



92.0 Domestic Violence

This General Order consists of the following sections:

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PURPOSE:

To establish a policy governing Sheriff's Office responses to Domestic Violence incidents.

Policy:

It is the policy of the Sheriff's Office to respond as quickly as possible, take control of the scene, and protect the victim(s) of domestic violence from further harm to the extent possible. All domestic violence incidents will be approached with professionalism, and thoroughly investigated if probable cause exists that a crime was committed. Evidence will be collected as at other crime scenes, using all available means.

Domestic Violence incident investigations will be performed in accordance with agency-approved training and policy. The Domestic Violence Assault and Referral Form will be completed and submitted in accordance with agency-approved training and policy.

Calls for service involving domestic violence are among the most difficult and sensitive for law enforcement officers to respond to. When responding to such a call, involving family or household members, deputies must be alert, impartial, and concerned with the needs of the victim(s) whenever violence is apparent or alleged. While being impartial and caring, deputies must always anticipate the unexpected.

Domestic conflicts can quickly escalate into a situation of dangerous proportions because of the explosive range of intense emotions including anger and frustration. Feelings of anger and rage can easily be directed against the responding deputies, who suddenly become the focus and target of erupting violence. It is not unusual for aggressive outbursts in domestic violence situations to lead to serious injury or death. For this reason, at least two deputies, if available, will be assigned to a domestic violence call, or assistance will be requested from another agency.

REL: Courts and Judicial Proceedings, 3-1501 to 3-1509
Family Law, 4-501 to 4-511
Family Law, 9-304
Criminal Procedures, 2-204

Definitions:

Intimate Relationship – for purposes of this policy, an intimate relationship means a sexual or otherwise romantic relationship. This typically includes spouses, people who are dating or engaged, and people in an ongoing sexual relationship regardless of the title. Intimate relationships DO NOT include other, non-romantic, familial, or platonic relationships such as parents/children, brothers/sisters, or non-sexual roommates.

Domestic Relationship – for the purposes of this policy, means an intimate relationship, whether past or present, between parties who currently reside together or have lived together for at least 90 days within the previous 12 months (recent cohabitants).

Cohabitants – As defined in MD Code, Family Law, § 4-501 d means people who have had an intimate relationship and, though not currently residing together, have resided together for a period of at least 90 days within 1 year before the incident.

Abuse – As defined in MD Code, Family Law, § 4-501 means an act that causes serious bodily harm, an act that places a person in fear of imminent serious bodily harm, assault in any degree, rape or sexual offense under § 3-303, § 3-304, § 3-307, or § 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree, false imprisonment, stalking under § 3-802 of the Criminal Law Article, or Revenge porn under § 3-809 of the Criminal Law Article.

Domestic Reported/In-Progress - a preliminary call type used by the Emergency Communication Center to describe a call for service involving a dispute, disturbance, or assault between people meeting the general qualifications of a domestic relationship (to be confirmed by the responding deputies).

Domestic Dispute - a situation type used to describe a non-criminal domestic occurrence (e.g., a verbal argument) involving persons in a domestic relationship.

Domestic Assault - a situation type used to describe an alleged assault, regardless of the existence of probable cause, by one or both parties in a domestic relationship.

Interim Protective Order – issued by a District Court Commissioner under the Family Law, Title 4, pending a hearing by a judge. A Commissioner may issue an interim protective order only when the Office of the Clerk of the District or Circuit Court is closed. An interim protective order is valid until a temporary protective order hearing before a judge or the end of the second business day the Office of the Clerk of the District Court is open following the issuance of the interim protective order.

Temporary Protective Order – issued by a judge under the Family Law, Title 4. A temporary protective order is valid for not more than seven (7) days from the date of issuance and may be extended by a judge for up to 6 months.

Final Protective Order – issued by a judge under the Family Law, Title 4. A final protective order is valid for 1 year with a possible 6-month extension and up to 2 years

for a second order.

92.1 Law of Arrest as Related to Domestic Violence Situations

- A. The Criminal Procedures Article, Section 2-204, authorizes a police officer to make a warrantless arrest of a person who commits a crime of Domestic Violence Assault with the following conditions:
1. The officer has probable cause to believe that;
 - a. The suspect has battered their spouse or another individual with whom they reside;
 - b. There is evidence of physical injury; AND,
 - c. Unless the suspect is immediately arrested:
 - i. He or she may not be apprehended;
 - ii. The suspect may cause injury to the person or damage to the property of one or more persons; OR,
 - iii. The suspect may tamper with, dispose of, or destroy evidence; AND,
 - iv. A report was made to law enforcement within 48 hours of the alleged incident.
- B. The law does not require that there be outward signs of abuse, such as black eyes and/or a bloody nose to constitute evidence of physical injury to make a warrantless arrest. A victim that has been assaulted may have sustained internal injuries, but show no external signs; i.e., bruises. If the victim informs the deputy of abuse, appears to have suffered injury by his/her mannerisms, and intends to seek medical treatment, there is ample justification for “the evidence of physical injury” standard above.

