

20. DOMESTIC VIOLENCE, STALKING, & HARASSMENT (December 2005)

I. POLICY

(MD Criminal Procedure Article, Title 2)

Officers will respond promptly to incidents of domestic violence, stalking, and harassment.

Being especially sensitive to the needs of victims of these crimes, the Department will assist these individuals, and if necessary their family members, in order to prevent further victimization.

II. CHECKLIST (N/A)

III. FORMS

- ❑ Incident Report (PGC Form #3529)
- ❑ Commander's Information Report (PGC Form #1545)
- ❑ Continuation Report (PGC Form #3529A)
- ❑ Domestic Violence Supplemental Report

IV. DEFINITIONS

Cohabitant: An individual who has had a sexual relationship with the respondent or has resided with the respondent in the home for a period of at least 90 days within one year prior to filing for the petition

Course of Conduct: Pattern of separate acts occurring at different times, but appearing to have a common purpose or objective

Defusion: When disputants have stopped engaging in verbal or physical combat, and calmed down

Domestic Violence: Domestic violence occurs when an individual commits or attempts to commit one of the following offenses against a current or former spouse, or a person with whom the individual has, or had, an intimate relationship:

- ❑ An act that causes physical injury
- ❑ An act that places one in fear of physical injury to self or others
- ❑ A property crime
- ❑ Violation of a Protective Order
- ❑ An act of false imprisonment

Harassment: Maliciously engaging in a course of conduct that alarms or seriously annoys an individual, with the intent to harass, alarm or annoy that individual after receiving a warning or request to stop

Petitioner: An individual who files a petition

Protective Order: A court issued order, which provides protection to a victim of domestic abuse. There are three types of Protective Orders:

Interim: This order is effective until the first or second available day on which the District Court may hear the petitioner.

Temporary: Effective for no more than seven days after service, however, it may be extend up to 30 days to effectuate service. The order may direct the respondent to do any of the following:

- ❑ Vacate the home immediately
- ❑ Stay away from places frequented by the petitioner, such as the petitioners residence, temporary residence, residence of family members, workplace and or school

The Protective Order may also:

- ❑ Allow a respondent to retrieve personal effects
- ❑ Decide the custody of minor children
- ❑ Order mandatory counseling or mediation between the petitioner and respondent

Final: The final protective order states the maximum time that the order is effective, which can be from 90 days to 12 months

Respondent: The individual alleged in the petition to have committed the abuse

Stalking: Malicious course of conduct including approaching or pursuing another individual with the intent to place that individual in fear of serious bodily injury or death

V. PROCEDURES

1. Domestic Violence

Complaints of domestic violence or spousal abuse will be taken seriously, even when clear evidence of an assault is lacking. The complaint taker will record the following information from the caller:

- ❑ Whether any party is injured
- ❑ Location and description of the assailant
- ❑ Weapons and their location
- ❑ Whether children are present
- ❑ The nature of the disturbance
- ❑ Other persons on the scene
- ❑ Use of drugs or alcohol
- ❑ History of mental illness
- ❑ History of prior disturbances
- ❑ Existence of a temporary peace order or protective order against any party
- ❑ Sexual assault

If the victim has been sexually assaulted, Public Safety Communications (PSC) shall advise the victim not to use the bathroom, bathe or shower, or change clothes.

Two officers shall be assigned to the call. If the assailant is on the premises, officers should comply if a victim requests to meet them at an alternate location, such as a neighbor's home.

Response classification will be in accordance with **VOLUME II, CHAPTER 8. RESPONDING TO CALLS FOR SERVICE & ESCORTS.**

Officer's Responsibilities

There are five basic steps to effective intervention in domestic violence calls:

- ❑ Safety
- ❑ Defusion
- ❑ Communication
- ❑ Assistance and resolution
- ❑ Referral

Officers should await backup when responding to domestic violence calls. Upon arrival at the scene, officers will identify themselves and request permission to enter the home. Generally, officers should only enter homes when invited and opposition is not stated. If the officer's presence creates antagonism, the officer should employ non-confrontational methods to help the abused spouse, such as transporting the individual to another location or convincing one party to temporarily leave.

If, upon arrival, officers are confronted by an individual who denies there is a problem, officers should insist that the spouse come to the door in order to determine whether an assault has occurred.

Officers may make a forcible entry to end a violent altercation, remove children whom the officer believes to be in immediate danger, or for other exigent circumstances.

