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Amends/Supercedes: 1700.40/July 2007	Approved by: Chief Kevin Higdon
Meets Accreditation Standard:	30.1

Section 1400.40 Domestic Violence and Child Abuse

1. Domestic Violence and /or Abuse

Domestic disturbances can be some of the most dangerous situations police officers are routinely called upon to handle. The Shively Police Department recognizes that domestic violence is a crime. Police response to such calls for service shall be assigned a high priority.

It is further the policy of the Shively Police Department:

- 1) That the preferred response to a domestic violence crime will be to conduct an investigation and when appropriate, arrest the perpetrator. Officers will actively utilize the arrest powers granted by the Kentucky General Assembly when the elements of an offense, including violation of a Protective Order, are present.
- 2) To report all known and/or suspected cases of domestic violence and abuse involving both adults and children.
- 3) To respond with the same protection and sanctions to every domestic violence incident regardless of race, religion, creed, national origin, gender, sexual orientation, disability or socioeconomic status of persons involved.
- 4) To provide all officers with KLEC (Kentucky Law Enforcement Council) approved training programs on domestic violence and effective guidelines for promoting a consistent response to domestic violence crime.
- 5) To collect data and to document all domestic violence related calls for service and police response.
- 6) To comply with all procedures designed to protect the constitutional and statutory rights of criminal suspects.

11. Goals:

The goals of the Shively Police Department policy on Domestic Violence and Abuse are:

1. To reduce domestic related assaults and homicides;
2. To reduce call-backs to households requiring police intervention;

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3. To reduce injuries to police officers at domestic-related incidents;
4. To promote compliance with statutory mandates to report known or suspected adult/child abuse and to enforce the law against violators;
5. To clarify the police officer's authority and responsibility when responding to domestic violence situations.

III. Definitions:

All officers shall be familiar with Kentucky Revised Statutes concerning Domestic Violence and Abuse, definitions concerning specific abuse or violence situations and or any statute which relates to Domestic Violence and Abuse cases. These statutes

K. R. S. 403.720, K. R. S. 431.005(2), K. R. S 209, K. R. S 600, K. R. S 500.090(13), K. R. S 503.010, K.R.S. 508.130(1)

IV. Other Related Definitions:

1) Foreign Protective Orders- any judgment, decree, or order or protection issued by a court of a state of the United States of any other court which is entitled to full faith and credit in this stated pursuant to 18 U.S.C. sec. 2265.

2) Domestic Violence Call:

A call where an adult, child, or a family member or member of an unmarried couple is alleged to be the victim of:

- a. Physical injury or fear of imminent physical injury (explicit or implied threats.)
- b. Sexual abuse or in fear of imminent sexual abuse;
- c. Unlawful imprisonment/kidnapping;
- d. Property crime; or
- e. Violation of terms or conditions of a protective order by the other party.

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NOTE: Generally, these calls are the types of cases which must be reported to the cabinet for Human Resources, Department of Social Services.

3) "Domestic Disturbance or Dispute Call", a call involving an argument or disagreement between family members, unmarried couples, household members, or neighbors that does not indicate violence, threats of violence or, violation of court protective orders.

NOTE: These calls do not need to be reported to the Cabinet for Human Resources, Department of Social Services.

V. Telecommunications Response Procedures

1) General Responsibilities,

- a. Due to their very nature, domestic violence calls will receive a high priority response by Telecommunications section of the Shively Police Department. Call takers or Dispatchers should gather all pertinent information, decide if a law enforcement response is needed at the scene, and, if so, promptly relay all important information to the responding officers.

2) The Dispatcher should request the following information to determine the need for an emergency dispatch;

- a. Nature of the incident
- b. Location/address of the incident
- c. The need for police or medical assistance
- d. Is the incident in progress?
- e. Involvement of weapons and type of weapons

3) The Dispatcher should also obtain the following;

- a. Name of complainant
- b. Status of the complainant (victim, Witness).
- c. Circumstances of the situation (what has happened, who is involved, what is the relationship of the persons involved).
- d. Suspect information (location of suspect; if suspect is not present, request direction, mode of travel, elapsed time since departure, and inquire for information that can be used to verify outstanding warrants, EPO's or DVO's on suspect).
- e. Involvement of any children and whether they are present and safe.
- f. The Call taker should maintain telephone contact, if possible, until officers arrive at the scene.

4) Dispatcher Response;

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- a. Two (2) officers, at least will be dispatched on an incident involving "domestic violence".
- b. Dispatchers should provide responding officers with as much information as possible to allow officers to identify potential risks at the scene.

