

TAKOMA PARK POLICE DEPARTMENT - GENERAL ORDERS



TITLE: DOMESTIC VIOLENCE	NUMBER: 652
EFFECTIVE DATE: December 1, 2016	REVIEW DATE: December 01, 2022
New X Amends Rescinds	General Order 652, dated January 28, 2009
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01 Purpose: To establish policy and procedures for investigations, arrests and referrals in domestic violence cases.

02 Policy: The Department will take a pro-active and pro-arrest stance on domestic violence, i.e., recognizing it as a criminal activity and not differentiating it from other criminal activities. Arrest will be affected whenever the law authorizes and victims will be referred for assistance and referrals for family counseling to the Victim/Witness Coordinator.

03 Definitions:

A. Domestic violence occurs when an individual commit or attempts to commit one of the following types of offenses against a current or former spouse, a co-parent, or a person with whom the individual is having or has had an intimate relationship, and regardless of whether or not they are living together:

1. An act that causes physical injury (assault in any degree);
2. An act that places one in fear of physical injury to self or others;
3. Rape or sexual assault, or attempted rape/attempted sexual assault;
4. Property crimes;
5. Violation of a Protective Order; and/or
6. False imprisonment
7. Stalking

B. An intimate relationship may be ascribed to persons/couples who:

- 1 Are married, separated or divorced;
2. Are dating or have dated;
3. Live or have lived together;
4. Have children in common.

04 Pro-Arrest and Warrantless Arrest - Legal Authorities:

A. Studies have shown that a pro-arrest response policy to domestic violence cases often results in a lessening of repeat calls because assailants are left with little doubt about the criminality and consequences of their actions. The pro-arrest response is in accord with Maryland Code, Criminal Procedure Article, §2-204, which provides for arrest without a warrant if:

1. There is probable cause to believe that:

- a.** The person battered his/her spouse or other individual with whom he/she resides;
- b.** There is evidence of physical injury; and
- c.** Unless the person is arrested immediately, the person:
 - (1) may not be apprehended;
 - (2) may cause physical injury or property damage to another; or
 - (3) may tamper with, dispose of, or destroy evidence.

2. A report to the police was made within 48 hours of the alleged incident.

3. If the police officer has probable cause to believe that mutual battery occurred and arrest is necessary, the police officer shall consider whether one of the persons acted in self-defense when determining whether to arrest the person whom the officer believes to be the primary aggressor.

B. Maryland Code, Criminal Procedure Article, §2-205 provides that an officer without a warrant may arrest a person if:

- 1.** the police officer has probable cause to believe the person has engaged in stalking under §3-802 of the Criminal Law Article (Stalking defined);
- 2.** there is credible evidence other than the statements of the alleged stalking victim to support the probable cause under item 1 of this section; and
- 3.** the police officer has reason to believe that the alleged stalking victim or another person is in danger of imminent bodily harm or death.

C. Maryland Gun Violence Act of 1996, Chapters 561 and 562, and the Maryland Code, Family Law Article, §4-511, authorize, but do not require, responding law enforcement officers to remove a firearm from the scene of an alleged act of domestic violence. Specifically, they note:

1. When responding to the scene of an alleged act of domestic violence, a law enforcement officer may remove a firearm from the scene if:

- a.** the law enforcement officer has probable cause to believe that an act of domestic violence has occurred;
- b.** the law enforcement officer has observed the firearm on the scene during the response.

2. Nothing in the Family Law Article or Gun Violence Act authorizes a law enforcement officer to conduct a search of a building or a vehicle for the presence of weapons that are not observed by the officer during the response to the domestic violence scene.

3. Nothing in this section prohibits the officer from searching for and seizing a firearm where otherwise authorized by law to take such action or with the consent of the owner(s).

4. If a firearm is removed from a domestic violence scene, the law enforcement officer should promptly provide to the owner(s) an itemized list of the firearms, identifying them by make, model and serial number. The list should contain the name of the police agency, the officer's name and ID number, and date and location of the seizure.

