



Florida Highway Patrol Policy Manual

SUBJECT DOMESTIC/DATING VIOLENCE INTERVENTION	POLICY NUMBER 22.09	ISSUE DATE 01/01/1999
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22.09.01 PURPOSE

To provide guidance for members who encounter and investigate incidents of domestic or dating violence and to provide procedures for reporting incidents in which employees of the Division are accused of committing acts of domestic or dating violence.

22.09.02 AUTHORITY

Chapter 741, Florida Statutes

Section 784.046, Florida Statutes

Section 790.233, Florida Statutes

Section 901.15, Florida Statutes

22.09.03 POLICY

The mobile nature of Florida's citizens and visitors makes it likely that members will encounter incidents of domestic/dating violence while performing routine enforcement and investigative activities. It is the policy of the Florida Highway Patrol to treat domestic/dating violence as an illegal act, rather than a private matter. Allegations of domestic/dating violence made against employees of the Division will be subject to criminal and administrative investigations and if proved true may result in disciplinary action, up to and including dismissal, as well as criminal prosecution.

22.09.04 DEFINITIONS

- A. **AMMUNITION** – Ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm (18 USC, Section 921(17)).

- B. **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 shall be determined based on the consideration of the following factors:
 - 1. A dating relationship must have existed within the past 6 months;
 - 2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
 - 3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship. (Section 784.046(1)d, Florida Statutes)

- C. **DOMESTIC VIOLENCE** – Any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment or any criminal offense resulting in physical injury or death of one family or household member by another family or household member (Section 741.28(2), Florida Statutes).

- D. **FAMILY OR 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 family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit (Section 741.28(3), Florida Statute).

- E. **FIREARM** – Any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term "firearm" does not include antique firearm unless the antique firearm is used in the commission of a crime (Section 790.001(6), Florida Statutes).
- F. **POSSESSION** – For the purpose of this policy shall mean; the presence of a firearm or ammunition on or about a person, within a vehicle occupied by the person or in any dwelling occupied by the person provided the person knew or should have known that the firearm or ammunition was present.

22.09.05 OBJECTIVES

- A. To ensure that members handle incidents of domestic/dating violence in a manner consistent with Florida Statutes.
- B. To ensure that, when allegations of domestic/dating violence are made against employees of the Department, they are handled in a fair and consistent manner and in accordance with relevant statutory requirements.

22.09.06 RESPONSIBILITIES

- A. Any member who encounters an incident of suspected domestic/dating violence shall:
 - 1. Take immediate, positive enforcement action to ensure the safety of all parties involved.
 - 2. Fulfill their investigative responsibilities as outlined in this policy and FHP Policy 22.01, Investigative Responsibilities.
- B. Supervisors are responsible for sending a copy of any domestic/dating violence report, excluding all victim/witness statements and other materials that are part of an active criminal investigation, to the certified domestic violence center in their area within 24 hours of receipt of the report.

22.09.07 PROCEDURES

- A. INVESTIGATION OF INCIDENTS OF DOMESTIC/DATING VIOLENCE

1. Incidents of domestic/dating violence encountered by a member engaged in routine enforcement and investigative activities will be investigated by the member.
2. Domestic/dating violence incidents coming to the Division's attention through any other means, such as a telephone complaint, will be referred to the local law enforcement agency for handling. If such an incident is on-going, a member may be dispatched to ensure the safety of the complainant and, if approved by a supervisor, conduct the investigation.
3. Upon encountering an incident of domestic/dating violence, members will separate involved parties and attempt to locate and secure any weapons at the scene. A back-up officer will be requested. Procedures outlined in FHP Policy 22.01; Investigative Responsibilities will be followed.
4. Members who investigate incidents of domestic/dating violence shall:
 - a. Assist all parties in obtaining medical treatment, if such is required or requested. EMS personnel should be requested to determine the presence and severity of any injuries.
 - b. Provide the complainant(s) with a copy of the Domestic Violence brochure and any other appropriate victim information cards or brochures as soon as possible during the initial investigation. Request that a local victim's advocate respond to the location of the victim.
 - c. Prepare an appropriate offense incident report whether or not an arrest is made. The report, in addition to a detailed account of the incident, shall contain at a minimum:
 - 1) The phrase "DOMESTIC VIOLENCE INCIDENT" or "DATING VIOLENCE INCIDENT" whichever is applicable in bold print on the first line of the narrative portion;

