

GENERAL ORDER

March 2023

Immediately

V.5:18

Distribution: All Employees

Subject: **DOMESTIC VIOLENCE**

Index as:	Dating Violence	Ex Parte Temporary Injunction	Order of Protection
	Domestic Quarrel	Family Dispute	Self Defense
	Domestic Violence	Family/Household Member	Spontaneous Statements
	Excited Utterances	Injunction	

Accreditation Standards: 1.2.7, 55.2.3, CFA 15.09, 24.01, 24.02

Cross Reference: [G.O. II-21, Domestic Violence Involving Department Employees](#)
[G.O. III-23, Incident Reports](#)

§741.28, §741.29, §741.30, §784.046, §901.15, §1012.97, F.S.S.
Florida Evidence Code, §90.803

Replaces: I.O. V.5:18 Domestic Violence (April 21, 2022)

This Order consists of the following sections:

- I. Purpose
- II. Policy
- III. Definitions
- IV. Legal Authority
- V. Dispatch of Domestic Violence Calls
- VI. Investigation of a Domestic or Dating Violence Incident
- VII. Report Writing Requirements
- VIII. Service of Injunctions for Protection
- IX. Injunction Violations
- X. Setting a State Attorney's Investigation

I. PURPOSE

A. Domestic and dating violence incidents, arising out of personal relationships, are the subject of much concern in our society. Often, the victims in such offenses are the persons least able to protect themselves. Violence arising out of these situations has a high potential for injury to the participants and, without intervention, often increases in frequency and severity. Additionally, incidents arising out of personal relationships place a significant demand upon law enforcement resources. This Order explains the procedures for responding to incidents of domestic or dating violence with the intent of protecting victims and reducing the potential for future conflict.

II. POLICY

A. In the interest of protecting victim(s) of violence, arising out of personal relationships, reducing the potential for injury, and placing the offender under the control of the criminal justice system as soon as possible, the St. Petersburg Police Department will follow the policy of *Preferred Arrest* whenever probable cause exists for a lawful arrest [§741.29(2) and §901.15(7), F.S.S.] in all situations meeting the definition of "Domestic Violence" or "Dating Violence" (§784.046, F.S.S.).

B. “It is the public policy of this state to strongly discourage arrest and charges of both parties for domestic or dating violence on each other.” [§901.15(7), F.S.S.]

III. DEFINITIONS

A. Dating Violence – 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 will be determined based on the consideration of the following factors:

1. A dating relationship must have existed within the past six (6) months.
2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties.
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.
4. 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.

B. Domestic Violence – Any assault, aggravated assault, battery, aggravated battery, sexual assault, stalking, aggravated stalking, false imprisonment, kidnapping 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. Domestic Quarrel – Any dispute between family/household members where the police have been called to the scene, even though no crime has occurred.

D. Excited Utterances – “Excited utterances” are statements “relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.”

E. Ex Parte Temporary Injunction – An injunction (by or for one party which...) will be effective for a fixed period not to exceed fifteen (15) days unless the Court grants a continuance [§784.046(6)(c), F.S.S.].

F. Family/Household Member – 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 resided together at any time.

G. Self Defense – The use of force against an aggressor when, to the extent it appears, and it is reasonable to believe, such conduct is necessary to defend oneself or another against such aggressor’s imminent use of unlawful physical force.

H. Spontaneous Statements – Describing or explaining an event or condition, made while the declarant was perceiving the event or condition, or immediately thereafter (§90.803, F.S.S.).

I. Victim/Complainant – Any person who suffers domestic or dating violence, including those persons who are unwilling to prosecute the offender.

IV. LEGAL AUTHORITY

A. Domestic violence, (§901.15, F.S.S.), provides that an arrest without a warrant is lawful when there is probable cause to believe that the person has committed an act of domestic violence, dating violence, child abuse or any battery upon another person.

B. Immunity, §901.15(7), F.S.S., provides that a law enforcement officer who acts in good faith and exercises due care in making an arrest, under §901.15, F.S.S., is immune from civil liability that otherwise might result by reason of their actions.

C. Arrest without a warrant, §901.15(6), F.S.S., provides that an arrest without a warrant is lawful when there is probable cause to believe that the person has knowingly committed an act of repeat violence, in violation of an injunction for protection from repeat violence, pursuant to §784.046, F.S.S., an act of domestic violence in violation of an injunction for protection from domestic violence pursuant to §741.30, F.S.S. or has violated a foreign protection order accorded full faith and credit, pursuant to §741.315, F.S.S., over the objection of the petitioner, if necessary.

D. Temporary Injunction, §784.046(6)(c), F.S.S., provides that an ex parte temporary injunction will be effective for a fixed period not to exceed fifteen (15) days. A full hearing, as provided by this section, will be set for a date no later than the date when the temporary injunction ceases to be effective. The Court may grant a continuance of the ex parte injunction and the full hearing, before or during a hearing, for good cause shown by any party.

