



## **NORTH MIAMI POLICE DEPARTMENT**

### **STANDARD OPERATING PROCEDURES**



### **DOMESTIC DISPUTES / VIOLENCE 300.20**

EFFECTIVE DATE: 11-27-23

APPROVED: *Cherese H. House*  
Chief of Police

SUPERSEDES: 01-26-21

CFA: 15.09, 24.02

#### **I. PURPOSE**

To provide guidelines for law enforcement officer's response, investigation, assistance, and/or arrest in domestic violence incidents.

#### **II. POLICY**

Officers will effect arrests in domestic violence situations when the elements of a crime exist and probable cause has been established. The primary objective of police response to domestic violence calls is the timely intervention in all assaults, protection of victims, and prevention of future incidents of violence. Domestic violence incidents shall be handled the same as all other requests for police assistance in situations where there has been physical violence or the threat thereof. The officer's decision to make an arrest shall not be influenced by factors such as the lack of a court-ordered injunction, potential financial consequences, victim's prior complaints, verbal assurance that the violence will cease, whether the arrest will lead to a conviction, or disruption of the family unit. Dispute mediation or other police intervention techniques shall not be used as a substitute for arrest.

#### **III. SCOPE**

This policy applies to all members of the Department.

#### **IV. DEFINITIONS**

- A. Family or household member: Spouses, former spouses, persons who are 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 are parents of a child in common regardless of whether they have been married, to include natural, biological, adoptive, legal guardian and stepparents. 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.
- B. Domestic Violence: Any homicide, assault, aggravated assault, simple 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.
- C. Violence: Any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, or false imprisonment, or any criminal offense resulting in physical injury or death, by a person against any other person.
- D. Repeat Violence: Two or more incidents of violence or stalking committed by the respondent, one of which must have been within six months of the filing of the petition for an Injunction for Protection Against Repeat Violence, which are directed against the petitioner, or the petitioner's immediate family member.
- E. Dating Violence means violence between two 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. 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.

F. Language Clarification:

- Should: Indicates a general or expected action, absent a rational basis for failing to conform.
- Shall or Will: Indicates a mandatory action.

## **V. PROCEDURES**

Upon arriving at a domestic disturbance, responding officers shall make an initial assessment of the situation to ascertain the following: **CFA 15.09A**

- A. Presence of actual or potential weapons;
- B. The need for additional units;
- C. Presence of injury;
- D. The need for Miami-Dade Fire Rescue personnel;
- E. Additionally:
  1. Responding officers shall assist the victim in obtaining medical treatment.
  2. Responding officers shall separate combatants, witnesses (if any), gather information and determine whether an arrestable offense has been committed. When complaints are received from two or more parties, the officers shall evaluate each complaint separately to determine whether there is probable cause to arrest the primary aggressor.

**CFA 15.09B**

3. When complaints are received from two or more parties, the officers shall evaluate each complaint separately to determine whether there is probable cause for an arrest.
4. When an officer investigates an allegation that an incident of Domestic Violence has occurred, the officer shall handle the incident pursuant to the arrest guidelines provided in FSS 901.15(7), which allows an officer to effect a misdemeanor arrest without regard to the relationship between the alleged offender and victim or to the wishes of the victim reference arrest of the offender. All domestic and/or family violence will be investigated as a crime.

5. The officer(s) shall query the victim(s) as to whether an Injunction for Protection Against Domestic Violence or Repeat Violence has been obtained. If no injunction exists, an officer may still make an appropriate arrest pursuant to FSS 901.15, when probable cause exists. **CFA 15.09C**
6. When there is probable cause to believe that a Repeat Violence Injunction has been violated, an arrest can be made for Aggravated Stalking, a third degree felony. Failure to leave premises is not an arrestable offense in the case of Repeat Violence Injunctions unless a specific condition of the injunction is that no contact can occur.
7. When there is probable cause to believe that a person has knowingly committed an act of Domestic Violence, and/or a violation of either a Domestic or Repeat Violence Injunction, an arrest without a warrant is lawful. In these cases, an arrest shall be made. No law enforcement officer shall be held liable, pursuant to FSS 901.15, for an arrest based on probable cause and made in “good faith”.
  - a. The arresting officer shall contact M.O.V.E.S. (Mobile Operations Victim Emergency Services) if appropriate. The phone number for M.O.V.E.S., 305-547-0177, Monday-Friday 5:00 pm to 5:00 am, weekends and holidays 24 hours.
8. If no arrest is made involving a report of domestic violence, the officer shall thoroughly document the reason(s) why an arrest was not made (i.e., conflicting statements, etc.) in the police report.
  - a. Non-arrest Cases: Extenuating circumstances may justify not making an arrest for domestic violence incidents. The decision not to arrest and charge shall not require the consent of the victim or consideration of the relationship of the parties. Common examples of extenuating circumstances include:
    - 1.) No apparent injuries, no independent witnesses, and conflicting statements.
    - 2.) It cannot be established that the respondent of the injunction was served with the restraining order.
    - 3.) The officer is unable to determine who the primary

