

# WINTER HAVEN POLICE DEPARTMENT

## GENERAL ORDER 41.5

### Domestic/Dating Violence

**ACCREDITATION STANDARDS: CFA – 15.09, 24.01, 24.02**

**EFFECTIVE DATE: October 30, 1995**

**RESCINDS: G.O. 41.5, April 29, 2014 and all applicable Amended/Temporary Orders prior to January 5, 2018**

**LAST REVISED DATE: January 5, 2018**

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### POLICY

It is the policy of the Winter Haven Police Department to:

1. Protect citizens from the tragedy of domestic/dating violence through “preferred arrest” response where probable cause exists.
1. Attempt to reduce the incidence and severity of domestic/dating violence;
2. Protect victims of domestic/dating violence and provide them with support through a combination of law enforcement and community services.
3. Promote officer safety by ensuring that officers are fully prepared to respond to and effectively deal with domestic/dating violence calls for service; and

## **PURPOSE**

The purpose of this General Order is to establish Department procedures which sworn members should take in response to domestic/dating violence and shall enforce the law while serving to intervene and prevent future incidents of violence. (CFA 15.09)

## **SCOPE**

This General Order shall apply to all members that respond to and investigate incidents of alleged domestic/dating violence and victim advocate(s) that assist victims of domestic/dating violence.

## **PROCEDURE:**

### **I. Response to and Entry of Scene (CFA 15.09a)**

- A.** Members shall use due caution when responding to, arriving to, and during investigations of domestic/dating violence.
- B.** Members responding to calls for service, involving domestic/dating violence, shall respond in accordance with General Order 41.4.
- C.** Members arriving on scene of domestic/dating violence calls shall adhere to the following:
  - 1.** Do not park directly in front of the scene, but park so that a safe approach on foot can be made.
  - 2.** Look and listen for signs of a disturbance or violence on approach.
  - 3.** If a residence is secure (doors closed), listen for any conversation or signs of violence before attempting to make contact.
  - 4.** When making contact, secure any weapons that were used or threatened to be used. Make sure to ask about the presence of any weapons.
  - 5.** If possible, physically, visually, and verbally separate the persons involved.
  - 6.** Ensure that officers can see each other during the investigation and know each other's whereabouts.
  - 7.** Provide first aid and/or summon medical assistance, if needed.

### **II. On Scene Investigations (CFA 15.09b)**

- A.** After the scene has been secured, members shall interview all parties involved to determine if a crime has occurred.
- B.** Members shall determine if there is probable cause for an arrest. If probable cause exists for an arrest, the member shall arrest the suspect.
- C.** If a crime has occurred and probable cause is present for an arrest, but the suspect has fled the scene, members shall:

1. Search the area in an attempt to locate and apprehend the suspect.
  2. If the suspect cannot be located a complaint affidavit should be completed and faxed to the Crime Information Center (CIC) for entry into FCIC/NCIC. Depending on the facts and severity of the case, a supervisor should consider contacting the Investigative Services Bureau for additional assistance in locating the suspect and/or assistance in obtaining an arrest warrant.
- D. Members shall collect, photograph and/or arrange for the collection, of any evidence present at the scene.
- E. Members shall photograph the victim with or without injuries.
- F. Members shall obtain a written statement from the victim for misdemeanor offenses or for felony offenses refer the victim to Felony Intake for a taped statement. This does not preclude a member from taking a taped statement from the victim.
- G. Members shall attempt to take a statement from the suspect in accordance with General Order 42.1.
- H. Members shall provide a case number, the "Victim/Witness Information Guidelines" and a "Domestic" or "Dating" Violence pamphlet. This shall be documented in the member's report.
- I. Members shall explain the Injunction for Protection procedures and offer the availability of a shelter to the victim.
- J. If children heard or witnessed the domestic abuse or were endangered in any way, members shall contact the Child Abuse Hotline or fax a referral to DCF.
- K. Members shall conduct a follow-up investigation and make referrals to the victim as necessary. Members shall complete a supplement report when required. (CFA 15.09e)

### **III. Arrest Authority and Arrest Situations (CFA 15.09c)**

- A. Members have the authority to make a warrantless arrest under the following:
1. Sworn members may arrest a person without a warrant when the officer has probable cause to believe that a person has committed an act of domestic/dating violence or child abuse, as defined in this general order and Florida State Statute 741.28.
  2. Sworn members may arrest a person without a warrant when there is probable cause to believe the person has knowingly committed any act in violation of an injunction for protection which creates a threat of imminent danger to the petitioner or household members. Such an arrest may be made over the objection of the petitioner.
  3. Sworn members may arrest a person without a warrant when there is probable cause to believe that one "family or household member" has committed an assault/battery, upon another "family or household member", who is or was residing in the same single dwelling unit.