92.2 Sheriff’s Office Pro-Arrest Policy

- A. Deputies will treat domestic violence calls as potential criminal activity. Once the scene has been secured and medical attention requested, if necessary, a criminal investigation will be initiated if probable cause exists to believe a crime was committed. If probable cause exists for an arrest, the investigating deputy WILL make an arrest or obtain a warrant/criminal summons for the suspect(s). Statistics have shown that if an arrest is made, the incidents of domestic violence decrease, thereby reducing repeat calls and potential future violence.
- B. It is a goal of the Sheriff’s Office to send a strong message that Domestic Violence is not simply a private “family matter”, but rather, criminal activity that will not be tolerated.

- C. When probable cause exists that abuse has occurred, the suspect will be charged whether the victim desires it or not. It will be emphasized to both the victim and the suspect that the criminal action is being initiated by the State, regardless of the desires and wishes of the victim. Any relevant evidence will be collected. Convictions can be obtained without the victim's testimony with proper evidence.

92.3 Response to Domestic Violence

- A. When responding to a "Domestic Reported" or "Domestic In-Progress" call, deputies shall:
1. Restore order by taking control of the situation.
 2. Seize any weapons used or threatened to be used during the incident;
 3. Assess the need for medical attention and call for medical assistance, if needed.
 4. Interview all parties, including witnesses.
 5. Determine whether the incident meets the definition of a "Domestic Dispute" or "Domestic Assault" as defined above.
 6. If the incident meets the definition of a "Domestic Assault", deputies should:
 - i. Complete a thorough on-scene investigation
 - ii. If the seriousness of the assault requires, notify the Criminal investigations unit.
 - iii. Administer the Domestic Violence Lethality Screen to the involved parties.
 - iv. Provide the Domestic Violence Resource card/brochure, and
 - v. Make the arrest if possible.
 7. If the suspect is no longer on scene and probable cause exists that a domestic assault occurred, the deputy will:
 - i. Complete a thorough on-scene investigation.
 - ii. Conduct or request a check of the immediate area for the suspect, or other areas as necessitated by the investigation.
 - iii. Obtain pertinent information about the suspect from victims and witnesses.
 - iv. Administer the Domestic Violence Lethality Screen to the involved parties.

- v. Provide the Domestic Violence Resource card/brochure, and
 - vi. If the suspect cannot be located promptly, obtain a warrant for the suspect's arrest before the end of the deputy's current tour of duty.
8. If the incident meets the definition of a "Domestic Dispute" the deputy will:
- i. Complete a thorough on-scene investigation
 - ii. If abuse was threatened, or if other factors exist that give rise to increased risk, administer the Domestic Violence Lethality Screen to the victim, provide domestic violence resource information, and document the incident on a Domestic Violence Report.
 - iii. If no abuse was alleged or threatened, and the incident was simply a verbal argument with no other aggravating factors, provide domestic violence resource information and briefly document the circumstances of the dispute in the CAD sheet notes. No separate written report is required.

B. In all domestic incidents in which deputies respond, the following will be completed:

- 1. A thorough on-scene investigation,
- 2. The Domestic Violence Lethality Screen if an assault has been alleged or threatened.
- 3. Supplying the involved parties with Domestic Violence Resource information via the Domestic Violence Card or Brochure.
 - i. Explain the following to the victim:
 - ii. If the investigating deputy declines to file charges due to a lack of probable cause, the victim may request that a District Court Commissioner file a criminal-charging document against the alleged abuser.
 - iii. The victim may request the State's Attorney to file a charging document against the alleged abuser if the District Court Commissioner declines to do so.
 - iv. Procedures for obtaining a Protective Order/Peace Order from the Courts or the District Court Commissioner against the abuser.
 - v. Information and telephone numbers of organizations and/or support and/or shelter for abuse victims; i.e., CASA.
 - vi. The victim may obtain a copy, upon request, of any written report.

4. It should be stressed that a police agency may not require the victim to obtain a subpoena to receive a copy of the written report.

