

314.2 DOMESTIC / DATING VIOLENCE

- I. Discussion: This directive provides officers with procedures for enforcing the domestic violence / dating violence laws and informing victims of their legal rights and remedies.

Domestic violence / dating violence is a learned, coercive pattern of behavior used to control a victim. This pattern frequently becomes more violent with each new episode, thus increasing the potential for serious injury to the victim as well as to the officer.

It is imperative that this pattern be stopped immediately. As a law enforcement officer, you are frequently the first person outside of the household to interrupt the cycle of violence.

This department supports the philosophy that an arrest is the preferred method of stopping violence and sending the message that the violent behavior will not be tolerated. It is the officer's responsibility to ensure the safety of the victim by bringing the perpetrator under the control of the criminal justice system.

II. Definitions:

- A. Domestic Violence: Pursuant to F.S. §741.28, any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any crime resulting in physical injury or death of one family or household member by another family or household member.
- B. Dating Violence - Any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any crime resulting in physical injury or death between individuals who have or have had a continuing and / or significant relationship of a romantic or intimate nature as detailed in F.S. §784.046(1)(d), when:
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.

- C. Family or Household Member: Pursuant to F.S. §741.28, a spouse, former spouse, person related by blood or marriage who reside together as a family or who have resided together as a family, persons who live or who have lived together as a family, and persons who have 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. (Note: Roommates who are not involved in an intimate relationship would not fall under the domestic / dating violence statutes.)
- D. Victim's Notice of Legal Rights and Remedies: Forms issued reflecting the availability of a domestic / dating violence center, the right to file criminal charges with the State Attorney's Office, and the right to file a petition requesting an injunction for protection from domestic / dating violence.
- E. Domestic / Dating Violence Center: The Spring of Tampa Bay, Inc., Tampa, FL, (813) 247-7233. The Records Unit data terminal operator transcribing the report will route a copy to the Domestic Violence Center within 24 hours of receipt.
- F. Domestic / Dating Violence Injunction - A court order requiring a family or household member or a person in a dating / intimate relationship to do or refrain from doing a specified act or making contact with a specified person or persons.
- G. Arrest Without Warrant: When a law enforcement officer investigates an allegation of an incident of domestic / dating violence, as defined in F.S. §741.28 or F.S. §784.046(1)(d), the officer shall handle the incident pursuant to the arrest policy provided under F.S. §901.15, which authorizes an officer to make a warrantless arrest when there is probable cause to believe that:
 - 1. A person has committed an act of domestic / dating violence;
 - 2. The act was a criminal violation of an injunction (refer to SOP 314.4 and F.S. §741.31(4)); or
 - 3. The act was a violation of a pre-trial release condition (refer to F.S. §903.047; 741.29(6), 901.15, and 903.047 when the original arrest was for an act of dating violence).

III. Procedure:

- A. Investigation:

1. Calls reporting domestic / dating violence in progress or having just occurred shall **not** be cancelled for any reason prior to the arrival at the scene and initial investigation by responding officers.
2. Officers responding to a domestic / dating violence incident shall first stabilize the scene and separate the involved parties. Because it is often a power and control situation, it is incumbent upon the officers to ensure that the parties are out of sight and hearing of each other, while always keeping officer safety a priority.
3. Whenever possible, the officer will obtain a sworn written statement from the victim, witnesses (including children), and defendant concerning the alleged domestic / dating violence. If necessary, the officer should write the statement for the victim or witness, confirm the accuracy of the statement, and have the victim or witness sign it after being sworn. All written statements must be imaged into Versadex and then placed into evidence. If the statements cannot be imaged into Versadex by the officer, then a copy will be made and forwarded to the appropriate CSO. The CSO will image the copy of the statement into Versadex.
4. Florida Statute §921.0024(1)(b) provides an enhanced penalty for domestic / dating violence crimes committed in the presence of a household member who is under the age of sixteen years old. It is important that officers investigating domestic / dating violence crimes determine whether any children may have witnessed all or part of a criminal act and determine the age of the child; if under sixteen, determine whether the child is a household member as defined in F.S. §741.28(3); obtain a sworn statement from the child, if possible; and fully document the above information for use by the State Attorney in sentencing. If a child witnesses domestic / dating violence, DCF must be notified at 1-866-LE-ABUSE (1-866-532-2873). This is a dedicated phone number for law enforcement personnel and should not be disseminated to the public. The public may call 1-800-96-ABUSE (1-800-962-2873).
5. Officers will contact the Communications Section and speak to the call taker to determine if the 9-1-1 tape might be of evidentiary value, i.e., spontaneous statements from the victim about the offense. The officer will document in the report if the 9-1-1 tape may or may not be of evidentiary value for follow-up by latent investigators and the State Attorney's Office. Officers will not routinely request copies of the 911 tape from the Communications Section unless they receive a subpoena requiring them to do so.

