

**RESPONDING TO DOMESTIC VIOLENCE,  
MODEL POLICY NUMBER TWO FOR FLORIDA LAW ENFORCEMENT:  
NOVEMBER 1999**

**BACKGROUND**

**I. INTRODUCTION**

The Prevention of Domestic and Sexual Violence Section (PDSV) of the Florida Department of Community Affairs (formerly the Governor's Task Force on Domestic and Sexual Violence) received STOP Violence Against Women Formula Grants funds through the Federal Violence Against Women Act (VAWA). The PDSV identified certain purposes for funding, one of which was the development and implementation of more effective law enforcement policies for preventing and responding to domestic violence against women in Florida.<sup>1</sup>

Pursuant to funding requirements, the law enforcement domestic violence model policy was developed to:

1. Cover specified areas (e.g., training, pro-arrest procedures, domestic violence resource personnel, law enforcement officers as perpetrators);
2. Incorporate previously issued recommendations made by the PDSV on law enforcement efforts to address domestic violence;
3. Reflect consensus among law enforcement, prosecutors, and victim service providers.
4. Be applicable to and recognize the differences between all types of law enforcement agencies found in the state in terms of size, service areas, and other demographics; and
5. Address the needs of underserved populations in the state, including Native Americans, minorities, rural residents, disabled persons, immigrants, and other identified underserved populations.

The Florida Law Enforcement Research Coalition (FLERC) sought and was given the opportunity to oversee the development of the original model policy in 1997 under the VAWA Grant Program in Florida. FLERC received additional funding in 1999 to revise the policy. The purpose of FLERC is to link law enforcement agencies and researchers to conduct policy-relevant research and to develop policies. Represented on the Board of Directors of FLERC are the:

Florida Sheriffs Association,  
Florida Police Chiefs Association,  
Florida Department of Law Enforcement,  
Florida Criminal Justice Executive Institute,

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<sup>1</sup>The PDSV project also included the development of a model policy for the law enforcement response to sexual violence.

Florida Chapter of the International Association of Law Enforcement Planners,  
Florida State Law Enforcement Chiefs Association,  
Tallahassee Police Department,  
College of Social Sciences at Florida State University, and  
School of Criminology and Criminal Justice at Florida State University.

People who served on the original Model Policy Development Committee included: 24 law enforcement representatives from varied types of agencies (large and small; rural and urban; county, municipal, and state) from all over Florida, 14 victim service providers from all areas of the state, 7 representatives of state attorneys and the statewide prosecutor's office, and 5 academics with expertise in violence and/or law enforcement. This group was aided in its efforts by resource materials collected by FLERC staff (e.g., model policies and codes, departmental policies from Florida and other states). The draft policy was sent to all law enforcement agencies, as well as to victim service providers, state attorneys, and other criminal justice or service providing personnel in Florida. The comments from these agencies, as well as from the PDSV, were considered by the Model Policy Development Committee, before a revised, final version of the model policy was submitted to the PDSV for final review and dissemination.

In the spring of 1999, FLERC solicited input on the original policy from various law enforcement agencies, prosecutors, and victim service agencies and organizations. In the summer of that same year a Policy Revision Committee met to revise the policy, considering that input. This Committee was smaller in size than the original policy developing group, but with similar representation. The purpose of the revision was to update and improve upon the original policy.

## II. PURPOSE

Pursuant to the policies of the PDSV, as enumerated in its annual reports and its publication *Implementing a Vision: Ending Violence Against Women*, law enforcement agencies requesting Violence Against Women Act Funds in future years must adopt all or parts of the model policies for the law enforcement response to domestic and sexual violence. It was, therefore, the goal of FLERC in developing and revising the policy to produce a policy that would challenge law enforcement agencies to improve their response to domestic violence, but would still be attainable. Specifically, we attempted to develop a document that would:

1. Set forth guidelines to improve the overall police response to domestic violence;
2. Be relevant to both small, rural departments with few personnel and limited resources and large, urban departments with many personnel and greater resources;
3. Respond to the needs of numerous special populations in the state;
4. Represent consensus among law enforcement agencies, increasing the likelihood that the policy would be adopted by the broadest range of agencies;
5. Accurately reflect and address the unique challenges law enforcement officers encounter while responding to incidents of domestic violence; and
6. Respond to concerns voiced by service providers regarding perceived deficiencies in the law enforcement response to domestic violence.