Officers shall use reasonable judgment to determine the propriety of making a forcible entry in these cases. Officers will not forcibly enter a home merely to obtain clothing or personal items. *See: Supervisor's Responsibilities in Domestic Standby* in this chapter.

After stabilizing the situation, officers should determine if there are injuries involved and if medical attention is required. Officers shall provide the victim protection against further injury. This protection may include the seizure of firearms or weapons. When on the scene of an alleged act of domestic violence, an officer may remove a firearm from the scene if:

- ❑ There is probable cause to believe that an act of domestic violence has occurred; and
- ❑ The firearm has been observed

A resident of the premises may lead an officer to the location of other firearms at the residence. A premise search may not be conducted without a search warrant.

Officers may transport victims away from the scene when no other means of travel is available.

Officers will not assist in removing children from a home in which one spouse opposes that removal unless the circumstances indicate that the children are in imminent danger.

Crime Victims & Witnesses Pamphlet

The State of Maryland has established guidelines for the treatment and assistance of crime victims and witnesses.

Officers are responsible for directing citizens to appropriate community resources. In all cases, officers will provide complainants or injured parties with a Crime Victims and Witnesses pamphlet and note the CCN on the front. This shall be documented in the Incident Report, or noted in the call clearance if no report is written.

Reporting Procedures

When an individual alleges to have been assaulted by a spouse or cohabitant, or there is evidence of physical injury, an Incident Report and a Domestic Violence Supplemental Report shall be completed. The reporting officer shall write "29" in the SPECIAL STUDIES block. Both reports shall be forwarded to the District Investigative Section by the supervisor prior to the end of shift.

The District Investigative Section shall forward a copy of the Incident Report and the Supplemental Report to the OSA and their District Commander.

If the reporting officer feels that future violence may occur, the officer may request a premise history entry and notify the District Investigative Section.

When the necessary elements for an arrest are present, but an arrest is not made, the reporting officer will document this on the Incident Report noting why, and what actions were taken to ensure the safety of the victim.

Optionally Reportable Situations

If officers respond to a domestic violence call but a crime has not been committed, the call shall be coded appropriately. Officers shall advise the dispatcher of the following:

- ❑ Any Weapons present and their location
- ❑ Use of drugs or alcohol
- ❑ Any referrals made for assistance

The dispatcher will include this information in the CAD.

Evidence Collection

The following are examples of evidence that shall be collected in domestic violence cases:

- ❑ Photographs of injuries
- ❑ Photographs of the crime scene
- ❑ Photographs of injuries one to three days later
- ❑ Copies of 911 tapes
- ❑ Copy of Protective Order

Supervisor's Responsibilities in Domestic Standby

It is important that persons requesting domestic standby services be afforded these services as guaranteed by law. It is important that officers ensure that they are not assisting an individual in violating the "vacate or stay away" portion of a protective order. Conditions of most existing protective orders can be verified through MILES.

Supervisors shall determine the level of response to a request for a domestic standby. If available, the supervisor will respond to assist the officer. The supervisor shall ensure that assistance is limited to removing essential items, such as a change of clothing,

personal effects or medicines for themselves or their children.

District Investigative Section

The District Investigative Section will review reports of domestic violence noting when multiple incidents or particularly violent behavior have occurred.

Investigators shall:

- ❑ Contact the victim and refer them to available assistance
- ❑ Notify the Department of Social Services and other agencies, as necessary
- ❑ Take appropriate steps to prevent future violence against victims or responding officers
- ❑ Ensure copies of Incident and Supplemental Reports are forwarded to the Office of the State's Attorney and their Commander

Domestic Violence Coordinator's Responsibilities

The domestic violence coordinator shall:

- ❑ Collect, analyze and combine monthly and yearly statistics from the District Investigators into quarterly and yearly reports
- ❑ Ensure the statistics and analyses are provided to the Chief, Patrol Services Bureau (PSB), and the Domestic Violence Coordinating Council
- ❑ Attend the Domestic Violence Coordinating Council meetings and provide pertinent information to Departmental personnel

2. Domestic Incidents Involving Law Enforcement Personnel

Employees are encouraged to seek confidential assistance through the Department's Psychological Services Division (PSD) or the County's Employee Assistance Program (EAP) in order to prevent a problem from escalating into criminal misconduct.

Officers with knowledge of abuse or violence involving a fellow officer shall report such information to their supervisor in a timely manner. Failure to do so will subject the officer to an investigation, disciplinary action, and possible sanction or criminal charges.

