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**Domestic Violence Protocol  
For  
Law Enforcement  
2009**

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**Police Chief's Association  
of  
Miami-Dade County**

**Adopted August 17, 2009**

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## POLICY STATEMENT

The purposes of this policy are multifold. The primary goal is to reduce the incidences of domestic violence and their severity. The protection of all victims of domestic violence, including children exposed to domestic violence, and provision for their support through a combination of law enforcement and community services while at the same time promoting officer safety by ensuring that officers are fully prepared to effectively deal with domestic violence calls is a further objective. Lastly but not least in importance, is the aim that all victims of domestic violence be treated with respect and dignity and that they be given all available assistance by law enforcement personnel.

Domestic Violence investigation and an arrest shall be required in situations in which probable cause exists, even in the absence of victim willingness to prosecute. High priority shall be assigned to ensuring victim safety and referral to appropriate services. The Domestic Violence Protocol for Law Enforcement provides guidelines and establishes standards for public safety call takers, dispatchers, first responders, and investigators in handling domestic violence incidents. The Protocol seeks to interpret and apply statutes and case law to domestic violence incidence responses, investigations, and arrests. Moreover, it shall become standard operating procedure for all law enforcement to deposit historical case information and reports into the Miami-Dade Police Department's Domestic Violence Clearinghouse. This program will lead to earlier intervention for victims and children of domestic violence, as well as assist the law enforcement community in more effectively identifying repeat offenders. This in turn will help curtail the vicious cycle of violence associated with Domestic Violence.

Particular attention is given to protecting victims of domestic violence, including children who witness domestic violence, victims with disabilities, elderly victims, and vulnerable adults. The victimization of children as a result of exposure to domestic violence requires scrupulous attention by law enforcement and immediate notification to the Department of Children and Families for consideration of specialized services and intervention where appropriate. This Protocol will also address the needs and concerns facing undocumented victims. These goals will be accomplished through enforcement of Injunctions for Protection against Domestic Violence and through working with Community based advocates, as well as State Attorney's Office MOVES program. Local agency training programs and materials will supplement information provided in the Protocol.

As more is learned about successful ways of preventing and responding to domestic violence, this protocol will be updated. New legislation and research will be reviewed periodically by a sub-committee of the Police Chiefs' Association of Miami-Dade County in order to maintain an effective and sensitive response by the law enforcement community to these serious crimes.

Consistent with this, the following policy components are adopted.

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Naim Erched,  
Assistant Director, Miami-Dade Police Department  
Chief, Police Chief's Association of Miami-Dade County

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Date

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## DISPATCH

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1. Communications personnel shall dispatch units in all situations involving domestic violence. A priority response shall be assigned to all domestic violence calls, whether or not the assailant is known to be on the premises, including those calls that involve or appear to involve a police officer whose is part of any department.
2. Whenever possible, communications personnel should dispatch two officers to the scene.
3. During the initial call for assistance, the dispatcher should ask these questions:
  - a. Where is the emergency? What address? What apartment number?
  - b. Has anyone been injured?
    - i. If yes, is fire rescue needed?
  - c. To whom am I speaking? (Spell name)
  - d. Is the suspect present?
  - e. Are there any other persons present?
    - i. How many?
    - ii. Who?
  - f. What has happened? Is it occurring now?
  - g. What is his/her name? (Even if suspect is present)
  - h. Are you the Victim?
    - i. If No, are you a witness?
    - ii. What is the victim's name?
  - i. What is the relationship between victim and the suspect?
  - j. Please describe the suspect?
    - i. If not present: do you know his /her whereabouts/where they might be?
    - ii. How did he/she leave the scene?
    - iii. Describe suspects clothing, vehicle etc.
  - k. Are weapons involved? If yes, what kind? Where are they located?
  - l. Is the suspect under the influence of drugs or alcohol? If yes, what substance?
  - m. Are children present? How many? What ages? Are there any concerns about the children's safety or whereabouts?
  - n. Is the suspect aware that the police have been called?
    - i. Has he/she made any threats towards police?
    - ii. Are there any weapons, dangerous animals, or other threats to officer safety present at the scene? Where are they?
  - o. Are there previous incidents of domestic violence involving the suspect and victim? Have the police been to this address before? If yes, how many times?
  - p. Does the victim have an Injunction for Protection?
  - q. Is the suspect on probation or parole, or out on bond?
  - r. Is there anyone with a disability at the scene?
    - i. What is the disability?