aggressor was.

9. Officers shall attempt to obtain written statements to any criminal act from any witnesses, including any children who were present.
10. Officers shall provide all victims with a copy of the Victims' Rights Brochure and indicate this in the report. **CFA 15.09D**
  - a. The brochure provides rights, legal remedies, availability of police and community assistance, and informs victims of information vital to their case.
  - b. In domestic violence and repeat violence cases, the investigative officer shall assist the victim by making appropriate referrals to social service agencies. **CFA 15.09D**
11. Photographs will be taken to substantiate injury, or lack thereof, and the presence of a crime scene.
12. Whenever an officer has reason to believe a juvenile has been a victim of abuse, neglect, or abandonment, they must contact the Department of Children and Families (DCF) hotline. When a child witnesses or is subjected to domestic violence, DCF must be contacted at 1-800-962-2873. Failure to do so is a misdemeanor.

## **VI. CASE ASSIGNMENT AND FOLLOW-UP CRITERIA**

- A. To accomplish the follow-up investigative process, all open Domestic Violence cases will be forwarded to the Investigative Section where a Sergeant will review the cases for distribution to the appropriate investigator. Each investigator is responsible to maintain complete and up-to-date investigative files on assigned Domestic Violence cases.

Follow-up investigative steps include, but are not limited to:

**CFA 15.09 E**

1. The investigator will review the preliminary investigation and read all police reports pertaining to the case. Previous reports made by the victim should be checked for similarities. The review may include conferences with initial responding officers.
2. Investigators will, based on individual case circumstances, locate, identify, and thoroughly interview all victims, witnesses, neighbors, reporting parties. It may be necessary to re-interview individuals

and search for evidence that may have been missed during the earlier phases of the investigation.

3. The collection, preservation and use of physical evidence obtained by investigators will follow the guidelines listed in the Crime Scene procedures.
4. If the investigation reveals that probable cause exists to make an arrest, the investigator will comply with all applicable Federal and State laws to accomplish the apprehension of the subject.
5. Investigators will interview suspects or subjects involved in Domestic Violence crimes, when possible, and follow the guidelines listed in the "Interview and Interrogation Procedures" listed under the Investigations Policy, 300.07.
6. If the subject is unable to be located, an arrest warrant may be sought, after consulting with the State Attorney's Office and a probable cause message will be issued.

## **VII. WARRANTLESS ARRESTS PURSUANT TO INJUNCTIONS FOR PROTECTION AGAINST DOMESTIC VIOLENCE**

- A. Before making an arrest for violation of any injunction, the officer must first determine if an injunction exists, and if it does, whether the respondent has been served with notice of its existence.
  1. Victims should be in possession of a certified copy of the injunction with a judge's signature and a stamp or other notation indicating service on the respondent.
  2. Verification of Injunctions Against Domestic Violence statewide, and their updated status, may be made through FCIC/NCIC.
  3. For verification of service of the injunction, or if the warrant information has not been updated in the computer, the officer may contact the Miami-Dade Warrants Bureau, telephone 305-471-1700, after normal business hours.
  4. If verification cannot be made, no arrest pursuant to the injunction

can be made, but the officer will take steps to ensure the safety of the victim. Officers will:

- a. Advise the victim to get assistance from friends and/or relatives; and
- b. Make arrangements for temporary care at respective shelters.