E. Permanent Injunction, §784.046(7)(c), F.S.S., provides that the terms of the injunction will remain in full force and effect until modified or dissolved. Either party may move at any time to modify or dissolve the injunction. Such relief may be granted in addition to other civil or criminal remedies.

F. The intent of the Legislature, cited at §741.2902(2)(b), F.S.S., with respect to injunctions for protection against domestic violence, issued pursuant to §741.30, F.S.S., directs the court to “Ensure that the parties have a clear understanding of the terms of the injunction, the penalties for failure to comply, and that the parties cannot amend the injunction verbally, in writing, or by invitation to the residence.”

G. Violation of Injunction for Protection, §784.047, F.S.S., provides that a person who willfully violates an injunction for protection against violence commits a misdemeanor of the first degree by:

1. Refusing to vacate the dwelling the parties share,
2. Going to the petitioner’s residence, school, place of employment or a specified place frequented regularly by the petitioner and any named family or household member,
3. Committing an act of repeat, sexual or dating 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, or
5. Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party,
6. Knowingly and intentionally coming within 100 feet of the petitioner’s motor vehicle, whether or not that vehicle is occupied.
7. Defacing or destroying the petitioner’s personal property, including the petitioner’s motor vehicle; or
8. Refusing to surrender firearms or ammunition if ordered to do so by the court.

V. DISPATCH OF DOMESTIC VIOLENCE CALLS

A. Recognizing the danger inherent in domestic and dating violence incidents, Emergency Communications Center personnel will provide all officer safety information that is available to the Officer being dispatched. The Emergency Communications Center will provide all prior domestic-related incidents at the location in the call notes.

B. A reported incident of domestic or dating violence will receive the same priority as any other life-threatening incident and, whenever possible, will result in the dispatch of two Officers.

C. Should the Emergency Communications Center receive a second call to request the cancellation of the response to a domestic or dating violence incident, the dispatcher will continue the response in the interest of the potential victim, to ensure police services are not needed.

VI. INVESTIGATION OF A DOMESTIC OR DATING VIOLENCE INCIDENT

A. Upon arrival, Officers will:

1. Restore order by separating and calming the parties.
2. Assist the victim in obtaining any needed medical treatment by providing first aid or summoning EMS if necessary.
3. Interview the victim, offender, and witnesses separately, using supportive interviewing techniques. Children should be interviewed in a manner appropriate to their age. When the questioning of the offender changes from general to accusatory, the offender will be notified of their Miranda rights.
 - a. The Officer will attempt to utilize resources to assist in their interactions with citizens with communication disabilities. Whenever possible, interviewers should avoid the use of friends, family, or neighbors of the suspect and/or victim when requesting translation services.
 - b. The Emergency Communications Center may be contacted for interpreters.
4. After each party has been interviewed separately, if possible, the Officers should confer as a team to decide if an arrest should be made and/or if other actions should be taken.
5. Inform the parties that domestic and dating violence is a crime.
 - a. Investigation of a reported domestic quarrel should be considered a precursor to potential domestic or dating violence.
 - b. In addition to the report required to document a domestic quarrel, participants will be provided with information appropriate for a dating/domestic violence incident, e.g., Department brochures and publications, shelter information, etc., in the interests of preventing an escalation of violence.
6. Advise the victim how to obtain an *Injunction for Protection*, whether or not a request for such information is made.
7. Advise the victim of the availability of a certified domestic violence center/shelter.
8. Provide domestic/dating violence publications to the victim, including the Department's *Domestic Violence* brochure (revised July 2018) and the *Victim's Rights* booklet. These will provide information and notice of the victim's legal rights and remedies [§741.29(1), F.S.S.].
9. Per §741.29(4), F.S.S. and §784.046(14), F.S.S., if a law enforcement officer has probable cause to believe that two or more persons have committed a misdemeanor or a felony, or if two or more persons make a complaint to the officer, the officer will 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 oneself or another family or household member from domestic or dating violence. Both the victim and the defendant should be advised the action is being initiated by the State, not the victim.
 - a. The standard of probable cause in such incidents is no different than that which is required for any other criminal act or offense.
 - b. Certain facts **SHOULD NOT** be considered when evaluating the need to arrest. They are:
 - 1) The marital status of the parties,
 - 2) The prior existence of a Protective Order no longer in force and the circumstances of that Order,
 - 3) The disposition of previous police calls involving the same victim and offender,
 - 4) The victim's unwillingness to prosecute, or the belief that the victim will not prosecute,
 - 5) Verbal assurances by either party the violence will stop,
 - 6) Denial by either party that violence occurred when there is evidence of domestic violence,
 - 7) Officer's concern of reprisals against the victim by the offender,
 - 8) The race, gender, ethnicity, sexual orientation, social status, or occupation of the victim and/or offender,
 - 9) The ownership of or tenancy rights of either party.
 - c. Should an arrest not be made when probable cause for an arrest exists in domestic or dating violence incidents, the investigating officer must fully and completely explain the reason no arrest was made in the report [§741.29(4), F.S.S. or §784.046(12), F.S.S.].