All officers should be aware of the possibility of victim or witness intimidation. If an officer suspects that this is occurring, the officer will notify a supervisor (Sergeant or above). The supervisor will prepare a CIR and immediately notify the Director, Office of Professional Responsibility (OPR).

Officers who attempt to interfere with cases against fellow officers by threatening, harassing, stalking, or otherwise engaging involved parties will be subject to investigation, disciplinary action and/or criminal charges.

Domestic Disputes Involving Departmental Employees

In order to ensure that the response to domestic disputes involving Departmental employees are appropriately documented, even if no allegation or evidence of a physical assault exists, officers responding to such domestic disputes shall:

- ❑ Request a supervisor's response to the scene
- ❑ Complete and submit an Incident Report by the conclusion of the shift

Notification to SIRT is not necessary.

A supervisor the rank of Sergeant or above will respond to the scene and shall:

- ❑ Notify the affected employee's Commander
- ❑ Complete a confidential Commander's Information Report (CIR) to be forwarded to the involved employee's Commander, as well as the Commander of the District in which the incident occurred.

Domestic Disputes Involving Sworn Members of Other Law Enforcement Agencies

Officers responding to a domestic dispute involving sworn members from other law enforcement agencies that does not involve an allegation or evidence of physical abuse shall:

- ❑ Request a supervisor's response to the scene
 - ❑ Complete and submit an Incident Report by the conclusion of the shift.
- Notification to SIRT is not necessary.

A supervisor the rank of Sergeant or above will respond to the scene. The supervisor shall notify the sworn member's Commander. A copy of the Incident Report shall be forwarded to the Commander of the District in which the incident occurred.

***Domestic Violence Involving
Departmental Employees***

(Lautenberg Law)

Federal law prohibits officers convicted of misdemeanor domestic violence assaults from carrying firearms. Officers convicted of domestic violence shall have their police powers revoked.

Officers responding to a domestic violence call involving Departmental employees shall determine if there are allegations or evidence of physical assault. If so, the officer shall:

- ❑ Request the presence of a supervisor
- ❑ Secure any Departmental firearms
- ❑ Make an arrest, if probable cause exists, and remove any privately owned firearms observed on the scene
- ❑ Complete an Incident Report by the conclusion of the shift

Upon arrival, supervisors shall:

- ❑ Ensure that the officer's responsibilities have been completed
- ❑ If the employee is an officer, contact SIRT personnel, who will evaluate the need to respond to the scene
- ❑ Contact the commander of the accused employee
- ❑ Complete a confidential Commander's Information Report (CIR).

***Domestic Violence Involving
Employees of Other Law
Enforcement Agencies***

Officers responding for a report of domestic violence or a violation of a Protective Order involving Departmental employees of other law enforcement agencies shall determine if there are allegations or evidence of physical assault. If so, the officer shall:

- ❑ Request the presence of a supervisor
- ❑ Make an arrest, if probable cause exists, and remove any privately owned firearms observed on the scene
- ❑ Complete an Incident Report by the conclusion of the shift

A supervisor the rank of Sergeant or above and the Shift Commander will respond to the scene and do the following:

- ❑ The Sergeant will ensure that the officer's responsibilities have been completed
- ❑ The Sergeant will initiate a premise history through the communications supervisor for at least 90 days
- ❑ The Shift Commander will notify the affected officer's on-duty Commander
- ❑ The Shift Commander shall prepare a CIR, documenting the name of the Commander notified within the other agency, the other agency's response, and all notifications made within this Department.

Response to Violations of Protective Orders

A PGPD officer that is served with a Protective Order will notify his or her Commander/Director. The Commander/Director shall immediately notify SIRT so that a determination regarding the suspension of police powers, consistent applicable laws, can be made.

The Commander/Director shall direct the involved employee to schedule and attend an appointment with PSD and ensure attendance within five days of the incident.

Officers responding for a report of a violation of a Protective Order involving

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employees of another law enforcement agency shall:

- ❑ Confirm that the employee is in violation of the Protective Order
- ❑ If the employee is in violation of the Protective Order the officer shall make a full custody arrest and notify the shift supervisor

For officer safety, officers shall pay particular attention to section 7, which may list firearms owned by the employee and the block in section 8, which reads, “To turn over firearms to a law enforcement agency.”