C. Domestic Violence Calls Resulting in Dual Arrests:

1. If probable cause exists that a mutual assault has occurred, the law requires the deputy to consider, when determining a primary aggressor, whether one of the parties was acting in self-defense. There will be incidents where a primary aggressor cannot be determined, or where both parties were aggressors. The decision as to whom to arrest, or if to arrest, will lie with the deputy.

92.4 Child Custody Disputes Calls for Service.

1. The Sheriff's Office will respond to child custody disputes on a case-by-case basis.
2. Deputies will inform callers that child custody disputes are civil in nature and the Sheriff's Office cannot take any action beyond maintaining order and ensuring no other crimes are committed, unless;
 - a. A court order has been issued that directs a police officer to take custody of a child and hand him/her over to another person, or
 - b. A parent has violated Family Law, section 9-304. That section applies to a child under 16 years. The law prohibits a relative who knows that another person is the lawful custodian of a child from;
 - I. Abducting, taking, or carrying away the child from a lawful custodian to a place within Maryland;
 - II. Having acquired lawful possession of the child, detaining the child within Maryland for more than 48 hours after the lawful custodian demands that the child be returned;
 - III. Harboring or hiding the child within Maryland, knowing that possession of the child was obtained by another relative in violation of law;
 - IV. Acting as an accessory to a prohibited act.

A. Temporary Custody granted by the issuance of a Protection Order:

1. The deputy serving a protection order involving temporary custody awarded to a petitioner will attempt to facilitate the custody transfer. If the respondent does not comply, the deputy will refer the petitioner back to issuing court for further action.

2. Children listed in a protection order as a protected party, expose the respondent to arrest if he/she refuses to comply with the “NO CONTACT” stipulation in a protection order.

92.5 Removal of Firearm(s) because of Domestic Violence:

- A. From the scene of domestic violence act (This section does not apply if the firearm is being removed as evidence)

Section 4-511 of the Family Law Article, enacted as part of the Maryland Gun Violence Act of 1996, authorizes law enforcement officers to remove firearm(s) from the scene of a domestic violence situation as follows:

1. When responding to the scene of an alleged act of domestic violence, as described in Family Law Article, Title 4, a law enforcement officer may remove a firearm(s) from the scene if:
 - a. The officer has probable cause to believe that an act of domestic violence has occurred; and,
 - b. The officer has observed the firearm(s) at the scene during the response.
2. If a firearm(s) is/are removed from the scene under this section, the deputy will take the following action:
 - a. Enter the firearm into property.
 - b. Complete an E-trace check.
 - c. Complete an NCIC check.
 - d. Note the seizure of the firearm(s) in the Domestic Violence Report.
3. After a proceeding on the alleged act of domestic violence, the owner of the firearm(s) may retake possession of the firearm(s) unless ordered to surrender the firearm(s) under Family Law Article, section 4-506.

- B. Because of a Temporary / Final Protective Order

Section 4-505, 4-506, 4-507, and 4-509 of the Family Law Article, revised by legislation from the 2009 General Assembly,

Under a Temporary Protective Order, a court is authorized to order the respondent to surrender to law enforcement any firearm in the respondent’s possession and to refrain from possession of any firearm for the duration of the protective order,

Under a Final Protective Order, a court is required to order the respondent to surrender to law enforcement any firearm in the respondent's possession and to refrain from possession of any firearm for the duration of the protective order.

1. When serving a Temporary or Final Protective Order, a law enforcement officer shall remove a firearm(s) from the scene of the services:
 - a. If the officer has a Temporary or Final Protective Order that directs the seizure of firearms.
 2. If a firearm(s) is/are removed from the scene under this section, the deputy will take the following action:
 - a. Complete a "Firearms Surrender Report" form (B35) under a Temporary or Final Protective Order and give a copy to the owner of the weapon(s). The form will advise the owner that the weapon(s) will be held at the Sheriff's Office for safekeeping, and the procedure for reclaiming the weapon(s).
 - b. Place a copy of the B35 in the Domestic Violence Unit mailbox.
 - c. Complete an E-trace check.
 - d. Complete an NCIC check.
 3. If a firearm is not turned in after the Court has ordered a firearm turned over, the Domestic Violence Unit will investigate to determine if there is a weapon to be turned in and will take necessary actions to have the weapon seized.
 4. After the Order or at the direction of the Court, the owner of the firearm(s) may retake possession of the firearm(s) unless ordered to surrender the firearm(s) under Family Law Article, section 4-506 or they are not legally entitled to possess the firearm(s).
- C. Respondent wants to turn weapons into the Sheriff's Office
1. Immediately ask the respondent to bring the weapons to the Sheriff's Office for safe storage.
 - a. Direct the respondent to
 - 1) Transport the weapons out of reach of the driver and passengers of the vehicle
 - 2) Transport the weapons unloaded
 - 3) Transport the weapons in a case if, available