- d. Attempt to obtain written victim/witness statements [§784.046(12), F.S.S.], and provide the report number to the victim.
- e. The Officer responding will not initiate discussion of the complaint, or accept a complaint withdrawal, or have the victim sign a *Waiver of Prosecution* form.
- f. Consider the evidentiary value of the recorded media from the Emergency Communications Center.

B. If appropriate, refer the incident to the Personal Violence section of the Special Victims Unit for follow-up.

C. If domestic violence has not been substantiated, the incident will be recorded as an Unfounded Domestic, or the title may be amended to reflect the correct title of the crime reported, and will be handled in accordance with [G.O. III-23, Incident Reports](#).

D. When probable cause for an arrest exists, arrest of the offender will be the preferred course of action. If evidence indicates more than one party has engaged in the acts which may be defined as domestic violence, investigating officers will attempt to determine who may be the aggressor and who may have acted in self-defense. The aggressor will be subject to arrest.

1. Factors to consider in determining who the aggressor may have been are:
 - a. Extent of any injuries inflicted,
 - b. Fear of physical injury because of past or present threats,
 - c. Actions taken in self-defense to protect oneself or another family or household member,
 - d. Prior history of abuse perpetrated by one against another,
 - e. Existence, or previous existence, of orders for protection; and
 - f. In the event there are allegations that each party assaulted the other, a thorough investigation is of paramount importance to determine who the primary aggressor is in order to avoid arresting the victim.

2. If an arrest is made, the victim should be advised of the availability of the VINE Program (Victim Information and Notification Everyday) to obtain current status of the detained offender.

3. If it cannot be determined from the investigation who the aggressor was, a field supervisor should be summoned to assist the Officers in the investigation.

E. If one or more of the persons involved in the incident is a sworn employee of a law enforcement or correction agency or is a recognized public official, a field supervisor will respond to the scene. These incidents will be processed in the same manner as any other case of domestic or dating violence. Officers should be aware of specific federal guidelines that govern the possession of firearms by individuals, subject to a Domestic Violence Court Order. (See [G.O. II-21, Domestic Violence Involving Department Employees](#) for situations involving St. Petersburg Police Department employees.)

F. A *Notice to Appear* will not be used in cases of domestic or dating violence. Person(s) arrested are required to appear before a judge.

G. If probable cause for the arrest of the offender exists and the offender is no longer present, conduct a search of the area and attempt to obtain information in order to locate the subject.

VII. REPORT WRITING REQUIREMENTS

A. All cases of domestic or dating violence require the preparation of an *Incident Report*.

1. The preliminary investigation report should include the following:
 - a. Direct quotes, including excited utterances or spontaneous statements (Florida Evidence Code, §90.803) from all parties involved, including children and neighbors. The report should be very specific.
 - b. The presence, during the incident of domestic violence, of a child under the age of sixteen (16) who is related by blood or marriage to the victim or perpetrator. (§921.0024, F.S.S., provides for an increased penalty if the offense is found to have been committed in the presence of a child.)
 - c. A full description of the injuries including defensive wounds.
 - d. Whether the victim is pregnant and when and how the suspect became aware of her condition.
 - e. An explanation regarding the arrest or non-arrest of the parties involved.

- f. A description of any special needs (including but not limited to language barriers and disabilities) of the parties involved.
- g. A statement that a copy of *Victim's Legal Rights and Remedies*, the incident number, and the Department's Domestic Violence brochure were given to the victim, along with information regarding applicable injunctions, the VINE Program, and spouse abuse shelter information.
- h. Whenever possible, a history of the previous calls of domestic or dating violence or family disputes and their dispositions, if known.
- i. Notification to the victim that a State Attorney's investigation is required and the date and time of the State Attorney's investigation, if applicable.
- j. If the victim and witnesses are notified of the date and time of the State Attorney's investigation at a later time, a follow-up report is required.

B. Calls Processed as a Domestic Quarrel

- 1. On all calls processed as, or determined to be, a "Domestic Quarrel," the Officer will respond as previously required in this Order.
- 2. The Emergency Communications Center will provide all prior domestic-related incidents at the location in the call notes.
- 3. On the THIRD domestic-related incident between the parties within twelve (12) months, regardless of location, verified via the Emergency Communications Center and/or during the investigation, the Officer must complete an RMS report.
- 4. Notes will be placed into CAD/I/MOBILE when an RMS report is not completed.
 - a. Officers will add the names and dates of birth of the involved parties in the CAD/I/MOBILE notes.
 - b. A re-contact phone number for involved parties must also be provided in the notes. This information will be used for subsequent auditing purposes.
 - c. The Officer must provide a *Domestic Violence* brochure to the parties as required. This will be documented either in the CAD notes or in the *Incident Report*. If an RMS report is not completed, the clear code NR-08 will be utilized and CAD notes will be required.

