

April 21, 2010

**CITY OF FERGUSON  
OFFICE OF THE CHIEF OF POLICE**

**Index as:**

Domestic Abuse, Stalking

Stalking

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**STALKING POLICY AND PROCEDURE  
MISSOURI REVISED STATUTES 455.010 TO 455.085**

474.00 PURPOSE

The purpose of this General Order is to familiarize officers of this department with the provisions of the anti-stalking bill passed by the Missouri 87th General Assembly and to provide officers with guidelines and procedures for handling stalking incidents.

474.01 POLICY

The primary objectives of officers that encounter "stalking incidents" are to protect the victim from violence, to assist the victim in obtaining legal relief in the form of an "ex parte or full order of protection," to enforce the law against violators and to facilitate prosecution where applicable. **All "stalking" complaints are to be viewed as incidents of alleged criminal conduct in which assistance and protection will be provided to the victim in a timely manner.** Supplemental material may be found under general order 420.00 *Domestic Violence*.

474.02 DEFINITIONS

- A. "Stalking" A person commits the crime of stalking when an adult purposely and repeatedly engages in an unwanted course of conduct that causes alarm to another person when it is reasonable in that person's situation to have been alarmed by the conduct.
- B. "Aggravated Stalking" Any person who purposely and repeatedly harasses or follows with the intent of harassing another person, and makes a credible threat with the intent to place that person in reasonable fear of death or serious physical injury, commits the crime of aggravated stalking.
- C. "Course of Conduct" A pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.
- D. "Abuse" Includes, but is not limited to, the occurrence of any of the following acts, attempts, or threats against a person who may be protected under sections 455.010 to 455.085:

- E. "Assault" Purposely or knowingly placing or attempting to place another in fear of physical harm;
- F. "Battery" Purposely or knowingly causing physical harm to another with or without a deadly weapon;
- G. "Coercion" Compelling another by force or threat of force to engage in conduct from which the latter has the right to abstain or to abstain from conduct in which the person has the right to engage;
- H. "Harassment" Engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to another person and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner. Such conduct might include but is not limited to; following another about in a public place or places; peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity.
- I. "Sexual assault" Causing or; attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress;
- J. "Unlawful imprisonment" Holding, confining, detaining, or abducting another person against that person's will.
- K. "Victims" Any adult who has been subject to abuse by a present or former adult family or household member, or who has been the victim of stalking, may seek relief under sections 455.010 to 455.085.
- L. "Ex Parte Order of Protection" An order of protection issued by a Circuit Court or Associate Court before the respondent has received service/notice of the petition or has had an opportunity to be heard. Failure to serve shall not affect the validity of a full order of protection.
- M. "Full Order of Protection" An order of protection issued at a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard.
- N. "Petitioner" A family or household member or a person who has been the victim of stalking, who has filed a verified petition under the provisions of RSMo. 455.020.
- O. "Respondent" The family or household member or person alleged to have committed an act of stalking against whom a verified petition has been filed.

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- P. “Family or household member” Spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past, an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and adults who have a child in common regardless of whether they have been married or have resided together at any time.

474.03 DISPATCHER RESPONSIBILITIES

- A. Because the dispatcher is likely to be the first person to receive the call, he/she is a key person in determining the type of response.
- B. The dispatcher is responsible for obtaining necessary information to dispatch the call. The dispatcher shall obtain the following information:
1. The complaint's name, address and phone number.
  2. Location and time of occurrence.
  3. If any weapon or physical violence is involved.
  4. The dispatcher should also inquire as to the assailant's frame of mind, such as a known mental condition, intoxicated, etc., and relay same to the responding units.
  5. Does complainant have a current "Order of Protection?"
  6. Has there been a call to the same location during the previous twelve hours?  
**It is the dispatcher's responsibility to notify the responding officers if that is the case.**

474.04 PATROL RESPONSIBILITIES

- A. Officers must be concerned about their safety and that of the victim. All common sense and learned police techniques should be utilized to minimize risk.
- B. In "Stalking" incidents, officers should be alert and observant when approaching the victim's location in the event that the stalker is still in the area.
- C. Upon making initial contact with the victim, the officer should ascertain if he or she has an order of protection and the degree of the order.