4. Communications personnel will ascertain whether the victim has special needs (for instance, this may include but is not limited to situations in which the victim is hearing impaired and/or does not speak English). Communications personnel will inform the officer of the special need and will attempt to make available to the officer(s) (at the scene or via phone) the appropriate resources.
  - a. A sign language interpreter is required to be provided for a victim who is hearing impaired.
5. Communications personnel will not cancel the original call for service EVEN IF a subsequent request to cancel the original call or a hang-up is received. Communications personnel will advise the responding officer of the second call and instruct them to continue to respond, investigate, and assess the situation to ensure that all parties are safe.
6. If the crime is in progress, communication personnel will keep the victim or witness on the phone, provided the victim is not in any immediate danger, so as to relay ongoing information to the responding officer as well as remain aware of the victim's safety. If the dispatcher cannot remain on the telephone with the victim, the dispatcher should attempt to call back periodically to check on the progress of events and relay this information to officers.
7. Communication personnel will make the safety of the domestic violence victims a primary concern. They will focus on ways to enhance safety, such as having victims wait for officers at another location or tell them to leave the location if the suspect returns. They will also obtain specific information as to whereabouts of any children.
8. Communication personnel will inform the caller of an approximate time for the officers' arrival.

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## INITIAL LAW ENFORCEMENT OFFICER RESPONSE

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1. Officers will approach the scene of a domestic dispute with a high degree of caution as well as follow departmental policy for responding to high-risk response calls.
2. Officers will be alert for persons leaving the scene in the immediate vicinity of the location of the incident.
3. Officers will identify themselves as law enforcement and explain their presence. They will request entry, if exigent circumstances do not exist. If refused entry, officers should be persistent about seeking entry and separating all parties from each other. If access to the victim is refused, the officers should request the dispatcher to attempt contact with the victim by phone.
  - a. If access is still refused and the officers have reason to believe that someone is in imminent danger; the officers are to execute a forced entry. In making this decision, officers may take into account everything they personally observe, all physical evidence and all circumstances learned from witnesses or other persons supplying information.
  - b. Officers should be aware that if the victim is deaf, the services of a relay operator and/or a video relay operator may need to be utilized.
4. Officers will ensure the safety of all persons at the scene. This should include:
  - a. Separating the victim and offender physically, verbally, and if possible, visually (if circumstances permit, move them into separate rooms.)
    - i. If utilizing the services of a sign language interpreter, making certain that the suspect cannot see what is being signed between the interpreter and the victim/witness.
  - b. Identifying and securing potential weapons in the surroundings
  - c. Assessing the severity of injuries to parties and applying or calling for the appropriate level of aid for any injured parties.
  - d. Locating and checking on the welfare of any children or others at the scene and ensuring their protection.
  - e. Identifying all people or witnesses on the premises including anyone present with a disability that should be notated.
  - f. Separating any children at the location from other family members for purposes of interviews with law enforcement and DCF Protective Investigators. Interviewing each child separately if there is more than one child present.
5. Officers will notate any excited utterances made by any of the parties when they first arrived on the scene prior to formal interview.
  - a. Noting the exact words used and using quotation marks.
  - b. Indicating the approximate time frame when the statements were made.
  - c. Recording the emotional condition of the speaker.
  - d. These exceptions to the hearsay rule INCLUDE statements by the suspect, even self-serving ones.