## III. GUIDING PRINCIPLES

The goal of the law enforcement response to domestic violence should be to reduce the prevalence and harm of that crime, while preserving officer safety. Domestic violence has a catastrophic effect that ripples far beyond the individuals immediately involved. Studies indicate repeatedly that children from homes where domestic violence takes place experience trauma whether or not they themselves are physically abused. Studies of prison inmates reveal a high number who had domestic violence in their pasts. A large proportion of women on welfare or who are homeless have been the victims of domestic violence. Hidden costs to employers, law enforcement, schools, and medical institutions are extensive. Another cost to society is the harm to law enforcement officers responding to domestic violence situations. Many assaults against officers, as well as line-of-duty deaths, occur in the context of domestic violence situations.

Recognizing the extent, seriousness, and dangerousness of domestic violence, several principles guided the development of this policy. Those principles are discussed below.

- X Domestic violence has a profoundly devastating effect on its victims as well as their families and society at large. Its characteristics can be complex and relationship-specific while being physical, sexual, and/or psychological. Provisions in the model policy seek to ensure that the law enforcement system is appropriately sensitive to the needs of victims of domestic violence.
- X Victims of domestic violence need and deserve the same service and compassion as victims of crimes perpetrated by strangers. In fact, it is arguable that they need more sensitivity and understanding due to the unique effects of this crime on the victim's psyche, family, and employment.
- X Victims may experience great pressure **not** to pursue criminal or civil prosecution of domestic violence. Some of these pressures stem from the following:
  - X Fear of escalated violence and/or retaliation on the part of the abuser;
  - X Fear of loss of income when the abuser is the sole provider for the family;
  - X Fear of loss of social support group when the abuser's relatives and friends are unaware of, or in denial about, or misunderstand, an appropriate response to domestic violence;
  - X Fear of the abuser initiating retaliatory litigation against the victim;
  - X Fear of loss of custody of the children should the abuser prevail and/or the victim be found to be an unfit parent because of the abuse;
  - X Expectation that the system will penalize the victim and support the abuser; and
  - X Fear of the offender being able to effect deportation of the victim.

Some components of this policy were adopted in recognition of this pressure on victims.

- X Law enforcement officers should tailor their responses to the characteristics and unique needs of the numerous and varied populations in Florida. These special populations include, but are not limited to:
  - Ethnic minorities
  - Inner city residents
  - Rural residents
  - Migrants and immigrants
  - Non-English speakers

Gay men and lesbians  
Elderly persons  
Disabled (mentally and physically) persons  
Homeless persons

- X The initial response to domestic violence calls can be dangerous for law enforcement. Components of the policy recognize and attempt to minimize the danger that police face in these situations.

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*"Comments" in this document are not themselves policy, but are intended to provide the rationale or explanation for the policy component they accompany. Such comments are italicized and surrounded by a box.*

**I. PURPOSE**

The purpose of this policy is to establish guidelines for the law enforcement response to domestic violence. It is the second in a series of policies.

**II. SCOPE**

This policy applies to domestic violence situations as defined by Chapter 741 F.S.

*"Domestic violence" means any assault, aggravated assault, battery, aggravated battery, kidnaping, false imprisonment, sexual assault, sexual battery, stalking, aggravated stalking, 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.*

*"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 have a child in common regardless of whether they have been married or have resided together at any time.*

**COMMENT:** *Although dating relationships are not covered by this statute, this policy encourages law enforcement to respond to these victims and perpetrators following the guidelines of this policy. See FSS 901.15(7) and 784.03. It is also the intent of this policy that the domestic violence definition apply to lesbian and gay couples.*

**III. POLICY STATEMENT**

The purpose of this policy is to reduce the incidence and severity of domestic violence, protect victims of domestic violence, provide them with support through a combination of law enforcement and community services, and build strong cases against suspects for the purpose of successful prosecutions and reduced recidivism.

Domestic violence investigations shall be actively pursued by law enforcement and an arrest shall be the preferred response in situations in which probable cause exists. High priority shall be assigned to ensuring victim safety and referral to appropriate services. Consistent with this, the following policy components are adopted.