6. Officers shall take digital photographs of the victim, offender, crime scene, etc., at every domestic / dating violence incident regardless of the extent of injury and/or damage. Utilizing the Axon Capture application or body-worn-camera is the preferred method of capturing these photos. In the event of serious injuries (i.e., broken bones, burns, stab wounds, etc.) a crime scene technician may be called.
7. During the course of the investigation, the officer shall provide the victim with documents pertaining to their legal rights and remedies (i.e., domestic / dating violence pamphlet, information on the Spring, procedures for obtaining an injunction for protection, and a victim rights and responsibilities pamphlet) in accordance with Florida Statute.
8. Officers shall attempt to verify whether there are pending domestic / Dating violence cases between the victim and suspect, and whether there are any pre-trial condition violations as a result of the current incidents.
9. Third party allegations of domestic / dating violence shall be as fully investigated at the district level as first party allegations.
10. The identity of the suspect must be verified via photograph by the victim and/or witnesses. This verification must be documented on the Criminal Report Affidavit and in the offense report. The verbal identification of a suspect is not sufficient unless no photographs exist.

B. Arrests:

1. Officers shall effect an arrest in cases of misdemeanors not committed in the officer's presence pursuant to the guidelines set forth in II (G) and F.S. §901.15(7).
2. Officers shall effect an arrest upon developing probable cause in felony cases pursuant to F.S. §901.15(2) and in cases where a misdemeanor or felony is committed in the officer's presence pursuant to F.S. §901.15(1).
3. If the officer's investigation reveals probable cause to arrest both participants in a domestic / dating violence situation, both may be arrested. However, if the investigation further indicates that one participant was the primary aggressor the officer should only arrest the primary aggressor. If the primary aggressor alleges that he/she was also a victim of domestic / dating violence, then it is imperative that the officer thoroughly investigates the allegation to

determine whether it was an act of self-defense or an act of aggression. If it was a separate act of aggression, then the officer shall direct file on the secondary aggressor. The officer shall take every possible step to determine the primary aggressor, and whether the second act was aggressive or defensive. The officer shall document in the report the grounds not to arrest the primary aggressor or the decision to arrest two or more parties.

4. There is not a requirement that a domestic / dating violence arrest be supported by corroborating eyewitnesses or visible evidence of injury to the victim. This does not, however, relieve the officer of the duty to establish probable cause to support every arrest.
5. The decision to arrest and charge shall not require the consent of the victim. A Complaint Withdrawal will not be accepted in domestic / dating violence cases.
6. If the arrest criteria in II (G) are met and the suspect can be located, officers are to continue the case and effect the arrest, regardless of whether the incident is a felony or misdemeanor. These cases will be closed by arrest and retained at the district level. However, all cases involving sexual battery or child abuse shall be referred to the Criminal Investigations Division, Special Victim's Unit.
7. If the allegation is a misdemeanor, and the suspect is known but cannot be located for lawful arrest, the officer shall originate the police report, complete an electronic Criminal Report Affidavit for direct file, and refer the case to the Domestic Violence unit via the Domestic Violence Versadex handle (HDOMV). The assigned latent investigator shall refer the case to the State Attorney's Office (SAO) via the direct file procedures outlined in SOP 402.