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## ON-SCENE INVESTIGATION

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1. Officers will interview 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.
  - a. Police officer safety should be considered when separating parties due to space issues.
  - b. Children should be removed from each other and all other family members/witnesses for purposes of being interviewed. Care should be given to minimize additional trauma to children as a result of the interview process.
    - i. DCF Abuse Hotline, 1-800-96ABUSE (22873), will be contacted as quickly as possible by officers if children are involved or reside (permanently or temporarily) at the scene of the incident.
  - c. A notation in the police report should be made if the officer(s) were not able to separate the children.
  - d. Officers will obtain the name, phone number, cell phone number, and address of every person spoken to. Every effort should be made to obtain alternate contact information for the victim and witnesses, i.e. someone who will know where they may be in 6 months.
  - e. Officers will indicate if any witnesses were spoken to in any language other than English. **It is imperative to include the name of any police officer who was used as an interpreter in the report. In NO circumstances should the children of the victim/subject be used to interpret.**
2. If communications are impaired by the special needs (for instance, the person is hearing impaired) of any party, the officer should request that the appropriate resources be made available via phone or at the scene.
  - a. A sign language interpreter is required to be provided. Family members or friends should not be used.
  - b. Having the victim write notes to the responding officer should not be done. However, if the victim has initiated this, it must be done outside the presence of the suspect. These notes must be preserved as evidence.
3. Officers will determine if the relationship is “domestic” and what crime (s) occurred.
  - a. Officers will take care to observe and make note of any physical evidence that may potentially corroborate or contradict the victim or the suspect.
4. Officers will take note of any physical evidence that may indicate the presence of children, such as toys, clothing, pictures etc.
  - a. Officers will ask the parties about the children, their whereabouts and whether the children were present at the time of the incident.

5. Officers will ask the parties about injuries, including those that may be concealed by clothing or otherwise not readily apparent including injuries caused by strangulation. An officer of the same sex as the victim may be needed if further visual investigation continues and color photographs of these areas are taken.
  - a. Officers will inspect for wounds including defensive wounds (e.g., on the inside of the arms, palms of the hands, legs and feet ) Photographs must be taken of these as well.
  - b. Officers will attempt to take photographs of the victim's entire body.
  - c. Officers will **not write on the front of the photographs taken**.
  - d. If the victim claims to have been strangled, officers will examine her eyes, face and neck area for petechiae (red spots).
6. Officers will ascertain if a female victim is pregnant, if the suspect is aware of the pregnancy, AND how the suspect became aware of the pregnancy. If possible, officers will obtain the name of the health care provider.
7. Officers will address the victim's safety and privacy by interviewing the victim in an area apart from the suspect and witnesses and obtain information about previous incidents including frequency and severity.
  - a. Officers will ask the victim about the existence of an injunction. If one is said to exist, then the officer will ask whether the victim possesses a copy. Officers will check for the existence of an injunction through dispatch or by whatever means available.
  - b. If an injunction exists but has not been served and the Defendant is on scene, officers will serve the defendant with a copy and will indicate the fact that he served the defendant with a copy of the injunction on the arrest form.
8. Officers will not ask a victim's immigration status. However, if officers are aware or perceive potential reluctance on the part of the victim due to his/her immigration status, officers should inform the victim of their rights and that there are services available that will address his/her status.
  - a. Officers should inform the victim that immigration status is not relevant and that as a victim, they have the same rights as any other victim.
9. Officers will record in writing any statements of the victim and/or witnesses.
  - a. If victim's statement was provided by an interpreter, officers will include the name of the interpreter.
10. If it becomes necessary to search the scene, officers will obtain consent from the victim in order to search for items not in plain view. However, officers, even with the victim's consent, can only search areas that the victim has control over. **If the defendant is on the scene and objects to the officer searching an area where he also has control over, a search warrant will be necessary, even if the victim is giving consent to search the jointly controlled area.**
11. If the suspect has been arrested prior to the interview, officers will give *Miranda* warnings before questioning the suspect.
12. If the suspect has fled the scene, officers will solicit information about his or her possible whereabouts.