5. The owner(s) of the firearm must be provided with written information concerning the process for retaking possession of the firearms, including the name, address and telephone number of the Administrative Division of the police department.

6. To accomplish 4 and 5 above, officers are directed to complete TPPD Form 600-49 (Firearms Receipt) on the scene, and provide the firearms owner with the pink copy. The remaining copies are to be submitted via the normal report routing system.

D. The 1996 Amendments to the Federal Gun Control Act of 1968 established as a federal crime the possession of a firearm and/or ammunition by any individual who has been convicted of a misdemeanor crime of domestic violence. A violation of this law is a felony, punishable by a sentence of imprisonment up to ten years and a fine not to exceed \$250,000.

1. Specifically, the federal law now provides that ownership or possession of a firearm and/or ammunition is unlawful if a person has been convicted of a misdemeanor under federal or state law which involved the use or attempted use of physical force, or the threatened use of a deadly weapon, and is or was committed by a current or former spouse, parent or guardian, or by a person cohabiting with or who has cohabited with the victim (e.g. is similarly situated to a spouse, parent, guardian, etc.), or has a current protective order in place.

2. This law is retroactive and there is **no** law enforcement exemption.

E. Maryland Code, Family Law Article, §4-509 (b) states: "An officer shall arrest with or without a warrant and take into custody a person who the officer has probable cause to believe is in violation of an interim, temporary, or final protective order in effect at the time of the violation." The Family Law Article, §4-508.1 further authorizes Maryland law enforcement officers to enforce foreign (out-of-state) protective orders as follows:

1. A protective order issued by a court of another state, District of Columbia, or a Native American tribe shall be accorded full faith and credit by a court of this state and shall be enforced only to the extent that the order affords relief that is permitted under § 4-506 (d) of this subtitle.

2. 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 a protective order that was issued by a court of another state, District of Columbia, 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.

05 Dispatcher Responsibilities:

A. All complaints of domestic violence or spousal abuse will be taken seriously. The Dispatcher will record all available information including, but not limited to, information specified in the Department's Communications Manual.

B. Dispatcher will ask specific questions of the victim as to type of assault in order to ascertain injuries.

C. Dispatcher will record all available information in the CAD system and enter the appropriate type of call.

D. At least two officers will be dispatched to all domestics.

E. Dispatcher will relay to officer(s) information relative to prior calls involving same parties.

06 Responding Officer(s) Responsibilities:

A. If possible, officers should await back-up when responding to domestic violence incidents.

B. Officers should make every effort to interview the alleged victim of an assault to ascertain if he/she is injured. Officers will use reasoned judgment to determine whether forcible entry should be made.

C. Forcible entry may be made if exigent circumstances exist, and, to terminate a violent altercation or remove children believed to be in immediate danger. Forcible entry is also permitted if a third party reports the sound of screams and/or an assault.

D. An officer will initiate a Lethality Screen by means of the "Domestic Violence Lethality Screen for First Responders" upon responding to a domestic situation, and

1. There is reason to believe that an assault or an act that constitutes domestic violence has occurred, whether or not there is an arrest; or
2. There is a belief or sense on the part of the first responder that once the victim is no longer in the care or presence of the first responder the potential for assault or danger is high; or
3. Repeat calls for service have occurred; or
4. The first responder believes one should be conducted.

E. There are five stages in effective intervention:

1. **Safety:** After establishing a safe environment and regaining control of the situation, (including separation of the parties by sight and sound) an officer should determine if there are injuries, and if medical care is required. Officers can then diffuse the situation.
2. **Diffusion:** This occurs when the participants have calmed and are no longer engaging in verbal or physical combat.
3. **Verbal and Non-Verbal Communication:** These skills may be used by an officer to elicit information and determine causes of the problem. Officers should maintain a neutral, non-judgmental attitude.
4. **Victim Assistance and Resolution:** An officer will provide the victim protection against further injury.