#### IV. DISPATCH PROCEDURES

***Comment:*** Dispatch serves a vital function in facilitating an immediate, effective police response to domestic violence. As a result, this policy includes several dispatch-specific elements, which were included to ensure that the incident is handled so as to:

*Ensure the safety of the victim and provide necessary aid and support to the victim;*

*Ensure the safety of any children, elderly persons, or disabled individuals present;*

*Ensure officer safety;*

*Preserve evidence;*

*Facilitate apprehension of the suspect; and*

*Provide at the scene the tools necessary for effective communication with all victims.*

*Communications personnel should receive the training necessary to implement these policy provisions.*

- A. Communications personnel shall dispatch units 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 departmental procedures. If communications personnel are serving multiple departments, they should dispatch domestic violence calls in accordance with the highest appropriate priority classification.
- B. Whenever possible, communications personnel should dispatch two officers to the scene.
- C. In addition to the information normally gathered, communications personnel should make an effort to determine the following and relay it to officers responding to a domestic violence call:
  1. Whether there is a need for medical treatment;
  2. Suspect's actions against the victim;
  3. Whether the suspect is present and, if not, the suspect's complete name, relationship to victim, description and possible whereabouts;
  4. Whether the suspect is aware that law enforcement has been called and/or has made any threats toward responding officers;
  5. Whether weapons, dangerous animals or other threats to officer safety are present at the scene;
  6. Whether the offender is under the influence of drugs or alcohol;
  7. Whether there is anyone else at the scene, including children;
  8. Whether the victim has a current injunction or equivalent order;
  9. Complaint history at the location; and
  10. If suspect has fled, a complete description of the vehicle.

***Comment:*** Communications personnel can provide important information to the officers responding to the scene. Further, the evidence that the communications personnel obtains in his/her communication with the caller (e.g., identity of the suspect, actions of the suspect against the victim) can be of particular value because of the frequency with which victims recant, leaving prosecution with little, if any, evidence with which to proceed against the suspect.

- D. 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.

***Comment:*** Communications personnel can facilitate effective communication between the police and the victim by arranging for translation resources. Each jurisdiction should attempt to identify translation resources which could be used for this purpose (e.g., develop a list of bilingual or multilingual volunteers who could be available, for instance, by phone). It is important that, whenever possible, the responding officer use interpreters who are unaffiliated with the victim and the perpetrator so that objective interpretation is probable. Children should not be used as interpreters.

- E. Communications personnel shall not ask the victim whether s/he plans to participate in any later prosecution.
- F. If the crime is in progress, communications personnel should keep the complainant on the phone and/or ask him/her not to hang up the phone even if s/he is away from it, provided the victim is not in any immediate danger. 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 police.
- G. For 9-1-1 or other emergency call hangups where call location information is available, communications personnel shall dispatch a unit and make a call back to the victim.
- H. Dispatchers 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 dispatcher shall advise the officers of the request.

***Comment:*** It cannot be assumed that a request to cancel a law enforcement response means that the situation is controlled and that the victim is no longer in danger. In fact, the victim may be in even graver danger than when s/he first requested assistance and may have been coerced or forced to request cancellation. It is therefore important that law enforcement proceed with its response despite requests for cancellation.

- I. If the communications department has policies separate from those of the

agency with which it is associated, this policy should be incorporated into those policies.

***Comment:*** *In the event that a law enforcement agency contracts with another entity to provide communications and dispatch services, the model policy components regarding dispatch and communications should be incorporated into such contracts.*

## V. INITIAL RESPONSE AND ENTRY

- A. In responding to domestic violence calls, officers shall act in accordance with departmental policy for responding to high hazard calls.
- B. Entry
  - 1. If refused entry, the officers should be persistent about seeing and speaking alone with the victim. If access to this person is refused, the officers should request that the dispatcher attempt contact with the victim by phone.
  - 2. If access is still refused and the officers have reason to believe that someone is in imminent danger, the officers should use appropriate force to gain entry.

## VI. ON-SCENE INVESTIGATION

- A. To guide the law enforcement response to domestic violence, the department should provide to its officers the Domestic Violence Reference Cards available free of cost from FLERC which provide a summary of the domestic violence policy and provide other relevant information (e.g., the locations and numbers of local certified domestic violence centers).
- B. The initial actions of the responding officer(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 areas);

***Comment:*** *Separation of the victim and the offender is essential. First, the offender's violence may escalate upon arrival of law enforcement because of a perception of loss of control over the victim. Second, the offender may control the victim through expressions, body language, and other subtle components of their relationship, thereby affecting what the victim relays to law enforcement. The victim may be fearful of speaking to law enforcement in front of the offender out of concern for later retaliation by the offender. In addition, although officers should interview parties separately, officers may be advised to keep each other in sight to ensure officer safety.*

- 2. Taking possession of all involved weapons and securing any other weapons which 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 insuring the welfare of any children and others at the scene.
- C. Steps of the on-scene investigation should include the following:
1. Interview all parties and potential witnesses including children 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 the special needs of any party (for instance, the person is hearing impaired or does not speak English), the officer, where possible, should request that appropriate resources be made available via phone or at the scene.
  3. Determine if the relationship is "domestic" (as defined by Florida law) and what crime(s) occurred.
  4. Determine the nature and extent of all injuries, including defensive wounds (e.g., on the inside of the arms or palms of the hands), pursuant to Chapter 741 F.S.