13. Officers arriving at a medical facility in response to a phone call or report made by a medical professional shall prepare a Domestic Violence Incident Report irrespective of the wishes of the victim.
14. Officers will inquire if there are any other children residing in the home, who may not be immediately present on the scene.
  - a. If officers ascertain that there are other children residing in the home, their names and ages should be noted, as well as information about their whereabouts.

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## ARRESTS

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1. When probable cause has established that an act of domestic violence has occurred, an arrest shall be made pursuant to Florida Statutes 741.29. Remember, as it relates to Domestic Violence, the officer need not have witnessed the incident.
2. **Once the officer makes a probable cause arrest on a 2<sup>nd</sup> or 3<sup>rd</sup> degree felony or misdemeanor involving a domestic relationship (any intimate partner or dating relationship or family or household member), the officer will contact the State Attorney's Office M.O.V.E.S. (Mobile Operations Victim Emergency Services) Program. Once notified, the M.O.V.E.S. paralegal will either respond to the police station, arrest scene (when escorted by an officer), or hospital to conduct a Pre-file Conference (PFC) of the victim, witnesses and the officer. The officer will provide the paralegal with a copy of the Arrest Affidavit (A-form), Offense Incident Report, and Domestic Violence Supplemental Report. The M.O.V.E.S. personnel shall only be called out during the days and hours following:**

<b>M.O.V.E.S. normal business hours</b>	<b>1700 to 0500</b>
<b>Holiday and/or weekend</b>	<b>24 hours</b>

**Each M.O.V.E.S. paralegal will assess with the victim's needs, safety planning and will provide the victim with all referral information for applicable services such as shelter, crimes compensation and/or Injunction for Protection.**

3. The officer will determine all possible crimes for which there is probable cause. The officer will consider their own observations as well as any statements made by parties involved or witnesses. In addition to any of the apparent charges, the following crimes/facts should be considered:
  - a. Elder Abuse
  - b. Child Abuse or Neglect
  - c. Stalking
  - d. Violation of an injunction against domestic or repeat violence
  - e. Violation of Court ordered Stay Away order
  - f. Burglary with an assault/battery
  - g. Strangulation
  - h. Victims with Disabilities
  - i. Sexual Assault
  - j. Violation of pre-trial release
4. Factors that should **NOT** be considered in making an arrest :
  - a. Marital status, sexual orientation, race, religion, profession, age, disability, cultural, social or political position, or socioeconomic status of either party.
  - b. Ownership or tenancy rights of either party, if suspect has not been living at home.
  - c. Victim's request that an arrest not be made.
  - d. Emotional state of the victim, including a belligerence.

- e. Belief that the victim will not participate with criminal prosecution or that the arrest may not lead to a conviction.
  - f. Verbal assurances that the abuse will stop.
  - g. Denial by either party that the abuse occurred when there is evidence of domestic abuse.
  - h. Lack of a court order and/or injunction against the subject.
  - i. Chemical dependency or intoxication of the parties, if evidence of domestic violence is apparent.
  - j. Disposition of previous police calls involving the same victim or suspect.
  - k. Cultural bias.
  - l. Presence of children or the immediate dependency of children on the suspect.
  - m. Immigration Status
5. Officers will not threaten, suggest, or otherwise indicate:
- a. The possible arrest of all parties.
  - b. The removal of the children from the home
  - c. Any report to immigration authorities

with the intent of discouraging requests for intervention by law enforcement by any party or in any attempt to control either party.