* Such protection includes but is not limited to, the arrest of the assailant or seizure of firearms or other weapons as described in 04 above.

* An officer may transport a victim away from the scene, to a destination within 25 METERS, when no other means of travel is available. When circumstances do not permit this service, petty cash funds may be utilized to secure a taxi for the victim.

* An officer will assist in removing children from the home in which a suspect-parent/guardian opposes such removal, only when it is believed the children are in imminent danger. Emergency shelter is available through the Montgomery County Crisis Center.

5. **Information and Referral:** The officer will provide the victim or injured person with the pamphlet, Crime Victims and Witnesses: Your Rights and Services, and notify the Victim/Witness Coordinator within 24 hours of the incident.

F. While first responders are on the scene, an officer or the dispatcher will initiate a check via METERS to determine if warrants and/or Protective Orders are on file.

1. When METERS confirms that an Order exists, the officer should confirm its existence, expiration date, service and conditions with the Sheriff's Office before effecting the arrest of an individual in violation of the same.
2. If confirmed, and the subject is in violation, the officer will make an arrest.
3. If an order is on file and not served, the officer will so advise the subject and can serve any copy on the subject and then notify the Sheriff's Office of the service.

4. Failure to check via METERS for a Protective Order may subject the responding officers to civil charges for failure to protect.

07 Reporting Officer's Responsibilities:

A. A Domestic Violence Crime Report/Domestic Violence Supplement (TPPD 600-10A&B) shall be written and a copy of the report will be forwarded to the Victim/Witness Coordinator within 24 hours **if the victim:**

1. Is a current or former spouse of the suspect; or
2. Has been in an intimate relationship with the suspect; or
3. Is dating or has dated the suspect; or
4. Has a child in common with the suspect.

B. Officers shall take digital photographs of the victim's injuries and any destroyed property in the residence. A written statement will be requested from the victim and any witnesses if/when possible. Any written statement should be signed.

C. In every case officers will advise the dispatcher of the following information, which will be entered into the CAD system:

1. Whether weapons were in the house, and what type, and,
2. Whether drugs or alcohol were a factor.

D. Officers must give the domestic violence victim written notice of services available in the community, including shelter, counseling and their legal options in Maryland's Civil and Criminal Courts. The brochure Crime Victims and Witnesses: Your Rights and Services contains this information, as well as information regarding the Protective/Peace Order process.

E. Officers must refer the victim to the Victim Witness Coordinator as well as provide the Victim Witness Coordinator with contact information for the victim.

08 Supervisor's Responsibilities:

In domestic stand-by situations, a supervisor will determine the level of police response. If available, the supervisor will respond to assist the officer, and will ensure that assistance is limited to removing essential items including a change of clothing, personal effects or medical items needed for the victim or his/her children

09 Criminal Investigations Commander's Responsibilities:

The Criminal Investigations Commander is responsible for the Victim/Witness Assistance Program. He/She will review and assign a serious case of domestic violence to a Detective for follow-up investigation and, ensure that the Victim/Witness Coordinator:

- A. Contacts the victim by phone, [e-mail](#), or form letter to advise of available assistance and to make referrals as appropriate.
- B. Notifies the appropriate Department of Social Services and/or other agencies, as necessary.
- C. Reviews unusual spousal assault cases in order to make plans to neutralize potentially violent situations.
- D. Forwards all paperwork and evidence to the State's Attorney's Office in cases where an arrest is made.

10 Protection Orders: Officers are required to arrest any person found in violation of certain provisions of a Protective Order. Generally, those provisions dealing with "no abuse" or "no contact with" from the victim are enforceable by arrest. Provisions for which an arrest can be made are identified by an (*) below.

If the suspect is not on the scene when an officer responds, the officer can arrest the suspect with or without a warrant up to 48 hours after the incident.