- B.** Arrest situation: Officers shall make a custodial arrest in domestic/dating violence incidents when:
1. Probable cause exists to indicate that a domestic/dating violence act, as defined in this general order, has occurred; or
  2. Probable cause exists to indicate that a violation of an injunction for protection has occurred which creates a threat of imminent danger to the petitioner or household members.
- C.** The decision to arrest and charge shall not require the consent of the victim. The arresting member should emphasize to both the victim and the offender that the legal process is being initiated by the State and not the victim.
- D.** In those cases where an arrest is made pursuant to the preferred arrest policy, and the victim is insistent that they do not wish to prosecute, the victim shall be instructed to contact the State Attorney's Office.
- E.** A Notice to Appear (NTA) shall not be issued in domestic/dating violence cases or where an injunction for protection has been violated.
- F.** Dispute mediation shall not be used as a substitute for appropriate criminal proceedings in situations where physical violence or the threat of physical violence has occurred.

**IV. Legal Requirements and Victim Assistance (CFA 15.09d)**

- A.** Legal Requirements: In accordance with Florida State Statute 741.29, each sworn member responding to an alleged incident of domestic/dating violence shall:
1. Advise the victim there is a local spouse abuse center from which they can receive services;
  2. Assist the victim in obtaining medical treatment, if required, as a result of the alleged incident being investigated by the officer;
  3. Give the victim a copy of the Winter Haven Police Department "Domestic Violence" pamphlet and "Victim/Witness Information Guidelines". All sworn members assigned to the Patrol Division shall carry copies of these items with them while on duty. The issuing of these items shall be documented in the sworn member's report.
  4. Complete a offense/incident report for any domestic/dating violence case, whether or not an arrest is made or charges are filed. The report must include a minimum of the following:
    - a. Description of physical injuries, if any; and
    - b. The reasons an arrest was not made.
  5. Sworn members receiving complaints of domestic/dating violence from two or more parties must evaluate each complaint separately to determine whether there is probable cause for an arrest. Sworn members shall attempt to identify

the party that was the aggressor.

- B.** Victim Assistance: Members are required to provide the following assistance to victims, offenders, and, where appropriate, the children:
1. Advise all parties about the criminal nature of domestic/dating violence, its potential for escalation, and that help is available.
  2. Secure medical treatment for victims.
  3. Ensure the safety of children.
  4. Remain on scene until satisfied that there is no threat to the victim.
  5. Remain on scene to preserve the peace as one party removes needed personal items.
    - a. Said party may only remove articles of personal clothing and basic toiletry items sufficient to sustain the person overnight.
  6. Provide the victim with referral information for legal or social assistance.
  7. When appropriate, transport or arrange for the transportation of the victim to a safe place or shelter.
  8. Provide the victim with information, to include, contacting the Department's Victim Advocate and/or notify the Victim Advocate or a volunteer as necessary.

**V. Obtaining an Injunction for Protection**

- A.** For obtaining an injunction for protection during normal business hours, victims shall be told to contact the Department's Victim Advocate for assistance in obtaining the injunction. Victims may also be told to contact the Clerk of the Courts during normal business hours for assistance on filing for an injunction.
- B.** Criteria for After Hours Emergency Injunction for Protection: Prior to contacting the domestic violence shelter, to request that a Client Advocate contact law enforcement members, the following shall be met:
1. The respondent has threatened to "kill" the petitioner; or
  2. An aggravated battery has occurred; or
  3. A recent (within 30 days) episode of assault, battery, sexual assault has occurred; or
  4. The respondent appears to be unpredictable due to an alleged history of drug use, alcoholism, or mental pathology; or
  5. The petitioner has no safe place to go.
- C.** When the defendant has been or is about to be arrested and does not have the ability to bond out, the victim should be advised to contact the Domestic Violence Program at

(863) 534-4180 on the following work day.