***Comment:*** Due to the possibility of serious injury due to strangulation, officers should document any signs of strangulation including red marks, bloodshot eyes, and hoarseness in speaking.

5. Ascertain whether a female victim is pregnant and whether and how the suspect is aware of her condition. Obtain the name of the victim's health care provider, if possible.

***Comment:*** This directive is based on F.S. 784.045(1)(b), which provides that a battery becomes an aggravated battery if the person who was the victim of the battery was pregnant at the time of the offense and the offender knew or should have known that the victim was pregnant. This section of the policy and the statute recognize the all-too-frequent phenomenon of batterers injuring pregnant victims with the intent of either harming the fetuses or controlling the victims by hurting their unborn.

*It is advisable for the officer to get the name of a health care provider who knows of the victim's pregnant status, who may have information about the offender's knowledge of the pregnancy, and who could then testify to that effect.*

6. Determine who is the primary aggressor, using the following factors and the officer's judgment:
  - § Extent of any injuries inflicted,
  - X Fear of physical injury because of past or present threats,
  - X Actions taken in self-defense or to protect oneself,
  - X History of domestic abuse perpetrated by one party against the other, and
  - X Existence or previous existence of orders for protection.

***Comment:*** As indicated in VII-G below, the model policy strongly discourages the making of dual arrests. Consistent with this, the above provision requires that the responding officer not only determine which of the parties committed a crime, but, importantly, assess whether any actions were required for self defense.

7. Record in writing or with a tape recorder (officers are encouraged to use tape recorders):
  - a. Any statements of the victim, suspect, and/or witnesses which may be categorized as exceptions to the hearsay rule (including excited utterances and spontaneous statements). 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. (More information on these exceptions is contained in section IX, below.)
  - b. Any relevant statements, including self-serving ones, made by the suspect.
8. Collect and record physical evidence and, where appropriate, take color photographs (date and initial photos, if possible) and/or videos of injuries and property damage. Request a crime scene technician, if needed. Seize plain view evidence.
9. Officers are required by Chapter 741.29 F.S. to obtain, if possible, written or taped statements from the victim and any witnesses, including children. The officer should attempt to obtain a written or taped statement from the suspect, as well. These statements should be submitted in accordance with departmental procedure.

## **VII. ARRESTS**

- A. This Model Policy strongly encourages arrest as the response to domestic violence when probable cause exists. When probable cause has been established that an act of domestic violence has occurred, an arrest should be made pursuant to Chapter 901, F.S.

***Comments:*** This policy has a clear preferred arrest position which reflects Florida law and demonstrates the seriousness with which the criminal justice system takes this crime. Dispute resolution, mediation, or other police intervention techniques should not be used as a substitute for arrest.

*Pursuant to 1996 amendments to F.S. 901, a law enforcement officer can make a warrantless misdemeanor arrest when there is probable cause to believe that the person has committed an act of domestic violence, child abuse or misdemeanor battery.*

*The misdemeanor battery statute does not apply to a parent striking a child. If the striking rises to the level of a crime, the appropriate charge is child abuse which is a felony.*

*Sections 901.15(7)(b) and 741.29(5) F.S. provide that a law enforcement officer who acts in good faith and exercises good care in making an arrest under this subsection is immune from civil liability that otherwise might result.*

- B. When determining probable cause, the law enforcement officers should consider their observations and any statements by parties involved and any witnesses, including children. They should proactively determine all the crimes for which there is probable cause.

***Comment:*** Such other crimes might include but are not limited to:

*Arson  
Resisting arrest with or without violence  
Battery on a law enforcement officer  
Child abuse or neglect  
Elder abuse  
Violation of an injunction against domestic violence  
Violation of an injunction against repeat violence  
Witness tampering  
Animal cruelty  
Carrying a concealed weapon  
Possession of a firearm by a person subject to an injunction against domestic violence  
Possession of a firearm by a felon  
Possession of a firearm by a person convicted of domestic violence*

- C. Factors which should NOT be considered in determining whether an arrest will be made include:
- X Marital status;
  - X Sexual orientation;
  - X Race;
  - X Religion;
  - X Profession;
  - X Age;
  - X Disability;
  - X Cultural, social or political position;