5. Arrests (misdemeanor of the first degree) may be made upon determining that the terms of an injunction have been willfully violated by:

- a. Refusing to vacate the dwelling that the parties share;
- b. Going to, or being within, 500 feet of the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;
- c. Committing an act of domestic violence to the petitioner;
- d. Committing any other violation of the injunction through the intentional unlawful threat, word, or act to do violence against the petitioner;
- e. Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party;
- f. Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle whether or not that vehicle is occupied;
- g. Defacing or destroying the petitioner's personal property including the petitioner's motor vehicle; or
- h. Refusing to surrender firearms or ammunition if ordered to do so by the court.

B. When there is probable cause to believe that a person has knowingly committed an act in violation of either an Injunction for Protection Against Domestic Violence, or Protection Against Repeat Violence, an arrest without warrant is lawful. Such an arrest may be made over the objection of the petitioner.

- C. Arrests pursuant to either an Injunction for Protection Against Domestic Violence, or Protection Against Repeat Violence, may be made for assault, battery, sexual battery, or any criminal offense resulting in physical injury or death to a family or household member. The substantive charge should be cited in addition to the injunction violation.
- D. All other conditions stipulated in the injunctions are considered civil in nature and violations of these conditions are not subject to police action. The violation should be documented in the Offense report for further action by the court.

## **VIII. INJUNCTIONS**

Protection Against Domestic Violence Injunctions are available for family or household members who are victims of domestic violence, or have reasonable cause to believe that they are about to become victims of domestic violence.

- A. Persons involved in the above situations can obtain an Injunction for Protection against Domestic Violence by completing the required paperwork, including a petition for injunction and a financial affidavit at one of the following:

Hialeah District Court  
11 E. 6<sup>th</sup> Street  
Miami, Florida  
Telephone: 305-547-3170

North Dade Government Center  
15555 Biscayne Boulevard  
North Miami, Florida

Joseph Caleb Center  
5400 NW 22<sup>nd</sup> Avenue, Suite #103  
Miami, Florida

South Dade Government Center  
10710 SW 211<sup>th</sup> Street  
Miami, Florida

Lawson E. Thomas Center  
175 NW 1<sup>st</sup> Avenue  
Miami, Florida

1. If a victim does not have the financial ability to pay the filing and service fees, the fees may be waived to facilitate the processing of the injunction without delay.
2. Once the petition is filed, a hearing should be scheduled within 15 days.
3. Injunction for Protection Against Repeat Violence refers to a type of injunction available to victims of violence who do not fit the criteria for Domestic Violence.
  - a. Any person who is the victim of repeat violence can obtain this injunction.
  - b. The procedures for securing an Injunction for Protection Against Repeat Violence are identical to those for a Domestic Violence Injunction.
  - c. Department personnel will enforce the injunction to the same extent as a Domestic Violence Injunction.
4. Ex-Parte Temporary Injunctions are issued by a Court, which has heard only one side of the controversy. They are:
  - a. Granted to a petitioner, on a temporary basis, who appears to be in immediate and present danger of either domestic or repeat violence.
  - b. In force for a period of 15 days from the date the judge signs it. During that period, a full hearing will be set by the court.
5. Permanent Injunctions are Ex-Parte Temporary Injunctions, which have been extended for up to one year by a judge after a full hearing on the matter. An extension may be granted following a hearing by a judge on the request.

B. Procedures for serving Domestic Violence or Repeat Violence Injunctions:

1. In cases where a petitioner (the person who obtained the injunction) is in possession of an emergency service packet:
  - a. The officer should open the envelope and locate the following (these headings appear in the upper right corner of each

document):

- 1). Petition for Injunction for Protection;
- 2). Order to Appear for Hearing; and
- 3). Ex-Parte Temporary Injunction for Protection

- b. The officer should instruct the Respondent (the person being served) to appear at the hearing according to the time and place indicated on the Order to Appear for Hearing.
- c. The officer should then review line by line the second page of the Ex-Parte Temporary Injunction with the respondent. Since only those lines initialed by the judge are applicable and enforceable, the initialed lines should be the only lines reviewed with the respondent.
- d. The officer must prepare an Incident Report, and it must contain, at a minimum: **CFA 24.02A-F**
  - 1). Date and time served or attempted;
  - 2). Name of server;
  - 3). Reason for non-service, if applicable;
  - 4). Method of service;
  - 5). Location of service or attempted service; and
  - 6). To whom the process was served or on whom executed.
- e. If the service is successful, a copy of the injunction will then be emailed to the Miami-Dade Police Department Court Services at [PROOFSERVICE@MDPD.COM](mailto:PROOFSERVICE@MDPD.COM). A copy of both the email "Read Receipt" confirmation and yellow sheet will be scanned in to the report. Officers MUST complete this action by the "End of the Call." The Records Unit will mail the yellow copy to the address listed on the service sheet. The North Miami Police Department case number must be written on all pages.