- D. In situations where it appears that the defendant may post bond and thereby poses a threat to the victim, the sworn member may request a higher bond or should consider filing additional charges if sufficient evidence allows such charges.
- E. The Client Advocate should be contacted when the victim does not have a safe place to go and the suspect is able to harm the victim prior to the next working day.
- F. Process for Obtaining an After Hours Injunction for Protection: Injunctions for protection can be issued after normal working hours, in limited emergency situations. This procedure should be used as a last resort. The following procedures shall be followed for obtaining an injunction for protection after normal working hours:
  - 1. Officers shall contact a supervisor and explain the need for an emergency injunction. Upon supervisor approval, the sworn member shall contact the Domestic Violence Shelter at (863) 413-2700 and request the Client Advocate be contacted regarding the need for an emergency injunction for protection.
  - 2. The Client Advocate shall then contact the sworn member and further investigate the need for an emergency injunction.
  - 3. If an emergency injunction is needed, the sworn member shall request supervisory authorization to provide or arrange for transportation, for the victim, to the Polk County Sheriff's Office interview room, located in the main jail or make contact with the Department's Victim Advocate to arrange transportation.

## **VI. Violation of an Injunction for Protection**

- A. A sworn member investigating a violation of an injunction for protection against domestic/dating violence shall review the document to determine if legal grounds exist.
  - 1. The sworn members shall verify that the particular injunction requires that the defendant "vacate" the premises or otherwise refrain from doing what the defendant is alleged to have done.
  - 2. The sworn members shall verify that the subject has been served with the injunction to prove that the subject "knowingly" violated the injunction.
- B. If the victim does not have a copy of the injunction for protection document in their immediate possession, the sworn member shall contact the Polk County Sheriff's Office Communications to verify the injunction has been served. This may include requesting that injunctions on file, in communications, are reviewed. This procedure applies to both normal and non-business hours.
- C. If a violation of an injunction for protection exists and the subject is present an arrest shall be made. The arrest report shall contain the following:
  - 1. Identify the specific provision of the injunction that was violated.
  - 2. Case number and the judge who issued the injunction.
  - 3. Any criminal offenses committed.

- D. If a violation of an injunction for protection exists and the suspect has left the scene and cannot be located; the sworn member shall complete a complaint affidavit. The complaint affidavit shall include the same criteria as an arrest report (Section C, 1-3 of this general order).
- E. Depending on the circumstances, a violation of child custody provisions, in an injunction for protection against domestic/dating violence, may also violate Florida State Statute 787.03 "Interference with Custody", a felony, in which the sworn member may make an arrest without warrant.
- F. Florida State Statute 790.233 prohibits persons, to whom a permanent injunction for protection has been issued, from having firearms or ammunition in their care, custody, possession, or control. Furthermore, in every case where a respondent is believed to possess firearms and/or ammunition in violation of an injunction for protection, the circumstances shall be documented in a report with a copy forwarded to the judge who issued the injunction.

## **VII. Serving Injunction for Protection**

- A. In accordance with Florida State Statutes 741.30 and 784.046 members of the Winter Haven Police Department have the authority to serve injunctions for protection against domestic/dating violence. If the court orders or a petitioner requests, service of a protective order within the City of Winter Haven, a police officer shall accept the order of service. (CFA 24.01a,b, 24.02a)
- B. On accepting the order for service, the sworn member shall request a case number and complete a report detailing the actions taken. The following shall be included in the report:
  - 1. Name, home and work address and physical description of the person to be served; (CFA 24.02f)
  - 2. Name and pertinent information of the petitioner;
  - 3. Location, date and time service was made or attempted; (CFA 24.02a,e)
  - 4. Method of service; (CFA 24.01a, 24.02d)
  - 5. Name of server (sworn member's name and ID number) (CFA 24.02b)
  - 6. Reason for non-service, if applicable. (CFA 24.02c)
- C. Serving the Injunction: The Clerk of the Court provides two certified copies of the injunction to the petitioner. One copy is for the petitioner and one copy for the respondent. To serve the injunction, inform the respondent that they must comply with all portions of the injunction as indicated. It is not necessary to read the injunction word for word. Once completed, the sworn member shall:
  - 1. Write the date, time, and the sworn member's initials on the respondent's copy of the injunction.
  - 2. Give the entire certified copy to the respondent.