If the allegation is misdemeanor battery and the suspect's criminal history reveals at least one prior conviction for battery, aggravated battery, or felony battery, the allegation becomes a felony under F.S. §784.03(2). The procedures outlined in paragraph 8 should apply and the case should not be direct filed. For purposes of F.S. §784.03(2), a conviction means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

Nothing in this section shall prohibit a supervisor from authorizing a probable cause pickup for a misdemeanor act of domestic / dating violence in cases where the suspect has fled the scene, and there is reasonable belief that he/she may return in the near future

and commit further acts of domestic / dating violence. In cases involving suspects on probation or with significant criminal history (especially involving crimes of violence), this shall be the preferred practice.

8. If the allegation is a felony and probable cause exists for an arrest, but the suspect cannot be located, the investigating officer shall complete a criminal affidavit and place a pickup with the Pick-up Desk. All cases with pickups shall be referred to the Domestic Violence Unit. The decision not to place a pick-up requires Shift Commander approval.
9. The appropriate domestic violence box shall be checked on the Criminal Report Affidavit for domestic violence cases. This does not apply to cases of dating violence, where “dating violence” shall be written in the supplemental description under the charge.

C. Reports:

1. Whether or not an arrest is made, the officer shall make a police report of all alleged incidents, including third party complaints, indicating that the alleged offense was an incident of domestic / dating violence.
2. The Offense section of the police report shall include the alleged charge, and the “family violence” box shall be checked in cases of domestic violence.
3. The “family violence” box **will not** be checked in cases of dating violence. To track dating violence incidents, the “dating violence tracking” offense code will be added to report in addition to the actual criminal offense code.
4. Officers **will not** issue TPD Form 596, Assault Victim Instructions Form, to domestic / dating violence victims.
5. A Tampa Police Department “Domestic Violence Attachment” will be completed for each domestic / dating violence incident. An attachment will be completed for each victim and offender of domestic / dating violence.
6. Officers shall document in the police report, if a child witnessed the offense and that DCF was notified by calling the abuse hotline.
7. Officers will ensure that the following is documented in the report:

- a. Any spontaneous statements or excited utterances pertinent to the case to further assist in prosecution;
- b. The emotional condition of all parties involved in the case will be documented in both the narrative portion of the report as well as the Domestic Violence Attachment;
- c. The exact words used by the victim, suspect, and witnesses will be documented in the interview portion of the narrative of the report. Writing statements such as: the witness stated the same as the victim, etc., are not acceptable;
- d. Any observed physical injuries shall be described;
- e. If a decision is made not to make an arrest or arrest two or more parties, the grounds for not arresting anyone of arresting two or more parties, and;
- f. A statement which indicates that a copy of the legal rights and remedies notice was given to the victim.

- D. Public Records Exemption Form (TPD 1011): Florida Public Records Law allows for certain information to be exempt from disclosure for up to five years. Crime victims, under certain circumstances, are able to request that information on police reports be kept confidential. The person making the request must have been a victim of one of the following crimes: sexual battery, aggravated battery, aggravated child abuse, aggravated stalking, harassment, or domestic / dating violence. The victim must request in writing that the information be kept confidential. The purpose of the form is to protect domestic / dating violence victims who have fled their abuser and do not wish their new location to be known. Officers should explain the form to any domestic / dating violence victim whose relocation address will be on the offense report. Although the form is meant primarily for domestic / dating violence, it may be used for any of listed offenses.

Officers will have the victim complete the Public Records Exemption Forms. The officer will note in his report that the victim completed the Public Records Exemption Form (TPD 1011). The original copy of the form will be imaged and stamped by district personnel prior to being forwarded to Records. A copy of the form will be forwarded to the appropriate CSO. The CSO will image the copy of the form into Versadex.

- E. Officers investigating a domestic / dating violence offense allegation involving sworn law enforcement officers from this agency will follow the

procedures as outlined herein. The investigating officer will immediately notify his immediate supervisor, who will then notify the affected officer's Division Commander and the Professional Standards Bureau Commander.

- F. Officers investigating a domestic / dating violence offense allegation involving sworn law enforcement officers or sworn correctional officer from another agency will follow the procedures as outlined herein and immediately notify his/her immediate supervisor. The supervisor will then notify a supervisor at the agency of the affected law enforcement officer or correctional officer.

Supersedes SOP 314.2, dated 10/20.