- X Socioeconomic status of either party;
- X Ownership, tenancy rights of either party, or the fact the incident occurred in a private place;
- X Officer's relationship with the suspect;
- X Victim's reactions, i.e., verbal hostility, yelling;
- X Victim's request that an arrest not be made;
- X Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction;
- X Verbal assurances that the abuse will stop;
- X The fact that the suspect has left the scene;
- X Disposition of previous police calls involving the same victim or suspect;
- X Denial by either party that the abuse occurred when there is evidence of domestic abuse;
- X Lack of a court order restraining or restricting the suspect;
- X Concern about reprisals against the victim;
- X Adverse financial consequences that might result from the arrest;
- X Chemical dependency or intoxication of the parties;
- X Assumptions as to the tolerance of violence by cultural, ethnic, religious, racial or occupational groups;
- X Absence of visible injury or complaints of injury; and
- X Presence of children or the dependency of children on the suspect.

***Comment:*** *It is the intent of the drafters of this model policy that eliminating these factors as bases of decisions to arrest will focus law enforcement arrest efforts on appropriate criteria, e.g., whether the suspect has violated Florida Statutes prohibiting domestic violence, and not on preconceptions about certain types of victims, communities, offenders, or domestic violence, in general.*

- D. The officer(s) making an arrest will 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 officers shall not initiate discussion of or accept a complaint withdrawal, or have the victim sign a waiver of prosecution form.
- E. Pretrial Release Conditions
  1. Pursuant to FS 741.29(6), any violation of a condition of pre-trial release, when the original arrest was for a crime of domestic violence under FS 741.28, is a first degree misdemeanor.
  2. Officers should attempt to determine and verify what the conditions of pre-trial release for domestic violence are, for example, no contact with victim, no alcohol use by defendant, etc.
  3. If an officer has probable cause to believe that such a violation of a condition of pre-trial release for domestic violence has occurred, an arrest should be made.

***Comment:*** *The arresting officer should convey to the suspect that the state prosecutes violations of the law and that the state may proceed with or without the victim's cooperation. [See F.S. 741.29(3).] This communication can have the effect of redirecting some of the offender's anger away from the victim. In addition, this may help the victim to realize that retreating at this stage is not a viable option, that the case will proceed with or without him/her.*

*The officer should not imply directly or indirectly that signing a waiver of prosecution form is an option for the victim. Such a waiver may result in the victim's loss of benefits otherwise available to him/her through the Victim Compensation Program. Similarly, the officer should not suggest in any way that s/he thinks that the victim might not want to prosecute.*

- F. If the officers determine that a crime has been committed and that the suspect has left the scene, the officers will:
1. Conduct a search of the immediate area;
  2. Obtain information from the victim and witnesses as to where the suspect might be located and check those places;
  3. Prepare a complaint affidavit and complete other appropriate paperwork for referral to the State Attorney's Office or in accordance with departmental policy (e.g., routing to an investigative unit for follow-up), if the offender cannot be located; and
  4. Arrest the suspect if he is located at a later time or date.
- G. Dual Arrests:
1. The agency shall discourage dual arrests. Where there are allegations that each party assaulted the other, the officer shall determine whether there is sufficient evidence to conclude that one of the parties is the primary aggressor.
  2. If the primary aggressor alleges that s/he is also the victim of domestic violence, then it is imperative that the officer thoroughly investigate the allegation to determine whether it was an act of self-defense or an act of aggression. If the officer concludes that a party was acting in self-defense, no arrest shall be made of that person. If dual arrests are made, the facts supporting each arrest must be clearly documented.

***Comment:*** *Dual arrests are strongly discouraged except where clearly necessary. This provision is consistent with the requirement of F.S. 741.29(4) that "when complaints are received from two or more parties, the officers shall evaluate each complaint separately to determine whether there is probable cause for arrest." Every effort should be made by the officer to determine the primary aggressor and effect an arrest of only the individual(s) who used violence in a manner **other** than necessary for self defense. In assessing whether physical force was used in self defense, factors such as defensive wounds, disparity in physical size, use of weapons, circumstances of the onset of violence, reasonableness of fear of harm, signs of strangulation, etc., can be considered.*

- H. Law enforcement officers shall not threaten, suggest or otherwise indicate the possible arrest of all parties or the removal of the children from the home, with the intent of discouraging requests for intervention by law enforcement by any

party.

- I. If no arrest is made due to lack of probable cause, the victim shall be so informed and be notified that s/he can request to have the case reviewed by the State Attorney's Office.