2. Cases where the petitioner has only one copy of the injunction:
  - a. The officer shall serve the respondent with this copy, explaining what is contained in the injunction. If possible, the officer should make a copy or photograph each page of the injunction. A copy of the entire injunction must be turned in to Records with the case number noted on each

page.

- b. If the petitioner has a Service Sheet with the Injunction, the officer should follow its instructions for completion and email it to the Miami-Dade Police Department Court Services Bureau at [PROOFSERVICE@MDPD.COM](mailto:PROOFSERVICE@MDPD.COM) The officer must utilize the “Read Receipt” function when emailing the form. After emailing the form, the hard copy must be turned into the Records Unit with a copy of the “Read Receipt”.
- c. If there is no Service Sheet, the officer must write his or her name, badge number, agency, date and time of service on the injunction and give it to the respondent. The officer must also call the Miami-Dade Police Department Warrants Bureau at 305-471-1700 and provide the court case number, which appears on the injunction and the service information (officer name, badge number, agency, date, and time of service).
- d. The officer should also provide the service information and court case number of the injunction to the petitioner and direct him or her to go back to the Clerk of the Courts to obtain additional copies of the injunction.
- e. The Officer shall prepare an Incident Report.

3. Cases where the petitioner has no copy of the injunction, but claims an injunction has been issued by a judge:

- a. No service can be made. All injunctions require personal service of the injunction itself.
- b. The officer must prepare a police report and should utilize discretionary arrest powers for any other violations of law.

C. Stalking: Any person who, after an Injunction for Protection Against Repeat Violence or after any other Court-imposed prohibition of Conduct toward the subject person or that person’s property, knowingly, willfully, maliciously and repeatedly follows or harasses another person, commits the offense of aggravated stalking, a felony of the third degree.

D. Reports: A police report shall be completed whenever an officer investigates any disturbance where there is an allegation of violence or the threat of violence. When indicated on the report, or when warranted,

a follow-up investigation will be conducted. **CFA 15.09 F**

1. The report shall include the following:
  - a. Whether the alleged offense was an incident of domestic violence;
  - b. A description of all physical injuries observed, if any;
  - c. State the reason why no arrest was made; and
  - d. Indicate that a copy of the legal rights and remedies notice (Victim Rights Brochure) was given to the victim; and,
2. Also include, if applicable:
  - a. Photographs of all injuries;
  - b. Any written statements made by the victim(s) or witness(es);
  - c. A Domestic Violence Supplement will be completed and attached to the Offense/Incident Report; and
  - d. Record on any related Arrest Form that domestic violence was involved.

## **IX. PROCEDURES FOR DEPARTMENTAL PERSONNEL INVOLVED IN DOMESTIC VIOLENCE**

The provisions of this policy are intended to further the credibility of the Department, and are to be in no way construed as creating a standard of response or investigation, which automatically assumes guilt, penalizes or exonerates Department employees. When employees of the Department are involved in a domestic violence incident, the employee will immediately notify his or her immediate supervisor and/or the on duty Uniform Patrol supervisor.

**CFA 15.09G**

- A. Domestic violence incidents involving employees of the North Miami Police Department within the city limits:
  1. The responding officer will initiate a preliminary investigation consistent with the above policy and assure that the victim receives the appropriate medical attention and sheltering referrals, if necessary.
  2. The responding officer will notify the on-duty supervisor and have him/her immediately respond to the scene. The responding supervisor will immediately notify the Investigative Section supervisor, and they in turn will notify the Chief of Police via Chain of Command.