Violations that are not enforceable by arrest are enforceable as contempt of court. The appropriate police response is to refer the victim back to court to petition the court for the violation of the order by the abuser. As soon as possible, the officer will advise the Victim/Witness Coordinator of such violations.

A. It is mandatory that a police officer arrest a person whom he/she has probable cause to believe committed a violation of an arrestable provision of either an Interim, Temporary or Permanent Protective Order and charge that person under the Maryland Code, Family Law Article, §4-509.

B. A Petition for a Protective Order may be filed in either the District Court or Circuit Court in the county in which the victim resides. Forms are available for this purpose from the court or on-line. The petitioner will see a Judge the same day for a Temporary Protective Order without the respondent's presence. This is followed by a hearing in seven (7) days with the appearance of the respondent for the final order. If courts are closed, a petition may be filed by the victim and is normally done without the help of a police officer, in either the District or Circuit Court in the county in which the victim resides. Forms are available for this purpose from the court and on-line. The victim sees a commissioner the same day as the Petition is filed and the abuser is generally not present.

1. The District Court Commissioner who can issue an Interim Order until a Judge can review the Petition, within two days.

2. If the Judge finds reasonable grounds to believe that there has been abuse, he/she will issue a Temporary Protective Order, which can:

- a. Order the abuser to refrain from further abuse or threats of abuse. (*)
- b. Order the abuser to refrain from contacting or attempting to contact or harass the victim. (*)
- c. Order the abuser to refrain from entering the residence of the victim. (*)
- d. Grant the victim temporary possession of the residence, if the victim and the abuser are living together and are: (*)

(1) married, or;

(2) unmarried, and the victim=s name is on the lease or deed, or;

(3) unmarried, but have lived together in a sexual relationship for at least 90 days within the past year; or

(4) have a child in common.

e. Order the abuser to stay away from the victim=s place of employment, school or temporary residence. (*)

f. Grant the victim temporary custody of his/her minor children.

3. Once issued by a Judge, the Temporary Protective Order becomes effective upon service by a law enforcement officer. The order is good for a period of seven days, but may be extended for a period of no more than thirty days. The Temporary Protective Order will also notify the abuser of the date and time for the Protective Order hearing.

C. At the Final Protective Order hearing the abuser is normally present. Either party may be represented by an attorney, if they choose so. A Protective Order may be issued even if the abuser fails to appear for the hearing. The Judge will issue a Protective Order if the abuser consents to the Order, or if after the hearing, the Judge finds by clear and convincing evidence that abuse has occurred. In addition to all the relief that was available under the Temporary Protective Order, the Judge may grant the following:

- 1. Temporary visitation and conditions of visitation with the minor children.
- 2. Emergency family maintenance as necessary.
- 3. Use and possession of a jointly owned family car if needed for work and/or care of the children.
- 4. Counseling.

D. Relief granted under a Protective Order may not exceed 365 days (1 year).

E. Protective Orders are entered into METERS so that judges and police officers can verify their

existence.

F. Persons eligible for Orders of Protection and other relief include:

1. A current or former spouse.
2. An individual who has a child in common with the abuser (even if not married and living separately).
3. A cohabitant - someone who has lived with the abuser as a sexual partner in the same home for at least 90 days within the past year.
4. A person related to the abuser by blood or marriage.
5. A parent, step-parent, child or step-child who has lived with the victim or abuser for at least 90 days within the past year.
6. A vulnerable adult - someone who lacks the physical or mental capacity to provide for his/her own daily needs.

G. Note that the category of persons eligible for relief under Temporary Protective Orders is **not** the same as the category of persons who may be arrested without a warrant. While the category of persons eligible for relief by court order is very broad, the warrantless arrest category covers (except for cases where there is intent to do great bodily harm) persons who have abused their spouses, and/or other persons with whom that person resides (except for cases where there is intent to do great bodily harm).