#### **VIII. VICTIM SUPPORT**

- A. The officer shall attempt to identify and utilize resources to assist in his/her interactions with non-English speaking citizens (e.g., victims, witnesses, suspects) or citizens with communication disabilities. However, for purposes of safety, the officer should avoid the use of friends, family (especially children) or neighbors serving as the primary interpreter for the investigation.
- B. The officer shall attempt to gain the victim's trust and confidence by showing understanding, 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 law enforcement officer 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 of the "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. Officers should:
  1. Convey to the victim concern for his/her 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 s/he wants to be notified of the suspect's release from jail;
  6. Inform the victim that s/he can call the jail to obtain information regarding the status of the suspect;
  7. 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 and not the victim;
  8. If an arrest is not made, inform the victim of the reasons and of his/her options independent of law enforcement (as indicated in the "Rights and

- Remedies" pamphlet);
9. Advise the victim to notify the agency of any additional incidents or new information;
  10. Assist the victim in calling the domestic violence center for information and assistance; and
  11. Advise the victim that s/he may request in writing to keep her address and phone number confidential.
- E. The officer 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 officer should remain at the scene for a reasonable period of time while the victim gathers necessities for a short-term absence from home. The officer should ask a victim who is leaving the home for his/her temporary address and phone number out of hearing of the perpetrator. If the victim is staying at the residence and there is a threat of future violence, arrangements should be made for increased patrol in the area.
- F. If the victim requests to go to a domestic violence shelter, s/he shall be referred to a certified domestic violence center. The officer shall arrange for or provide transportation to the certified center if the victim is approved for center intake or arrange for or provide transportation for the victim to an alternative location of the victim's choice in the local area.
- G. Care of Children: Officers shall see to the appropriate care of children as victims or dependents.
1. In child abuse situations, the officer is required by Chapter 415 to call the Abuse Registry [1-800-96-ABUSE (2-2873)] of the Florida Department of Children and Families.
  2. If, as a result of arrests and/or hospitalizations, there is no parent, legal guardian, or relative to care for the children, the officer shall contact the Abuse Registry at the number above for purposes of determining placement. The officer 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 officer shall call the Abuse Registry [1-800-96-ABUSE (2-2873)].

## **IX. INITIAL RESPONSE: REPORT WRITING**

- A. In accordance with Chapter 741 F.S., the officer shall prepare a written police report if there has been an allegation of domestic violence, regardless of whether an arrest was 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.

**Comment:** *F.S. 119.07(3) provides that, upon written request by the victim of domestic violence, sexual battery, aggravated child abuse, aggravated stalking, harassment, or aggravated battery, any information which reveals the victim's name or employment telephone number, home or employment address, or personal assets of the victim is exempt from inspection.*

- B. The report form prepared by the officer should specify "Domestic Violence" on its face. A domestic violence report should include, but need not be limited to:
1. Information provided by communications personnel (the officer 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, their approximate time frame, and the person's emotional condition), 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 officers on the scene;
  5. A description and location of observed injuries, description of medical treatment rendered and statement 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 s/he was 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. Any evidence that the suspect tried to prevent the victim from reporting the crime to law enforcement (e.g., taking phone away from victim);
  11. Information regarding whether children were present, their names and ages, and whether the Department of Children and Families was contacted;
  12. Information regarding whether an injunction is in effect and, if it is, reference to this order and a copy if possible;
  13. A statement regarding any special needs (including language barriers, disabilities) of the parties involved;
  14. An indication that the victim received the "Rights and Remedies" pamphlet;
  15. If no arrest was made, an indication that the officer advised the victim of the reasons why an arrest was not made;
  16. Any information that may be relevant to the assessment of bond; and
  17. The name and phone number of a person (e.g., family member, clergy, employer) who can contact the victim.

***Comment:*** The policy requires detailed reporting of statements (e.g., excited utterances, spontaneous statements, or admissions) on the part of the accused or any other person at the scene for later use as prosecution evidence. "Excited utterances" are defined as a statement "relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition" (Florida Evidence Code, S. 90.803; F.S.). "Spontaneous statements" are defined as statements "describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter, except when such statement is made under circumstances that indicate its lack of trustworthiness" (Florida Evidence Code, S. 90.803, F.S.). Other exceptions to the hearsay rule include, but are not limited to, "then-existing mental, emotional, or physical condition," "recorded recollection," "statement under belief of impending death," "statement of child victim," and "statement of personal or family history."

To be effectively utilized for prosecution, information regarding such statements must be very specific, verbatim quotations, including precise content and context in addition to quotation marks where appropriate. To ensure this, it is highly desirable that departments have cameras and tape recorders readily available for responding officers. The statements may not be exempt from the hearsay objections of the defendant's counsel in court if they are not collected according to the above guidelines.