VIII. SERVICE OF INJUNCTIONS FOR PROTECTION

- A. All service, execution and attempts to serve injunctions will be documented in a follow-up police report.
- B. When an Officer arrives at a call for service, including a request to serve an injunction, and both the petitioner and the respondent are present, and the petitioner possesses a Certified Copy of the Injunction, the injunction will be served on the respondent.
 - 1. Certified copies may be identified by the presence of a stamp in red ink, bearing the imprint of the Circuit Court of Pinellas County, or by a raised seal impressed into the document. The court is now providing electronic copies to pro se petitioners. These are not suitable for service.
 - 2. The Officer is not required to seek out the respondent for service of the injunction if the person is not within view or at the scene. The Officer will not pursue a respondent leaving in a vehicle.
 - 3. Service may be completed on any day of the week, including Sundays, and at any time, night, or day.
 - 4. Primary responsibility for service of injunctions remains with the Pinellas County Sheriff's Office.
- C. Verify that the person on the scene is the named respondent.
- D. Verify that the injunction is valid and accurate by calling the Pinellas County Sheriff's Warrants Office at 727-582-6170.

E. The injunction will be read aloud to the respondent, including paragraphs indicated by the judge's initials.

1. If the injunction gives exclusive use of the premises to the petitioner, the respondent will be directed to leave the premises and warned that returning will result in arrest.

2. The Officer should remain on scene long enough for the respondent to obtain necessary personal items.

F. Complete the date/time of service information on the injunction, present the injunction to the respondent, and report the service to the Pinellas County Sheriff's Warrants Office.

1. Refusal does not defeat proper service. The respondent should be encouraged to accept the document as it has information necessary for the respondent's interests in the action.

2. Call the Pinellas County Sheriff's Warrants Office at 727-582-6170 and provide the date and time of service. The Warrants Office will prepare the Return of Service and file it with the Clerk of Court.

G. An *Incident Report* is required for the actual service of an injunction. The report should include:

1. Verification of validity and accuracy of injunction with PCSO Warrants Office.

2. Date and time served or attempted,

3. Name of server,

4. Reason for non-service, if applicable,

5. Method of service,

6. Location of service, or attempted service,

7. To whom the process was served or on whom executed, and

8. Confirmation that the Pinellas County Sheriff's Warrants Office was notified by calling 727-582-6170 to inform of the date and time of service.

IX. INJUNCTION VIOLATIONS

A. Florida law provides an arrest may be made when there is probable cause to believe an injunction pursuant to §741.30, F.S.S. or §784.046, F.S.S. has been violated.

B. Officers will confirm the existence and any provisions of an injunction as part of their investigation.

1. Confirmation can be made by contacting the ECHO channel operator who will query the Florida Criminal Information Center (FCIC) or the Pinellas County's Case management System, Odyssey.

2. If the Information is unavailable from FCIC or Odyssey, contact can be made directly with the Pinellas County Sheriff's Office (PCSO), Warrant Section, which is available 24 hours a day.

C. Persons who violate an injunction will be separately charged for the violation in addition to any other crimes or offenses which have occurred (§741.31, F.S.S.).

1. If any other crime or offense has occurred, the arrest or non-arrest matter will be processed by the highest-level offense.

2. If the only offense is the violation of the injunction with no accompanying offense, the matter will be processed as an arrested or non-arrested misdemeanor.

3. All injunction violations will be thoroughly investigated by the responding officers and will include an interview of the victims, witnesses, and the suspect.

4. Evidence will be documented and photographed.

X. SETTING A STATE ATTORNEY'S INVESTIGATION

A. Misdemeanor Arrest or Non-Arrest Case

1. A live investigation is not required,
2. Required items for the State Attorney's Investigation include:
 - a. A complete police report.
 - b. Victim/Witness Statement sheet.

B. Felony Arrest or Non-Arrest Case

1. A live investigation is required.
2. The investigation will be set and conducted at Police Headquarters, unless specifically instructed otherwise.
 - a. Domestic and dating violence cases must be scheduled on the Felony Domestic Violence Investigation Calendar.
 - b. The victim must be advised of the date and time of the live investigation as soon as possible. This is to ensure that arrangements can be made for the victim to attend the investigation. This may be done by using an Investigation Appointment Card.
 - c. The victim and investigating Officer with the police report must appear at the scheduled time.

Anthony Holloway
Chief of Police