6. Cross- Arrests: This policy strongly discourages making cross arrests except where clearly necessary. The following factors should be considered, in addition to factors already listed, in determining the primary aggressor:
- a. Physical size between the parties.
  - b. Evidence gathered from witness accounts.
  - c. Severity of injury to each party.
  - d. Defensive injuries.
  - e. Existence of an injunction, and/or stay away order in effect against either party.
  - f. Background questions/history and/or prior reports of:
    - i. History of sexual abuse
    - ii. Violence
    - iii. Economic abuse
    - iv. Coercion or threats
  - g. Disability rendering one party more vulnerable.
7. If cross arrests are made, the facts supporting each arrest must be clearly documented.

8. When an arrest cannot be made due to lack of probable cause, the officer will do the following:
  - a. Fill out a report.
  - b. Explain to the victim why an arrest is not being made.
  - c. Advise the victim that he/she can have their case reviewed by the State Attorney's Office.
  - d. Encourage the victim to contact local domestic violence service providers.
    - i. The number is: 1-800-500-1119.
  - e. Advise the victim that the incident report will be sent to the local D.V. shelter.
  - f. Advise the victim to notify the agency of any additional incidents or new information.
  - g. Contact advocate at the officer's police department if available.
  - h. Write a domestic report.
  - i. Contact the DCF Abuse hotline at 10-800-96 ABUSE (22873), if there are children involved or living (temporarily or permanently) at the location.

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## VICTIM SUPPORT/ASSISTANCE

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1. The Officer will attempt to gain the victim's trust and confidence by showing understanding, patience, and respect for personal dignity while using language appropriate for the age, educational level, and emotional condition of the victim.
2. The officer will:
  - a. Assist the victim in obtaining any needed medical treatment.
  - b. Inform the victim of the availability of a certified domestic violence center. (DV Shelter)
    - i. Where the victim or her children have a disability, the officer shall inform them of the accessibility of the shelter and the availability of services.
  - c. Give the victim a copy of the "Right and Remedies Notice to Victims" brochure or whatever victim's services pamphlet is provided by the responding agency in English, Creole, Spanish etc. as appropriate. The brochure or pamphlet will provide:
    - i. A telephone number for the local DV shelter
    - ii. Information about the right to file a criminal complaint with the State Attorney's office.
    - iii. Information about Injunctions for protection
    - iv. Victim's rights.
  - d. If the officer is made aware of a victim's immigration status/concerns, they shall provide the toll free phone number for FCADV(Florida Coalition Against Domestic Violence)(1-800-500-1119)
3. Officers will:
  - a. Convey concern to the victim for his/her safety.
  - b. Inform the victim about how to obtain an injunction in the fastest manner possible.
  - c. Inform the victim that the incident report will be sent to the local D.V. shelter.
  - d. Tell the victim that domestic violence is a crime and that the sole responsibility for decisions regarding whether charges are filed is with the State Attorney's Office.
  - e. Advise the victim that they will be notified of when to come to the State Attorney's Office as well as of the suspects release from jail.
  - f. If an arrest is not made, inform the victim of the reasons and of his/her options independent of law enforcement. (i.e., coming to the State Attorney's Office)
  - g. Advise the victim to notify the responding agency of any additional incidents or new information.
  - h. Contact his/her police department's advocate if there is one.
    - i. Provide the advocate's name and information (phone) to the victim.

4. The officer may not leave the scene of the incident until the situation is under control and the likelihood of further violence has been eliminated.
  - a. If the victim is leaving, the officer will remain at the scene for a reasonable period of time to allow the victim to gather necessities for a short term leave from the home, e.g. clothes, medications, diapers, etc.
  - b. The officer will ask a victim who is leaving the home for a temporary address and phone number (out of hearing of the perpetrator).
5. If the victim requests a shelter, she/he shall be referred to a certified D.V. shelter. The officer will arrange for, or provide, transportation to the certified shelter or to an alternative location of the victim's choosing in the local area.
  - a. The officer will also inform the shelter of any disability of the victim which the officer is aware of.
6. Care of Children: Officers will see to the appropriate care of children as victims or dependents.
  - a. In child abuse situations, the officer is required by local statutes to call the Abuse Registry. (1-800-96ABUSE)
  - b. 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 officer to the appropriate temporary placement of the children, the officer should contact the Abuse Registry at the number above for purposes of determining placement. The officer will indicate in the report the identity and address of the person taking custody of the children.
  - c. If child/children are released to a guardian or relative, a DV Packet with community resources will be provided to that person.
7. Care of Dependent Adults: When an elderly or disabled adult is either a victim of violence or reliant on the victim or suspect who can no longer provide care, the officer shall make appropriate arrangements for the person's care.
  - a. In case of abuse or the situation above, the officer will call the hotline at 1-800-96ABUSE.
8. If indicators for future violence exist, the officer should speak to appropriate agency authorities to arrange for increase patrol in the area (i.e. a watch)