VI. Patrol Response Procedures

- 1) When dispatched on a "domestic violence" run, responding officers should:
 - a. Avoid the use of emergency lights and sirens when approaching the scene (unless it is dispatched as a "code three" type run.) and park responding vehicles at least one (1) house away from the address of the reported disturbance.
 - b. On arrival, conduct an external assessment of the premises.
 - c. Listen for a period of time before knocking on the door and look in a window (if possible) to obtain any additional information about the situation.
 - d. After knocking, stand to one side of door, if possible.
 - e. Announce your identity as a Shively Police Officer, give reasoning as to why you are there and request to enter the dwelling. If entry is refused, the officer should again request entry and explain that they desire to enter to be sure that there are no injured persons inside.
 - f. If entry has not been granted, determine if exigent circumstances exists (reasonable belief that a person within is in need of immediate aid) or consent is given by another occupant of the residence.
 - g. Once inside, establish control and separate the parties.
 - h. If necessary, assess the need for and obtain emergency treatment.
 - i. Interview parties separately not allowing parties to overhear the exchange on information with the other officer(s).
 - j. Determine the existence and status of outstanding warrants and/or protective orders.
 - k. Determine if any witnesses, including children, are available for statements.

- 2) In situations, where the officer has reason to suspect that there is a victim under conditions of domestic violence and abuse, the officer is required by K.R.S. 403.785(3) to use all reasonable means to prevent further domestic violence and abuse, including, but not limited to the following;
 - a. Restoring order;

An officer must remain at the location of the domestic violence and abuse so long as the officer suspects there is danger to the physical safety of the individuals present without the presence of an officer. An officer should never leave the scene if there may be a risk of danger to the public. However, if the victim is hostile to the officer(s), demands that the

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officer(s) leave the scene and/or refuses to cooperate with the officer(s) then the officer(s) may have no other choice than to leave the premise. If an officer can not determine what alternatives are available, then an immediate supervisor should be contacted.

The officer(s) involved should be able to articulate their reasoning for leaving the scene by documentation on a "run card".

b. Providing Medical Assistance

If a victim desires medical attention, officers must respond by obtaining Emergency Medical Personnel to assess the needs of the victim. However, victims can not be forced to seek medical treatment.

c. Advise the victim of their rights and of services available, including provisions of K. R. S 403.715 through 403.785. This information is best obtained on the bottom portion of the "Child Abuse, Adult Abuse and Domestic Abuse Standard Report (JC-3 Form).

d. Officers **SHALL** report all incidents of actual, or suspected domestic /dating violence and abuse in the form of a JC-3. It must be submitted to the Cabinet for Human Resources, Department of Social Services within forty-eight (48) hours, whether an arrest is made or not.

e. Officers shall take reasonable steps to enforce court orders related to domestic violence and abuse. Which include arrest of persons violating Protective Orders. A person is guilty of violation of the Protective Order when the person intentionally violates the Order after being served or given notice.

f. Officers are to give full faith and credit to any foreign protective order. All officers shall treat a foreign protective order as a legal document, valid in Kentucky, and may make arrests for a violation in the same manner as a EPO or a DVO, issued in Kentucky.

g. Officers should attempt to verify the service and validity of a foreign protective order by checking a number of resources such as the LINK system computer, the Sheriffs Department in the home jurisdiction of the order.

h. If an officer has probable cause to believe that a person has violated a condition of release imposed by K. R. S. 431, and the officer verifies that the alleged violator has

notice of the conditions, then the officer shall, without a warrant, arrest the subject whether the violation was committed in or outside of the presence of the officer.

i. To make an arrest for a crime not committed in the presence of an officer, there must be physical injury sufficient to warrant Fourth Degree Assault.

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- j. A Uniform Citation shall be completed and the report number placed on the bottom portion of the citation. Also, the victims name and address shall be placed on the citation to ensure that the victim will be subpoenaed to appear in court.
- k. If an arrest is not made and a JC-3 form is submitted, the narrative should contain an explanation as to why probable cause does not exist for the statutory requirements.

3) Special Circumstances involving Shively Police Personnel;

- a. When officers arrive at a scene involving a domestic incident and find that one or more of the participants are Shively Police officers or civilian members of the Shively Police Department, the responding officer(s) should immediately notify the on duty commanding officer and request that he/she respond to the scene.
- b. The commanding officer, will supervise the investigation of the domestic violence incident and will immediately forward the findings of the investigation to the Operations Commander.
- c. If needed, the Operations Commander may be called to assist in the direct investigation of the incident.

4) Special Circumstances Involving Law Enforcement Officers from Other Agencies as Participants

- a. When responding officers arrive at the scene of a domestic violence incident involving one or more law enforcement officers from another agency, the officers will notify the dispatcher and request that the on duty Shively commanding officer respond to the scene immediately.
- b. The Shively Commanding officer will assume responsibility of the investigation to ensure it is being properly conducted.
- c. The Shively Commanding officer will notify the Operations Commander of the in progress investigation as soon as it is feasible to do so.

5) Victim has left the scene

- a. When an officer arrives on the scene and determines that the victim has left, the officer should gather all relevant facts from any witnesses at the scene.
- b. Determine location/destination of victim and whether or not the victim may be

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injured.

- c. Request individuals at the scene to contact the Shively Police Department if the victim returns.

6) Offender Left the Scene

- a. If an officer arrives on the scene of a domestic violence situation where a warrantless arrest would be justified, the officer should interview any witnesses and collect all available physical evidence.
- b. Officers at the scene should make all reasonable attempts to locate the subject and arrest. This may also include the arrest of the person for violating a Protective Order, when probable cause has been developed.
- c. If the perpetrator has not been located within a reasonable period of time, then the officers should make plans to assist the victim in obtaining an arrest warrant and/or protective order.