Supervisors responding to the scene shall follow the procedures detailed in the section titled ***Domestic Violence Involving Sworn Members of Other Law Enforcement Agencies*** below.

3. Stalking & Harassment

*(MD Annotated Code, Criminal Law, Section 3- 801 through 3-803)
(County Code Sections 14-167, Et seq.)*

Stalking Reports

Officers shall complete an Incident Report and CIR for all stalking complaints, or any situation where stalking appears to have occurred. Officers taking reports shall:

- ❑ Notify the CSA supervisor
- ❑ Notify the District Investigative Section if instructed to do so by the CSA supervisor
- ❑ Transport the victim to the District Investigative Section or stand by with the victim pending the arrival of the investigator
- ❑ Classify the type of incident as Stalking
- ❑ Write “33” in the SPECIAL STUDIES block
- ❑ Note the name of the investigator notified, if applicable

- ❑ Broadcast a lookout for the suspect

The state stalking law authorizes making a warrantless arrest for this crime.

Supervisor’s Responsibilities

When a supervisor is notified of a stalking incident, the supervisor shall determine whether an imminent threat to the victim’s safety exists. Factors to be considered include, but are not limited to the suspect’s:

- ❑ Past behavior
- ❑ Criminal record
- ❑ Psychological stability
- ❑ Ability to harm the victim
- ❑ Access to the victim
- ❑ Use or access to weapons

If an imminent threat to the victim exists, the supervisor shall direct the officer to notify the District Investigative Section immediately. The supervisor shall document this on a CIR.

If an investigator is not immediately available, the supervisor shall notify the Shift Commander. The Shift Commander shall find another investigator elsewhere in the county, or call out an off-duty investigator.

Investigative Section Responsibilities

If notified of a stalking complaint where an imminent threat exists, the investigator shall immediately initiate an investigation. The investigator shall broadcast a lookout for the suspect and any related vehicles. The investigator shall also arrange an area check and premise history for the victim’s home and workplace. If either location is outside Prince George’s County, the investigator shall notify the primary law enforcement provider for that jurisdiction.

Investigators shall follow the procedures outlined in the Criminal Investigations Manual. The investigation shall be active until the situation is resolved or all avenues of investigation are exhausted. Attempts to arrest the suspect shall only be suspended with the approval of a District Investigative Section Supervisor, or in the supervisor's absence, higher authority.

The investigator shall advise the victim to notify the Investigative Section of all future contacts with the suspect.

If an investigator determines that a victim is voluntarily maintaining contact with the suspect, the investigator may instruct the victim to obtain a warrant and close the case on a Continuation Report. The report shall document the victim's voluntary interaction with the suspect.

All stalking reports, regardless of initial urgency, shall be assigned to an investigator. In routine cases, the victim may be advised to obtain a warrant if they know the suspect and is not in imminent danger.

The District's Investigative Section Supervisor may re-classify a stalking case from priority to routine if it is determined that an imminent threat no longer exists.

Harassment Reports

When an individual complains of harassment, the officer shall write an Incident Report documenting the nature of the harassment and specifying that no threats to personal safety were made. The officer shall instruct the victim to contact a commissioner to obtain a warrant if the complainant desires criminal prosecution. Harassment reports do not require follow-up attention.

4. Warrantless Arrests

The Maryland Criminal Procedures Title 2, Subtitle 2 provides warrantless arrest authority when an officer has probable cause to believe:

- ❑ The victim is the perpetrator's spouse or cohabitant, and
- ❑ There is evidence of physical injury and, unless the perpetrator is immediately arrested, the perpetrator may:
 - ❑ Not be apprehended
 - ❑ Cause further injury to the victim or others
 - ❑ Cause further damage to the victim's property
 - ❑ Tamper with, dispose of, or destroy evidence

These conditions justify a warrantless arrest so long as a police report was made within 48 hours of the alleged incident.

In such cases where the criteria of Title 2, Section 2-204 exist, the preferred response of the Department is to make an arrest unless there are clear reasons why an arrest would be counter-productive. Officers will use professional judgment in deciding whether to arrest.

Upon making a warrantless arrest, victims shall be advised to contact the OSA, Domestic Violence Unit, to obtain information regarding the criminal justice system and identify available County support services.

5. Protective Orders

The Annotated Code of Maryland prohibits a respondent of a Protective Order from possessing a regulated firearm. An individual that is named as a respondent in a

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Protective Order, if so ordered by the judge, must surrender all firearms owned or possessed by them. They are also prohibited from purchasing firearms while they are named as a respondent in a domestic violence proceeding.