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## REPORT WRITING AND FOLLOW-UP INVESTIGATION

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1. The officer will prepare a written police report if there has been an allegation of domestic violence, regardless of whether an arrest has been made.
2. If no arrest is made, the report will include a description of any observed injuries and the reason(s) no arrest was made. A copy of the report will be sent, free of charge, to the nearest certified domestic violence center within 24 hours.
3. The report form prepared by the officer should specify “Domestic Violence” on its face.
  - a. A domestic violence report shall include, but need not be limited to:
    - i. Information provided by communications personnel (nature of the call that they are responding to).
    - ii. Descriptive information regarding the victim and suspect, including demeanor of each.
    - iii. Written and oral statements obtained from the victim and suspect (including excited utterance and their approximate time frame) and an explanation if written statements were not obtained.
    - iv. A list of witnesses, including children, and their demeanor (including excited utterance and their approximate time frame) and the identities of all officers on the scene; including translating officers.
    - v. A description and location of observed injuries, medical treatment rendered and a statement about whether an offer of medical treatment was refused.
    - vi. The name of the medical treatment provider and the names of any other health care providers, including Emergency Medical Service personnel.
    - vii. A description of all other physical evidence including fact that photographs were taken.
    - viii. A description of steps taken to locate the suspect if he/she was not at the scene.
    - ix. A list of indicators of threat to future victim and child safety (e.g., threats made, including history of abuse, killing of pets, use of substances, other unusual behavior).
    - x. Information regarding whether children were present. Including whether those children were separated and interviewed. Information about any other children living at residence that were not present.
    - xi. Information regarding whether an injunction is in effect and reference to it in the report along with and copy if it can be obtained.
    - xii. A statement regarding any special needs (including language barriers, disabilities,) of the parties involved.
    - xiii. A notation that the victim received the “Rights and Remedies” pamphlet or whatever victim’s services pamphlet is provided by the responding agency.
    - xiv. A notation that DCF was called if applicable and/or that the Bridging Families and Children Referral Card were provided to the victim.
    - xv. If no arrest was made, an indication that the officer advised the victim of the reason why an arrest was not made.

- xvi. Any information that may be relevant to the assessment of bond; including and but not limited to:
    - 1. The risk of flight, previous threats, etc.
  - xvii. The name and phone number of two people (e.g., family member, employer) who can contact the victim, and will most likely know the victims whereabouts, in 6+months.
4. A follow-up investigation may be required and may involve:
- a. Interviewing victims/witnesses who were physically or emotionally unable to be properly interviewed or to provide a statement at the time of the incident. These individuals should be re-contacted for this purpose or to obtain additional details relevant to the investigation.
  - b. Taking photographs of victim injuries that may have not been apparent/visible at the time of the initial response.
  - c. Interviewing neighbors or other potential witnesses.
  - d. Ordering 911 calls on all cases where an arrest is not made within 20 days.
  - e. Ascertaining if the suspect is on parole, probation and/or pretrial release and obtaining the name and phone number of the appropriate probation/parole/pretrial officer.
    - i. Contacting the probation/parole/pretrial officer and forwarding the appropriate paperwork.
  - f. Conducting complete FCIC, and NCIC, if possible, criminal history check of the subject.
    - i. Also conducting search to see if the defendant is prohibited from having a firearm (i.e., Injunction in place, whether in state or out of state)
5. Follow-up investigation will not consider a victim's desire to "drop" charges.
- a. Under NO CIRCUMSTANCES should a victim be asked if he/she wishes to "press charges" or "drop charges". Investigative personnel should not ask a victim if he/she wants to "prosecute" his/her partner etc., nor shall a victim ever be presented with a "Non-Prosecution" form for signature.
6. In the supplemental follow-up report, the investigating officer will document the steps taken in the investigation. This will include documenting interviews and any other tasks performed pertinent to the investigation.
7. If a warrant is issued, the appropriate agency will attempt to serve or to effect service of the warrant as soon as possible.
8. The Report will be sent to the MDPD DV Clearinghouse.