- C. The victims' names and contact information should not be blotted out of forms going to local certified domestic violence centers, except in cases involving sexual battery, child abuse, a lewd or lascivious act, or indecent assault upon or in the presence of a child.

## **X. FOLLOW-UP INVESTIGATION, REFERRAL AND REPORT WRITING**

- A. A follow-up investigation may be required and could include:
  - 1. Interviewing victims who were physically or emotionally unable to be properly interviewed or to provide statements. 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.
  - 4. 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.

***Comment:*** Although not always required, a follow-up investigation is frequently necessary because new or different evidence may surface subsequent to the event in question. Certain types of injuries may take time to develop or become obvious. The victim may not be in an emotional state at the time of the event to give adequate information about the event or history leading up to it.

- B. In the supplemental follow-up report, the investigating officer 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 probable cause exists, but a physical arrest is not made, the police report and charging documents required by the State Attorney's Office in the jurisdiction should be forwarded within two business days after the investigation is completed, or as soon as possible, to the State Attorney's Office for review. If a warrant is issued, the appropriate agency should attempt to serve or to effect service of the warrant as soon as possible.

#### **XI. SPECIALTY UNITS/PERSONNEL**

- A. Based on the size of the agency, there will be at least one officer designated as a "domestic violence officer," who is specially trained to deal with the complexities of a domestic violence case and who will train other personnel. This need not be a full-time designation.

***Comment:*** *The model policy requires that at least one officer serve as a domestic violence officer. This minimum requirement recognizes the different resources in departments throughout the state. Within smaller departments this could be a part-time assignment of an officer and, within the largest departments, domestic violence units comprised of several full time persons will be developed.*

- B. The domestic violence officer shall:
1. Monitor the agency's compliance with the domestic violence policy;
  2. Gather information on the resources available in the local jurisdiction and the procedures necessary to utilize them;
  3. Educate other officers in the department with regard to the information obtained above;
  4. Unless the task is assigned to another unit, provide for and/or coordinate the training of other officers as required in Section XIV below;
  5. Coordinate with the local certified domestic violence centers and other local resources to educate the community with regard to domestic violence;
  6. If possible, serve as a representative to the local domestic violence council or task force;
  7. Coordinate with the State Attorney's Office in the investigations of violations of injunctions for protection (F.S. 741.31); and
  8. Receive proper training for his/her position.

#### **XII. OFFICER-INVOLVED DOMESTIC VIOLENCE CASES**

**Comment:** *The policy supports the position that law enforcement departments should have zero tolerance for domestic violence on the part of their personnel. Departments should be as vigorous in their response to suspected crimes on the part of their own officers as they are to all other domestic violence suspects. However, they should also uphold their duty to the officer as an employee in terms of providing employee assistance; preventing harm to self or family; and continuing employment where appropriate, safe, and within department guidelines and the law. Although this model policy provision pertains only to sworn personnel, a department also should consider a provision which encompasses non-sworn personnel.*

- A. Responding to the call:
  - 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 addresses procedures for when officers are alleged perpetrators of crime.
  - 2. The responding officer shall 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, assignment, suspension, etc. will be adhered to.
  - 4. If a criminal investigation is required, applicable departmental policy shall be followed. In the absence of departmental policy, this investigation shall be completed before the subject officer is interviewed by departmental personnel for any administrative investigation associated with the event.
- B. An administrative investigation should be opened to determine if the officer has violated any departmental policies.
- C. When an officer is served with any protective injunction, s/he 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 shall consider a temporary reassignment for the officer.

**Comment:** *The department should consider the officer's (1) ability to remain on active duty and (2) danger to him/herself and others. Recognizing that officers subject to either temporary or "permanent" injunctions may not be able to handle domestic violence calls appropriately, the policy recommends consideration of the officer for a temporary reassignment to duties not involving response to such calls.*

- D. In cases where the temporary injunction is extended to become a "permanent" injunction, the officer should be sent for a psychological evaluation to determine his/her fitness for duty and/or be referred to a batterers' intervention program.

- E. If the department has a program for officers to work off-duty, the officer's status should be taken into consideration prior to approving an off-duty assignment.
- F. Department policy regarding an officer's possession of weapons while under a final order of injunction or following his/her conviction for domestic violence shall be consistent with state and federal laws.
- G. Any officer who witnesses or otherwise has firsthand or well-founded knowledge of a domestic violence incident involving another officer in the department, must report that incident to a supervisor, who will cause an investigation to be initiated.
- H. An agency which makes a domestic violence-related arrest of a law enforcement officer from another agency shall notify the employing agency of the arrest, the specific charge and the time of the arrest, prior to the end of the working shift during which the arrest was made.
- I. If an officer is arrested for a domestic violence incident, s/he must notify his/her supervisor before the beginning of the next shift or as soon as possible.