The following violations of Protective Orders are misdemeanors under Title 4, Subtitle 5, of the Family Law Article:

- ❑ Abusing or threatening the petitioner
- ❑ Contacting or harassing the petitioner
- ❑ Refusing to vacate or stay away from the petitioner's or family member's residence, school, place of employment, temporary residence, and all surrounding areas

Officer's Responsibilities – Protective Orders

Officers may verify the existence of Protective Orders by contacting the Office of the Sheriff for Prince George's County (OSPG). If the order has been filed but not served, and the subject named in the order is present, the officer will serve the order. The petitioner's copy may be served on the respondent. Another copy of the order may be obtained from the courts.

If service is made, the officer can order the respondent to vacate the home, advising the respondent that to disregard the Protective Order is a misdemeanor, which lead to an arrest.

Arrests for Violation of Protective Order

The following violations of a protective order are misdemeanors under Title 4, Subtitle 5, of the Family Law Article:

- ❑ Abusing or threatening the petitioner
- ❑ Contacting or harassing the petitioner
- ❑ Refusing to vacate or stay away from the petitioner's and/or family member's:
 - ❑ Residence
 - ❑ School
 - ❑ Place of employment
 - ❑ Temporary residence
 - ❑ All surrounding areas

Officers shall arrest, with or without a warrant, an individual whom the officer has probable cause to believe is in violation of an active Protective Order, even if the violation occurs with the petitioner's consent. A full custody arrest shall be made for such violations.

Violations of other conditions of a protective order that are not misdemeanors or felonies are not enforceable by an officer. The officer should refer the petitioner to the court for relief.

6. Protective Orders Issued by Another State

In 1994, Congress enacted the Violence Against Women Act (VAWA) directing jurisdictions to give full faith and credit to valid orders of protection issued by other jurisdictions.

A Protective Order issued by a court of another state or Indian tribe will be accorded full faith and credit by a court of Maryland and enforced as an order of Maryland.

Under Maryland law, in order to enforce an out of state protective order:

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- ❑ The order must be in effect at the time of the violation
- ❑ The petitioner must display or present a copy of the order that appears valid on its face
- ❑ The defendant must have violated an arrestable provision of the order

7. Temporary Protective Orders

Persons that are eligible for relief include:

- ❑ The current or former spouse of the respondent
- ❑ A cohabitant of the respondent
- ❑ An individual related to the respondent by blood, marriage, or adoption
- ❑ A parent, stepparent, child, or stepchild of the respondent who resides or has resided with the respondent for at least 90 days within one year before filing for the petition
- ❑ A vulnerable adult
- ❑ An individual who has a child in common with the respondent

Temporary Protective Orders are issued through the District Court, Monday through Friday, 0830 to 1500 hours. A District Court Commissioner may issue the order when neither the Clerk of the District or Circuit Court is open for business.

If an officer serves an order issued by a commissioner, the return of service shall be returned to the commissioner or the District Court Clerk.

VI. GOVERNING LEGISLATION & REFERENCE

This General Order addresses:

- ❑ Commission on Accreditation for Law Enforcement Agencies, Standards 1.2.1,

1.2.4, 1.2.5, 22.2.10, 26.1.1, 41.2.1, 41.2.5, 42.1.2, 42.1.3, 42.1.4, 42.2.1, 42.2.2, 42.2.3, 44.2.2, 55.1.3, 55.2.3, 55.2.4, 74.2.1, 81.2.5, 81.2.7, 81.2.8, 82.2.1, 82.2.2, 83.2.2

Governing Legislation:

- ❑ Maryland Criminal Procedures Title 2, Subtitle 2
- ❑ Title 4, Subtitle 5, of the Family Law Article
- ❑ Title 18 USC (G)(8)- Gun Control Act of 1968 Amended

This amendment makes it unlawful for any individual convicted of a misdemeanor crime of domestic violence to ship, transport, possess or receive firearms or ammunition.

It also makes it unlawful for any individual to sell or otherwise dispose of a firearm or ammunition to any person the individual knows or believes has been convicted of such a misdemeanor. This act also applies to all law enforcement officers.

This is true whether or not the state statute or local ordinance specifically defines the offense as a domestic violence misdemeanor.

Reference:

- ❑ Criminal Investigations Manual