7) Mutual Violence

- a. When officers arrive at a domestic violence call and there is evidence of mutual violence, the officers should attempt to determine if one party was the principal aggressor. If this can be determined that that person should be arrested, if consistent with state law.
- b. If that determination cannot be made, consult the commanding officer to determine the appropriate course of action. Arresting both parties in a domestic violence situation is discouraged, unless there is a known history of mutual violence or some other reasonable bit of information is known.

8) Evidence Collection

- a. If there are any visible signs of injury to the victim or evidence of a crime to support the arrest and enhance the prosecution of the offender, the investigating officer at the scene will be responsible for collecting that evidence.
- b. Collecting of evidence shall include but not limited to; taking color photographs of victim and destroyed property, taking statements from witnesses and victims and taking statements from perpetrator when appropriate.

VII. Special Needs Victims

Some domestic violence victims may have physical or mental disabilities that may make it difficult for them to report their own victimization, call for assistance or fully participate in the prosecution of the case. Officers should be aware of these limitations when investigating domestic violence incidents and refer these victims to specialized

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support services to promote protection, physical assistance, medical treatment or other needed services.

VIII. Involuntary Hospitalization

If the officer believes that the domestic violence perpetrator has a mental health condition

that indicates that the person is an imminent danger to himself/herself or others, the officer shall follow the involuntary hospitalization provisions set forth in KRS 202A.026. This statute shall not be used as a substitute for an arrest.

IX. Potential Victim Notification

Officers who receive verifiable threats of violence against an identifiable victim should Attempt to contact the intended victim of the threat and possible danger.

X. Federal Gun Ban

The federal government prohibits certain domestic violence respondents and those defendants convicted of a misdemeanor crime of domestic violence from possession of a firearm or ammunition. Officers should notify the Bureau of Alcohol, Tobacco and Firearms (ATF) when aware of respondents possessing firearms in violation of federal law. Designated law enforcement agencies are required to make a reasonable effort to provide victims with notice that a perpetrator has attempted to purchase a firearm in violation of the federal gun ban. The Jefferson County Sheriff's Office currently handles this responsibility, but officers should be aware of their legal responsibility should they learn of an attempted purchase.

XI. Marital Rape/Sexual Assault

There is no spousal exemption for rape or sexual assault. The responding officer should notify the Criminal Investigations Division in cases of marital rape or sodomy.

XII. Domestic Violence Stalking

Research shows a clear relationship between stalking and the commission of domestic violence. Officers shall complete a JC-3 report, including the violation code, when a victim of domestic violence alleges that he/she has been stalked. Stalking is elevated

from a misdemeanor to a felony in the following circumstances:

- A protective order has been issued
- A criminal complaint is currently pending by the victim against the defendant and the defendant has received notice.
- The defendant has been convicted within the last five (5) years of a felony or a Class A misdemeanor concerning the victim.

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- The stalking was committed while the defendant was in the possession of a deadly weapon.

XIII. Child Abuse and Neglect

- 1) Any officer dispatched to a child abuse or neglect incident should notify the Cabinet for Human Resources as soon as practical to do so.
- 2) If an officer has reasonable grounds to believe that a child may be placed in imminent danger of serious physical injury or death or is being sexually abuse and the caretaker cannot protect, then the officer may take that child into protective custody without the consent of the parent or guardian.
- 3) If the officer is unable to place the child with a competent adult or relative the child should be transported to the Home of the Innocence or some other approved facility or institution.
 - a. If a child is in need of medication, it should be secured by the custodial officer before leaving the home. Most facilities will not dispense medication unless it has proper dosage and information of type of drug.
 - b. Any obvious signs of physical injuries will require professional medical care before being taken to a shelter. Shelter personnel can administer basic first aid only.
 - c. Any medical exams for forensic evidence should be done before child is taken to a shelter.
 - d. If a child is taken into protective custody, the officer must seek an Emergency Custody Order through the courts. Staff at the Home of the Innocents should be able to provide assistance.

XIV. Domestic/Dating Violence and Child Abuse

- 1) The Shively Police Department will treat all instances of domestic/dating violence and abuse in the same manner as domestic violence. This is in accordance with KRS. 431.005 (2) a.
- 2) JC-3s shall be completed on all actual, or suspected cases of domestic/dating violence and abuse. Officers shall advise domestic/dating violence victims of rights and TIPO (temporary interpersonal protection order) and IPO (interpersonal protection order).

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- 3) The TIPO compares to the current EPO and the IPO compares to the DVO in relation to the time frames that the orders are active.

(Juvenile Domestic/Dating violence victims can have ANY adult file to TIPO on their behalf. Adult that files on behalf of the juvenile does not have to be a family member).

(A peace officer **SHALL** make an arrest for violations of protective orders issued pursuant to KRS 403.715 to 403.010 or an order of protection as advised in KRS 456.010).

- 4) All officers shall familiarize themselves with “dating relationship” definitions found in KRS 456.010