- 4) Once they arrive at the Sheriff's Office, advise them to leave the weapons in the vehicle until they have made contact with Sheriff's Officer personnel to retrieve them.
2. If the respondent cannot bring the weapons to the Office, have the Domestic Violence Unit respond to pick up the weapon and do the necessary paperwork as prescribed above.
3. If the D.V. Unit deputies are unavailable send a Patrol Deputy to contact the respondent to retrieve the weapons and do the necessary paperwork as proscribed above.

92.6 Interim, Temporary, and Final Protective Orders

A. Receiving New Orders

1. The District/Circuit Court will notify the Sheriff's Office when a Protective Order has been issued. Upon notification, the Order will be picked up as soon as possible for attempted service. Usually, the Domestic Violence Unit will be notified and is responsible for immediate service. The Unit will ensure all paperwork is forwarded to the Records Section for appropriate logging/filing. The Patrol Division will be notified if the Domestic Violence Unit is unavailable to address new orders. When the Patrol Division is notified, the Warrant Unit will be assigned to pick up the orders whenever possible. If the Warrant Unit is not available, or cannot respond in a timely fashion, the Duty Officer will ensure other personnel are assigned to pick up the order.
2. If Records Staff are on duty, they will separate the two copies of the Order and:
 - a. Assign an OCA number
 - b. Enter Order in the Protective Order Log
 - c. Enter the applicable information in both the METERS and CAD Systems and have the entry reviewed.
 - d. Place the following on the clipboard in the Records Room:
 - 1) The Respondents copy of the order and application, and
 - 2) "Civil Order information" sheet, and
 - 3) "Protective Order Notice-Illegal Firearms Possession" form, and

- 4) Information on the person to be served, and
 - 5) The date the order was received (entered on the “Protective/Peace Order Log”)
- e. Label a file folder with the name of the person to be served, and place the Protective/Peace Order, the completed “Computer Check Off Sheet” form, and a copy of the METERS entry into the folder and place the folder into the Protective Order cabinet in the Records Room.
3. If the Records Staff are off duty, the duty officer will ensure that the Protective Order Admin Message (POAM) is completed and the order be filed appropriately for complete entry and processing when records staff returns to duty.
 4. Orders received from other agencies shall be served as soon as possible and a copy shall be maintained in Records.
 5. Protective Orders issued after a hearing will be entered into the METERS and CAD Systems. Any pertinent information from the original Protective Order file will be attached for deputy information or safety.

B. Attempts at Service

1. Service of Protective Orders will be attempted as soon as possible by the Domestic Violence Unit, Warrant Unit Personnel, or other uniformed deputies.
2. A minimum of two deputies will be assigned for attempts of service for an order requiring the respondent to leave the residence or the seizure of firearms.
3. Personnel attempting service will record all attempts on both the “Court Return of Service” section and the “Civil Order information sheet” form.
4. Deputies assigned orders for attempted service will be responsible for returning any orders not served during their tour of duty to the Duty Officer.

C. Service

1. Service is complete when the Application and Order are served and all instructions on the Order are carried out; i.e., custody of children, removal of abuser from residence, etc.

2. The deputy who makes service will complete the “District Court Return of Service” and the “Civil Order information” sheet, indicating when/where the order was served.
3.
 - a. If an order is served, the serving deputy will notify the 911 Center immediately of the service of the order, via WCSO Channel 2 and provide the following information:
 - 1) Name of the Respondent
 - 2) Date of Birth of the Respondent
 - 3) Which county the order originated
 - b. Upon notification of service, the 911 Center will:
 - 1) For Washington County Orders: Modify the “Date Served” field, which will in turn activate the VINE Notification System
 - 2) For Other Agency Orders: Send the METERS Notification Message to the originating agency which will in turn activate the VINE Notification System

The 911 Center will make a notification to VINE within two hours of all served orders.

The 911 Center Shift Supervisor is responsible to make sure that VINE has been notified within the two-hour period.

4. Once the Order has been served, the completed “Return of Service” form shall be returned to the court of issuance, if the court is open, or return to the on-duty Commissioner within two hours of the service of process.

The Duty Officer is responsible to make sure that the deputy has returned the Return of Service within 2 hours.