NOTE: The Ex Parte Order of Protection need not be served on the respondent to be in effect.

- D. The officer should ascertain if there have been any calls to the same location during

the previous twelve hours by checking with the dispatcher.

- E. **Any officer that is subsequently called to the same address within a twelve hour time span, who shall find probable cause to believe the same offender has again committed a stalking violation, shall arrest the offending party for the subsequent offense.**
- F. If the officer determines that this is the first violation of the stalking law and he does not make an arrest, **a mandatory report will be written explaining why not.** The officer will **make a computer entry into C.A.D. noting the nature of the call for future reference. If an active ex parte or full order exists, the officer shall make an arrest of the offending party.**
- G. If a report was made during the preceding twelve hours, reflecting a stalking incident (with or without an arrest) that report will be considered as evidence of the defendant's intent to commit a stalking offense.

#### 474.05 PENALTY PROVISIONS FOR VIOLATIONS OF THE STALKING LAW

- A. The crime of stalking shall be a "class A" misdemeanor for the first offense. A second or subsequent offense within five years of a previous finding or plea of guilt against any victim shall be a "class D" felony.
- B. The crime of aggravated stalking shall be a "class D" felony for the first offense. A second or subsequent offense within five years of a previous finding or plea shall be a "class C" felony.

#### 474.06 ARREST DECISIONS

- A. When an officer has probable cause to believe that a party, against whom a protective order has been entered, who has notice of such order entered, and has committed an act of abuse in violation of such order, the officer shall arrest the offending-party respondent whether or not the violation occurred in the presence of the arresting officer. Refusal of the victim to sign an official complaint against the violator shall not prevent an arrest.
- B. When an officer makes an arrest, he is not required to arrest both or all parties involved in an assault when both parties claim to have been assaulted. The arresting officer shall attempt to identify and arrest the party he believes is the primary physical aggressor. The term "primary physical aggressor" is defined as the most significant, rather than the first, aggressor. The law enforcement officer shall consider any or all of the following in determining the primary physical aggressor:
  - 1. The intent of the law to protect the victims of domestic violence from continuing abuse;

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2. The comparative extent of injuries inflicted or serious threats creating fear of physical injury;
  3. The history of domestic violence between the persons involved. No law enforcement officer investigating an incident of family violence shall threaten the arrest of all parties for the purpose of discouraging requests of law enforcement intervention by any party. Where complaints are received from two or more opposing parties, the officer shall evaluate each complaint separately to determine whether he should seek a warrant for an arrest.
  4. When a person against whom an order of protection has been entered fails to surrender custody of minor children to the person to whom custody was awarded in an order of protection, the law enforcement officer will arrest the respondent, and return the minor children to the care and custody of the party to whom such care and custody was awarded.
  5. For arrests or other acts made in good faith, the arresting officer, assisting officers and supervisors will be immune from liability in any civil action alleging false arrest, false imprisonment or malicious prosecution.
- C. The refusal of the victim to prosecute the violator will not prevent an arrest under the provisions of the stalking law.
- D. Any law enforcement officer may arrest without warrant any person he or she has probable cause to believe has violated the provisions of the stalking law.

474.07 WARRANT APPLICATION

- A. Warrant application for violations of the "Stalking" statute should be made in the office of the St. Louis County Prosecuting Attorney.
- B. Warrant application for violations of the "Stalking" ordinance (Sec. 29-40) should be made through the Ferguson City Prosecutor for related city violations.
- C. Warrant applications should be made within five (5) working days upon the completion of the investigation.

By order of:

A handwritten signature in black ink, appearing to read "Colonel Thomas Jackson", written in a cursive style.

COLONEL THOMAS JACKSON  
Chief of Police

Distribution  
All Department Personnel