3. Immediately notify the Polk County Sheriff's Office Court Process Section at (863) 534-6264 during normal business hours (Monday through Friday, 0800-1700 hours) that the injunction has been served. If it is after normal business hours, immediately notify the Polk County Sheriff's Office Communications Center. (CFA 24.01a,b)
4. Complete a Service of an Injunction for Protection by a Deputy Sheriff or Police Officer (PCSO Form 1578) and fax the form as soon as possible to Polk County Sheriff's Office Court Process Section at (863) 534-6239.
5. Mail the original copy of the above form to the Polk County Sheriff's Officer Court Process Section.

#### **VIII. Reporting Procedures (CFA 15.09f)**

- A. Members shall complete an offense/incident report on all complaints of domestic/dating violence. A report shall be completed regardless of whether an arrest was made or not. If an arrest is not made or a complaint affidavit is not filed, members shall clearly document the circumstances and/or reason for not filing charges.
- B. Members shall submit the report and supporting documents to their immediate supervisor for approval.
- C. Supervisors are responsible for ensuring a copy of all domestic/dating violence reports and supporting documents are forwarded to the Victim Advocate.
- D. Copies of all domestic violence reports are sent to the nearest locally certified domestic violence shelter within 24 hours of the Department's receipt of each report. Procedures for sending reports of domestic violence to a certified domestic violence shelter are listed below.
  1. Per Florida Attorney General Opinion AGO 2008-37, the 24 hour time period for sending domestic violence reports to the nearest certified domestic violence shelter starts when the report(s) are received by the Records Division.
  2. The Records Supervisor or their designee shall ensure that the initial and all subsequent domestic violence reports are faxed to the designated domestic violence shelter within 24 hours per Florida State Statute 119 and 741.29.
    - a. The Records Supervisor or designee shall ensure that domestic violence reports are redacted in accordance with Florida State Statute 119.

#### **IX. Department Members Involved in Domestic/Dating Violence Incidents (CFA 15.09g)**

- A. Domestic/dating violence cases involving Department members shall be investigated as any other case. The on-duty supervisor shall notify the Bureau Commander of the involved member. Any administrative action or investigation, concerning members shall be conducted at the discretion of the Chief of Police.
- B. Should a member be served with any protective injunction or arrested for Domestic/Dating violence, the member shall notify their immediate supervisor, as soon as possible, but prior to their next on-duty status.

- C. Should the Department make a domestic/dating violence related arrest, of a law enforcement officer, from another agency, the on-duty supervisor for this Department shall contact the supervisor from the employing agency of the arrested officer. The supervisor shall notify the employing agency of the specific charges and time of arrest, prior to the end of their tour of duty.

**X. Definitions**

- A. *Dating Violence* – Dating violence is defined by Florida State Statute 784.046, as violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature that has existed within the past 6 months and characterized by the expectation of affection or sexual involvement and the persons involved over time in a continuous basis during the course of a relationship.
- B. *Domestic Violence* – As defined by Florida State Statutes 741.30 and 784.046, as 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.
- C. *Family/Household Member* – As defined by Florida State Statute 741.30, means spouses, former spouses, persons related by blood or marriage, persons who are, or have, resided together, as if a family, and persons who have a child in common, regardless of whether they have been married or have resided together at any time.
- D. *Injunction* – A court order prohibiting or requiring certain action. Restraining and Protective Orders, which may be temporary or permanent domestic violence injunctions and repeat violence injunctions, which result from a domestic violence situation. Injunctions may be issued by either Florida courts or any court of a foreign state. Defined as “a court competent jurisdiction of a state of the United States; the District of Columbia; an Indian tribe; or a common wealth, territory, or possession of the United States”.

APPROVED



**Charles E. Bird  
CHIEF OF POLICE**