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## OFFICER INVOLVED DOMESTIC VIOLENCE CASES

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Officer Involved Domestic Violence Cases are subject to the Model Policy. The following are additional steps to be followed:

1. If communications personnel receive a call for assistance at a scene where an officer is alleged to be a domestic violence offender, a supervisor will be notified. Additionally, other department personnel will be notified in accordance with department policy, which address procedures for when officers are alleged perpetrators of crime.
2. The responding officer will ensure that a supervisor has been or will be notified and otherwise handle the situation on scene in a manner consistent with the policies used in ALL domestic violence cases.
3. If an arrest is made, applicable departmental policies related to duty status, assignments, suspension, etc. will be adhered to.
4. If a criminal investigation is required, applicable departmental policy will be followed.
5. An administrative investigation will be opened to determine if the officer has violated any departmental policies.
6. If an officer is served with any protective injunction, he/she is required to notify a supervisor prior to the beginning of the next shift. Further, the officer is required to keep departmental authorities informed of the status of his/her case. If the officer is a first responder and/or likely to investigate high stress calls (including domestic violence calls), the department will consider a temporary reassignment for the officer.
  - a. Pursuant to an Injunction, all of the officer's weapons, whether officially issued or not, will be forfeited.

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## **DEFINITIONS**

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

1. A dating relationship must have existed within the past 6 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.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context. See Florida Statute 784.046(1)(d)

**“Defendant”** means a person accused of a crime of domestic violence.

**“DIP”** Domestic Intervention Program

If a person is found guilty of, has had adjudication withheld, or has pled nolo contendere to a crime of domestic violence, as defined in Florida Statute 741.28(2), that person shall be sentenced by the court to a minimum term of one (1) year probation with the special condition of that probation that the defendant attend a batterers’ intervention program. However, the court, in its discretion, may determine not to impose the batterer’s intervention program as a condition of probation if it states on the record why the program might be inappropriate. See Florida Statute 741.281

**“Domestic Violence”** means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. See Florida Statute 741.28 (2)

**“Domestic Violence Order of Pretrial Release Conditions”** means an order by the court dealing with a defendant charged with a crime of domestic violence pursuant to Florida Statute 741.28 by which the court can impose any of the following conditions as if finds appropriate under the circumstances:

1. The defendant is prohibited from engaging in any criminal activity.
2. The defendant is prohibited from using or possessing any illegal drugs.
3. The defendant is prohibited from using, purchasing, possessing or carrying a firearm, gun, weapon or ammunition. The defendant must immediately surrender any firearms, ammunition, and any concealed weapons permits to the nearest police department, and file a receipt with the court.
4. The defendant is prohibited from having any direct or indirect contact with the victim, in person, in writing, by telephone, pager, fax, or through third persons. The Defendant must stay at least 500 feet away from the victim, the victim’s home, place of employment, and/or school at all times.

The judge may also order that the defendant may:

1. Return to the victim's residence only once within 48 hours of entry of the order and with a police officer to retrieve personal clothing, personal health items, medication, personal and business-related paperwork, and work tools. Going to the home or remaining there without the police will subject the defendant to arrest. The police officer who accompanies the defendant shall request all keys and garage door openers and return them to the victim.
2. Have contact with the victim but may not be threatening or violent towards the victim in any manner.