- 2) A description of physical injuries observed, if any. Photographs of the involved parties should be taken to document the presence/absence of visible signs of injury or marks;
 - 3) Documentation of any spontaneous utterances made by any participant;
 - 4) The reasons if no arrest or if 2 or more arrests are made; and
 - 5) The date and time that the Domestic Violence brochure was given to the complainant(s).
 - d. Obtain a written statement from the complainant and witnesses, whenever possible.
 - e. Obtain copies of any recordings of participants made by 911 or other agency.
 - f. Submit the report to a supervisor prior to the end of the member's work shift.
 - g. Complete the Domestic/Dating/Repeat Violence Lethality Assessment as required by the Florida Department of Law Enforcement and Florida State Statute.
5. Members shall not mediate the complaints in order to avoid making an arrest when physical violence or the threat of violence has occurred.

B. ARRESTS FOR DOMESTIC/DATING VIOLENCE

1. A member may arrest a person without a warrant when there is probable cause to believe that the person has committed an act of domestic/dating violence.
2. A member may arrest a person without a warrant for an act in violation of an injunction for protection when such person is in violation of the injunction, and:
 - a. Refuses to vacate the dwelling that the parties share;

- b. Goes to the petitioner's residence, school, place of employment, or a specified place frequented by the petitioner and any named family or household member;
 - c. Commits an act of domestic/dating violence against the petitioner;
 - d. Commits any other violation of the injunction through an intentional unlawful threat, word or act to do violence to the petitioner; or
 - e. Telephones, contacts or otherwise communicates with the petitioner directly or indirectly, unless the injunction specifically allows contact through a third party.
- 3. When complaints are received from two or more parties, members shall evaluate each complaint separately to determine whether there is probable cause for arrest.
 - 4. The decision to arrest and charge will not require consent of the victim(s) or consideration of the relationship of the parties.

C. INJUNCTIONS FOR PROTECTION FROM DOMESTIC/DATING VIOLENCE

- 1. Members will enforce injunctions for protection from domestic/dating violence and are authorized to arrest any person violating the terms of such injunctions.
- 2. Injunctions for protection from domestic/dating violence issued by a court of a foreign state must be enforced as if it were an order of a Florida court. "Foreign state" means a state of the United States, other than Florida; the District of Columbia; a Native American Tribe; or a commonwealth, territory, or possession of the United States.
- 3. A person may not have in his or her care, custody, possession, or control, any firearm or ammunition if the person has been issued a final injunction that is currently in force and effect, restraining that person from committing acts of domestic/dating violence.

4. Procedures related to division employees who are the subject of a domestic/dating violence injunction are found in FHP Policy 5.05, Domestic Violence Firearms Prohibition.

D. WHEN AN ALLEGATION OF DOMESTIC/DATING VIOLENCE IS MADE AGAINST AN EMPLOYEE OF THE FLORIDA HIGHWAY PATROL

1. Immediate steps will be taken to ensure the safety of the complainant(s). If the incident is in progress, a member will be dispatched or, if not available to respond in a timely manner, the local law enforcement agency will be contacted to respond.
2. If one or more of the parties involved are sworn, reserve, or auxiliary members, the responding member or local law enforcement agency will be notified of the involvement of law enforcement officers. This provision is made to alert the responding officers of the likely presence of firearms.
3. Responding members will, as soon as practical, locate, and secure all Division issued firearms, conducted energy weapon (CEW) and ASR, and attempt to locate and secure any personally owned firearms.
4. Notification will be made to the on-duty/on-call supervisor and troop watch supervisor.
 - a. The supervisor will immediately respond to the scene.
 - b. The troop watch supervisor or on-duty/on-call supervisor will immediately make the following notifications:
 - 1) District commander
 - 2) Troop commander
 - 3) Troop public affairs officer
 - 4) The local law enforcement agency having jurisdiction, if not already notified, requesting that they respond and handle the criminal investigation.
 - c. The troop commander will immediately make the following notifications:

- 1) Commander of the Bureau of Criminal Investigations and Intelligence
 - 2) Commander of the Office Professional Compliance
 - 3) Commander of the Public Affairs Office (General Headquarters)
5. Any criminal investigation of the incident will be conducted by the appropriate local law enforcement agency. If the local agency is unable or unwilling, the Bureau of Criminal Investigations and Intelligence will conduct the criminal investigation. The Office of the Inspector General will conduct a parallel administrative investigation of the incident. Appropriate victim assistance provided to the complainant will be coordinated with the local law enforcement agency.
6. The employee will be placed on alternate duty, with pay, pending the outcome of the investigation(s) as provided in FHP Policy 8.01, Complaint Resolution Process.