3. The Investigative Section supervisor will immediately respond to the scene. Upon their arrival, they will assume criminal investigative responsibility for the case. The Chief of Police, or his/her designee, will notify the Office of Professional Compliance (OPC).
4. The Investigative Section supervisor will coordinate all formal statements from witnesses and the victim on the scene.
5. The Investigative Section supervisor will formally identify his/her investigative authority to the suspect employee and clearly inform the employee that a criminal investigation is being conducted.
6. In the event an arrest is made in accordance with mandates set forth by State Statute, the Chief of Police, or his designee, will be notified immediately. All service weapons and ammunition issued by the Department will be turned over to the Investigative Section supervisor.
7. The Investigative Section supervisor will be responsible for making contact with the State Attorney's Office. Criminal disposition of the case will be the decision of the State Attorney's Office.
8. The Investigative Section supervisor will undertake a coordinated effort to ensure that the investigation is consistent with the above policy and mandates set forth by State Statute governing domestic violence.

B. Other Jurisdiction incidents: When a Domestic Violence related incident report is made involving a law enforcement officer from another jurisdiction, the on-duty shift supervisor will notify the employing agency of the incident and the specific charge(s) as soon as practicable.

C. Incidents Outside of the City of North Miami Involving North Miami Police Department employees:

1. If the incident occurs outside of the City's jurisdiction, the employee will be responsible for notifying his/her supervisor and/or the on-duty shift supervisor immediately.
2. The on-duty shift supervisor, through the Chain of Command, will be responsible for notifying the Chief of Police or his designee, who will in turn notify the OPC.

3. The OPC will be responsible for coordinating with the investigating agency and obtain copies of their police report (and A-Form, if applicable) as soon as practicable. In case of an arrest, the OPC supervisor will make arrangements with the arresting agency to collect any Departmental-issued weapons and ammunition.
4. The OPC will keep the Chief of Police, or his/her designee, abreast of the particulars of the case and will classify the case for investigation at its conclusion.

## **X. DOMESTIC VIOLENCE INJUNCTIONS AGAINST DEPARTMENTAL EMPLOYEE/SERVICE OF AN INJUNCTION**

- A. If service of an injunction is done while the employee is on duty, the serving officer will be referred to OPC for assistance.
- B. If service of an injunction is done outside the City of North Miami, it will be incumbent upon the employee to immediately notify the on-duty Shift supervisor, who in turn will notify the Chief of Police through the proper Chain of Command.
  1. Upon receipt of a Domestic Violence Injunction, the employee will be required to report to the OPC by 9:00 a.m. on the next business day following service. Officers will turn in all firearms that are owned by the City of North Miami in their custody.
  2. A copy of the Injunction will be given to OPC by the employee.
  3. The OPC will be responsible for initiating an immediate investigation into the Domestic Violence Injunction.
  4. Any employee that is served with a Domestic Violence Injunction, foreign or domestic, cannot possess, or have in their control, any firearm that is owned by the City of North Miami. There is no exception for sworn law enforcement officers to continue to carry, or be in possession of, a firearm if served with a Domestic Violence Injunction.
  5. If an officer is served with a Domestic Violence Injunction and desires to continue to work in their capacity as a law enforcement officer, the officer must:
    - a. Petition and appear before the issuing authority, and request that a new and/or amended order be issued granting the

officer the authority to carry and possess a firearm for work-related purposes only. The order must specifically define the limits under which the officer is allowed to carry the firearm while employed and/or acting in their official capacity; i.e. only during duty hours. The Chief of Police has the discretion to deny the officer from carrying a firearm until criminal procedures or the injunction has been cleared. Officers are reminded that there is no mandatory requirement for a North Miami police officer to carry a firearm while off-duty.

- b. If an officer is granted the authority to carry a firearm for duty purposes, the officer's issued/or personal approved firearm will be kept in a locker under the control of the officer's supervisor. Firearms will be signed out at the beginning of the shift and signed back in at the end of the shift to reflect the serial number of the weapon, the supervisor signing it out, the time, and the officer taking possession of the weapon and ammunition. The same process will be followed at the time the firearm is returned.
- c. The officer will not drive his/her assigned vehicle home; it may only be used on duty.
- d. Officers will not wear their police uniforms while traveling to and from the North Miami Police Department unarmed.
- e. Sworn personnel may not purchase firearms when they are the subject of a Domestic Violence Injunction.
- f. Sworn personnel violating a domestic violence injunction will be in violation of the North Miami Police Department's policies, which could result in disciplinary action up to and including dismissal, along with the possibility of criminal prosecution.