If a previous visitation order conflicts with this order then this order takes precedence until the court that issued the previous visitation order hears the matter of the conflict. This order is explained to the defendant at his/her bond hearing and remains in effect only during the proceedings of the criminal case or unless it is modified by the trial court. Violation of this order can cause the defendant to be charged criminally and subject him to 364 days in the county jail as a violation would be a first degree misdemeanor. The defendant can also be subjected to criminal contempt of court charges and/or result in the revocation of bond or pretrial release.

**“Family or Household Member”** means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit. See Florida Statute 741.28(3)

**“Injunction”** (otherwise referred to as **“Restraining Order”**) means an order from a court directing one person not to do something, such as make contact with another person, enter the family home or remove a child from the state. Restraining orders are typically issued in cases in which spousal abuse or stalking is feared -- or has occurred -- in an attempt to ensure the victim's safety. Types of injunctions include those for domestic violence, dating violence and repeat violence. The term restraining order is used interchangeably to refer to an injunction though the proper term is injunction.

**“Injunction for Protection”** means any person described in Florida Statute 741.28(3) as family or household member, who is either the victim of domestic violence as defined in Florida Statute 741.28(2) or has reasonable cause to believe he or she is in imminent danger of becoming the victim of any act of domestic violence, has standing in the circuit court to file a sworn petition for an injunction for protection against domestic violence. See Florida Statute 741.30(1)(a)

**“Law Enforcement Officer”** means any person who is elected, appointed, or employed by any municipality or the state or any political subdivision thereof who meets the minimum qualifications established in Florida Statute 943.13 and is certified as a law enforcement officer under Florida Statute 943.1395. See Florida Statute 741.28 (4)

**“Petitioner”** means any person requesting from the court an injunction for protection.

**“Primary Aggressor”** means that if a law enforcement officer has probable cause to believe that two or more persons have committed a misdemeanor or felony, or if two or more persons make complaints to the officer, the officer shall try to determine who was the primary aggressor. Arrest is the preferred response only with respect to the primary aggressor and not the preferred response with respect to a person who acts in a reasonable manner to protect or defend oneself or another family or household member from domestic violence. See Florida Statute 741.29(4)(b)

**“Pro-Prosecution Policy”** means it is the intent of the Legislature that domestic violence be treated as a criminal act rather than a private matter....The state attorney in each circuit shall adopt a pro-prosecution policy for acts of domestic violence...the filing, non-filing or diversion of criminal charges and the prosecution of violations of injunctions for protection against domestic violence by the state attorney shall be determined by these specialized prosecutors over the objection of the victim, if necessary. See Florida Statute 741.2901(2)

**“Repeat Violence”** means two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner’s immediate family member. See Florida Statute 784.046 (1)(b)

**“Respondent”** means the person against whom the petitioner is seeking the injunction.

**“Stay away Order”** means an order by the court which prohibits a criminal defendant from having direct or indirect contact with the listed victim and/or witnesses in the pending criminal case. Usually this order remains in effect only during the proceedings of the criminal case. However, the order can be made part of a special condition of sentence of probation or community control.

**“Temporary Injunction otherwise referred to as Temporary Restraining Order”** means an order from a court directing one person not to do something, such as make contact with another person, enter the family home or remove a child from the state. Restraining orders are typically issued in cases in which spousal abuse or stalking is feared -- or has occurred -- in an attempt to ensure the victim's safety. The term restraining order is used interchangeably to refer to an injunction though the proper term is injunction. A temporary injunction is granted by the court after the filing of a sworn petition for a permanent injunction but prior to a hearing by the court as to whether there is sufficient evidence to grant a permanent injunction.

**“Victim”** means an individual who has been subjected to domestic violence or sexual violence.

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