### **XIII. RESTRAINING AND PROTECTIVE ORDERS**

- A. This policy section applies to both temporary and final domestic violence injunctions and repeat violence injunctions which result from a domestic violence situation.

***Comment:*** *The policy applies to violations of all court orders designed to prevent violence to spouses or other intimates, in violation of Sections 741.31 or 784.047, whether the orders are called injunctions or protective orders, and whether they are permanent or temporary.*

- B. Upon determination of probable cause, an officer may make a physical arrest of the respondent if s/he willfully and knowingly violates a term of an 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/or any named family member or 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;
  5. Telephoning, contacting or otherwise communicating with the petitioner directly or indirectly unless the injunction specifically allows indirect contact through a third party; or
  6. Being in possession of a firearm or ammunition while under final injunction.
- C. An officer shall make an arrest for a criminal violation of the term of an injunction

pursuant to Chapter 741 F.S. (domestic violence injunctions) or Chapter 784 F.S. (repeat violence injunctions). This is a court order not subject to the officer's discretion.

- D. Officers may not arrest persons for civil violations of court orders. For civil violations, the petitioner should be referred to the Clerk of the Court.

***Comment:*** *Examples of civil violations include child custody issues, or failure to comply with financial obligations, failing to attend the Batterers' Intervention Program, failing to take some action such as returning victims' property, etc.*

- E. After proper service of an injunction upon a respondent, the injunction is valid and enforceable in all counties of the State of Florida and the United States. It is important to verify that a respondent has been properly served the injunction prior to arresting him/her for violating same.
- F. Out of state protective orders: The agency shall enforce foreign (i.e., tribal nations, out-of-state) injunctions in the same manner as if they originated in Florida.

***Comment:*** *This policy comports with state and federal law in that the justice system must give full faith and credit to all protective orders and injunctions issued in other states, territories, and tribal courts [18 U.S.C. 2265 (1994)]. Full faith and credit is a complex legal topic; departments should get specific advice from departmental legal counsel concerning what is enforceable and what is not. Notwithstanding the complexities, full faith and credit can be an important tool in stopping domestic violence perpetrators who cross state boundaries.*

#### **XIV. TRAINING**

- A. All sworn personnel and all other law enforcement personnel designated to handle domestic violence investigations shall receive competency-based training in domestic violence.

The above named persons shall be competent with regard to the following:

- X Use and application of current Florida and federal statutes as they relate to domestic violence;
- § Nature and extent of domestic violence;
- X Dynamics of domestic violence;
- X Duties and responsibilities of law enforcement in response to domestic violence calls, as set forth in departmental policy;
- X Assisting victim populations with special needs;
- X Techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote safety of the victim;
- X Verification, enforcement and service of injunctions;
- X Legal rights of, and remedies available to, victims of domestic violence;
- X Documentation, report writing, and evidence collection (including recognition and

- recording of excited utterances, taking photographs);
- § Tenancy issues as they relate to domestic violence;
- X Impact of law enforcement intervention in preventing future violence;
- X Special needs of children at the scene of domestic violence and the subsequent impact on their lives;
- X Policies and procedures of the local State Attorney's Office;
- X Services, facilities and/or interventions available to victims;
- X Emergency assistance to victims and how to assist victims in pursuing criminal justice options;
- X Working with reluctant victims;
- X Departmental and officer liability issues;
- X Indicators of abuser lethality;
- X Indicators of future violence; and
- X Means of identifying a primary aggressor.

- B. Persons within the department designated as "domestic violence officers" shall receive more advanced competency-based training than that required of persons named in A, above.
- C. Periodic or roll call training should address the components of this policy and the use of the Domestic Violence Reference Card.
- D. All sworn personnel should receive timely legal/legislative updates pertaining to domestic violence.

#### **XV. DISSEMINATION OF POLICIES**

- A. The agency shall ensure that the information contained in this policy is disseminated to all agency personnel.
- B. The agency shall also forward copies of departmental policy relating to domestic violence crimes to the State Attorney's Office and local victim service providers.
- C. The agency shall obtain and disseminate all legislative and legal updates. These updates shall be distributed to all personnel dealing directly or indirectly with domestic violence cases, including, but not limited to, field officers and middle management.
- D. Agencies shall adopt internal procedures to support the information dissemination requirements of this policy.