5. The serving deputy will ensure the date the order was served was appropriately entered on the “Protective Log” in the Records Section.
6. The Records Staff will complete computer entries relative to the service and place the “Civil Order information” sheet in the folder located in the “Protective Order” file cabinet in the Records Section.
7. **If the service was for an allied agency, from an electronic copy, the serving deputy will ensure that the completed “Court Return of Service” is electronically transmitted back to the agency.**
8. Upon service of the Temporary / Final Protective Order, the deputy shall explain the contents of the “Protective Order Notice-Illegal Firearms

Possession” (B56) to the respondent and have the respondent sign the form.

9. The “Protective Order Notice-Illegal Firearms Possession” will be placed with the “Paper Service” form and maintained in accordance with this policy.
10. Upon receipt of a Final Protective Order, the D.V. Unit will ensure a check is made in METERS to ascertain if the respondent has any regulated firearms registered in his/her name.
11. Upon service of a Final Protective Order, the D.V. Unit will contact the respondent and arrange for the surrender of all firearms in their possession.
12. If any type of investigation is necessary to determine if the respondent has any firearms in his possession, or if the respondent has not immediately surrendered all firearms, the D.V. Unit shall ensure that the investigation is performed immediately.

D. Protective Orders Not Served

1. The “Court Return of Service” will be completed, indicating that the order was not served before the hearing date, and the entire order returned to the court of issue.
2. If the attempt was for an allied agency, the completed “Court Return of Service”, indicating attempts of service were not successful, will be electronically transmitted back to the requesting agency.
3. All Protective Orders, whether served or un-served, will be retained on file for a period of one year past the order’s expiration date and then destroyed.

E. Violation of Protective Orders

1. Deputies will arrest a person when probable cause exists to believe the person has violated an arrestable provision of an order and will charge the person under the following:
 - a. Interim/Temporary/Final Protective Orders - Family Law Article, Section 4-509
 - b. Interim/Temporary/Final Peace Orders – Courts and Judicial Proceedings, Section 3-1508

2. An arrestable provision is generally those dealing with “NO ABUSE” and “STAY AWAY FROM” instructions and “FIREARM VIOLATIONS”.
3. All other violations of an order, not enforceable by law enforcement will be referred to the issuing court for Contempt of Court charges. The appropriate response to this sort of violation is to refer the victim back to the court to inform the judge of the violation by the abuser.

92.7 Domestic Standbys

- A. The Family Law Article, section 4-502, requires law enforcement officers to provide a stand-by to a victim of domestic violence upon request.
 1. The deputy shall:
 - a. Protect the person from harm, and
 - b. Accompany the person to the family home so the person may remove the following items, regardless of who paid for the items:
 1. The personal clothing of the person and any child in the care of the person, and
 2. The personal effects, including medicine or medical devices, of the person and any child in the care of the person that the person or child needs IMMEDIATELY.
- B. Other than requiring deputies to stand by to protect the victim from further violence, the law is vague as to the extent of the deputy’s authority to act. The Maryland Attorney General’s Office has issued an advisory letter in an attempt to clarify a domestic standby. For example, deputies may be requested to accompany a victim to a residence for a standby, only to be denied entry to the premises because the victim is not on the lease. The Attorney General has indicated that both the victim and the deputy can be denied entry by the lessee, (the person whose name is on the lease), and that attempts to enter could be considered trespassing.

92.8 Out-of-State Domestic Violence Orders

- A. Per Family Law Article 4-508.1, an order for protection issued by a court of another state, or a Native American tribe, shall be accorded full faith and credit by a court of this State and shall be enforced by law enforcement to the extent articles 4-505 and 4-506(d) allow, for similar in-state orders.
- B. A law enforcement officer shall arrest with or without a warrant, and take into custody, a person whom the officer has probable cause to believe is in violation of an order for protection that was issued by a court of another state, or a Native

American tribe, and is in effect at the time of the violation if the person seeking the assistance of the law enforcement officer:

- a. Has filed with the District Court or Circuit Court for the jurisdiction in which the person seeks assistance, a copy of the order; or
 - b. Displays or presents to the law enforcement officer a copy of the order that appears valid on its face.
- C. It should be noted that a law enforcement officer acting in accordance with this section shall be immune from civil liability if the law enforcement officer acts in good faith and in a reasonable manner per Family Law Article 4-508.1(d).
- D. If time and safety allow, Petitioners with out-of-state protection orders who wish the order enforced in Maryland, should be encouraged to have their order “Registered” with the State of Maryland utilizing form CC-DC-DV-016 “Request To Register Out-of-State Order For Protection”. This will ensure consistent enforcement and eliminate questions of order validity.

Domestic Violence Response Flow Chart

