding, unserved protective orders will attempt to facilitate the service of those outstanding orders by:
  - 1. Requesting allied agencies respond to serve orders;
  - 2. Advising subjects that protective orders have been filed against them and requesting they remain at scenes until service can be completed; and
  - 3. Not detaining persons who decline to wait for service of the orders, but will attempt to obtain subjects' personal information to assist in the service of orders, such as home addresses and telephone numbers, places of employment and telephone numbers, etc.
- N. Consistent with **FL § Title 4, Subtitle 5**, temporary and final protective orders will, in certain circumstances, mandate that:
  - 1. Respondents surrender all of their firearms to police officers and may not possess firearm for the duration of the orders; and
  - 2. Police officers:
    - a. Take possession of the respondents' firearms;
    - b. Safely transport and store impounded firearms for the duration of the orders (**See 2.500 Property & Evidence**);
    - c. Provide respondents information on the process for retaking possession of the firearms; and

- d. Allow respondents to retake possession of firearms unless:
  - (1) Protective orders are extended by the courts; or
  - (2) Respondents are not otherwise legally entitled to own or possess firearms.

#### **2.412.14 Cases Involving Members of the Criminal Justice System**

- A. Except for protocols established in this section, standard domestic violence responses, victim assistance, and investigations will be conducted when victims or suspects are employees of criminal justice agencies.
- B. Employees with definitive, personal knowledge of domestic abuse or violence involving employees of this agency will promptly report such information to their immediate supervisors or directly to a commander.
- C. A supervisor or commander will respond to, and assume responsibility and control of, domestic violence incidents involving members of the criminal justice system. In addition to other actions described in this directive, they will:
  1. Ensure a commander is promptly notified and briefed; and
  2. Personally complete investigations, write corresponding reports, and ensure arrests are made and charges placed as appropriate.
- D. Firearms will be impounded consistent with **2.500 Property & Evidence** from law enforcement officers who are assailants in domestic violence cases.
  1. Firearms, credentials, and other property as appropriate belonging to law enforcement agencies that are not being held as evidence will be held for return to the employing agencies.
  2. Personal firearms belonging to suspects will be retained by this agency pending disposition of subsequent criminal proceedings.
  3. Investigating officers are bound by jurisdictional limitations and search and seizure requirements in order to look for weapons in suspects' residences. Officers

may need to obtain search warrants, consent to search, establish that an individual has legal standing to grant permission to search, etc.

- E. Duties and responsibilities commanders include, but are not limited to:
  1. Ensuring employing criminal justice agencies are promptly informed if their personnel are involved in domestic violence incidents. Notifications will be made directly to:
    - a. The law enforcement agency's chief executive officer (CEO) or specific designee in instances involving civilian and all sworn ranks except for the CEO; or
    - b. Individuals in the governments or institutions having direct oversight of CEOs for incidents involving CEOs.
  2. Ensuring copies of completed reports are promptly submitted to appropriate individuals within this or allied agencies;
  3. Debriefing all officers who responded to law enforcement involved domestic violence calls, to include reviewing confidentiality protocols and the need to share related information only on a need to know basis;
  4. Working in consultation with the Chief to establish a clear delineation of assignments and responsibilities to assist this agency's victimized employees and/or investigate and take appropriate actions against suspect employees; and
  5. Completing supplemental reports describing their actions and notifications.
- F. Employee related domestic violence information received from allied agencies will be promptly directed through supervisory personnel to a commander.
  1. Duties and responsibilities of commanders include, but are not limited to:
    - a. Obtaining sufficient information to determine whether or not they should respond to incident scenes;

- b. Responding to incident scenes as necessary and taking appropriate actions in the best interests of employees and the agency, such as suspending employees arrested for domestic violence assaults, taking possession of agency owned weapons, credentials, and other agency property as appropriate, providing victimized employees with information for on-campus victim and counseling resources, etc.;
  - c. Working with reporting agencies to provide any necessary investigatory assistance;
  - d. Notifying and briefing the commander responsible for internal affairs if agency employees are suspects;
  - e. Notifying and briefing the Chief or, if the Chief is involved, the university president or specific designee;
  - f. Consulting with other appropriate agency and university officials to ensure appropriate decisions are made relating to employee referrals, duty assignments, administrative actions, etc.; and
  - g. Making available all necessary and appropriate agency and university resources to victimized employees.
2. Internal investigations of domestic violence incidents involving suspects who are employees of this agency will be conducted consistent with **1.720 Punitive Discipline**.

#### **2.412.16 Reporting Requirements**

- A. Officers will complete agency reports for all domestic violence related incidents, both criminal and non-criminal, regardless if arrests were or were not made. Information to be included in related reports includes, but is not limited to:

1. The names, descriptions, and relationships of all parties involved, to include children, and other parties at the scene;
  2. Nature, description, and location of injuries, regardless how slight,
  3. Locations of assailants;
  4. Household status, such as living together, living apart, separated, divorced, etc.;
  5. Use and locations of weapons;
  6. Nature of threats or disturbances;
  7. Statements made by all parties involved and witnessing;
  8. Events leading up to and factors contributing to the incident;
  9. Presence, use, or involvement of drugs or alcohol;
  10. Presence or history of mental illness;
  11. History of past police responses to locations or involvement of individuals;
  12. Any pending court charges, orders, etc.;
  13. Explanations as to why arrests were or were not made, or warrants or protective orders not sought;
  14. Specific actions taken to ensure the safety of victims;
  15. Entries recording the presentation of victim / witness materials to victims and witnesses; and
  16. Other actions taken by officers.
- B. In addition to information dissemination criteria in **2.429 Public Information and Media Relations**, domestic violence related information will not be released to other parties if it would improperly reveal:
    1. Information about where victims are temporarily located; or
    2. The names, addresses, and phone numbers, of witnesses, as well as statements they made concerning domestic incidents.

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