

# Domestic Violence

## 311.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of the University of Maryland, Baltimore Police Department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence (Md. Code FL § 4-514).

### 311.1.1 DEFINITIONS

Definitions related to this policy include:

**Court order** - All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

**Domestic violence** - Abuse occurring between current or former spouses or cohabitants, persons who have a child in common, or persons currently or formerly involved in a dating relationship (Md. Code FL § 4-701(c)).

## 311.2 POLICY

The University of Maryland, Baltimore Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

## 311.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

## 311.4 INVESTIGATIONS

The following guidelines shall be followed by officers when investigating domestic violence cases to protect the victim from harm (Md. Code FL § 4-502(a)(2)):

- (a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.

### *Domestic Violence*

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- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries shall be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the investigating officer, Investigation Division or Victim/Witness Coordinator in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize and remove any firearms upon a consent search or in plain view if appropriate and legally permitted. The officer shall provide information to the owner on the process of retaking possession of the firearm. The Department shall then provide safe storage during the pendency of any domestic violence proceeding (Md. Code FL § 4-511).
- (i) When completing an incident or arrest report for violation of a court order, officers shall include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident report.
- (j) Officers shall take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
  1. Whether the suspect lives on the premises with the victim.
  2. Claims by the suspect that the victim provoked or perpetuated the violence or abuse.
  3. The potential financial or child custody consequences of arrest.
  4. The physical or emotional state of either party.
  5. Use of drugs or alcohol by either party.
  6. Denial that the violence or abuse occurred where evidence indicates otherwise.
  7. A request by the victim not to arrest the suspect.
  8. Location of the incident (public/private).
  9. Speculation that the complainant may not follow through with the prosecution.

### *Domestic Violence*

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10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
11. The social status, community status, or professional position of the victim or suspect.

#### **311.4.1 IF A SUSPECT IS ARRESTED**

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

#### **311.4.2 IF NO ARREST IS MADE**

If no arrest is made, the officer should:

- (a) Advise the parties of any options, including but not limited to:
  1. Voluntary separation of the parties.
  2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness assistance or advocacy).
- (b) Document the resolution in the incident report.

### **311.5 VICTIM ASSISTANCE**

Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected.

- (a) Prepare a Lethality Assessment Form (UMBPD Form 17-007) and advise victim accordingly.
- (b) Victims shall be provided with a Victim/Witness Pamphlet even if the incident may not rise to the level of a crime (Md. Code FL § 4-503).
- (c) Victims should also be alerted to any available victim advocates, shelters, and community resources.
- (d) When an involved person requests law enforcement assistance while removing essential items of personal property, officers shall accompany the person to the family home and stand by while personal clothing and effects are removed (Md. Code FL § 4-502(a)(2)(ii)).
- (e) If the victim has sustained injury or complains of pain, officers shall seek medical assistance for the victim as soon as practicable.

### *Domestic Violence*

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- (f) Officers should ask the victim whether he/she has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a safety concern or if the officer determines that a need exists.
- (g) Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) If appropriate, officers should seek or assist the victim in obtaining an interim protective order.
- (i) Use the substitute address if the victim is registered in the state Address Confidentiality Program (Md. Code SG § 47-302).

### **311.6 DISPATCH ASSISTANCE**

All calls of domestic violence, including incomplete 9-1-1 calls, shall be dispatched as soon as practicable.

Police Communications Operators are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that police communications operators check whether any of the involved persons are subject to the terms of a court order.

### **311.7 OUT-OF-STATE COURT ORDERS**

- (a) Out-of-State Court Orders
  - 1. Out-of-state Peace Orders and Interim Protective Orders cannot be enforced in Maryland.
  - 2. Temporary and Final Protective Orders issued by another state or an Indian tribe will be accorded full faith and credit by a court of this State and will be enforced to the extent permitted under MD. CODE ANN., FAM. LAW § 4-501 et seq.
    - (a) An out-of-state Temporary Protective Order may be enforced for not more than seven days after service of the order.
    - (b) An officer may enforce an out-of-state Final Protective Order for as long as it is effective in the other state.
    - (c) An officer will arrest a person if he has probable cause to believe the person is in violation of the out-of-state Temporary or Final Protective Order, but only if the condition is an arrestable offense in Maryland as shown in the below chart of Page 7.
    - (d) If the condition is a civil violation in Maryland, even if it is a criminal violation in the other state, the officer may not make an arrest but will refer the petitioner to a Maryland court where the petitioner may petition for contempt.

### **311.8 VALIDATING OUT-OF-STATE PROTECTIVE ORDER**

- (a) Validating Out-of-State Protective Orders

### *Domestic Violence*

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1. Officers should examine any out-of-state Protective Order to determine whether it appears valid on its face (e.g., names, dates, terms, court, signature).
2. Officers can validate out-of-state Protective Orders by contacting the court or a law enforcement agency in the issuing state.
3. When the petitioner does not possess a copy of the Protective Order, the officer may make an arrest when:
  - (a) the Protective Order is confirmed through METERS/NCIC; or
  - (b) verification with a Maryland court that the petitioner seeks assistance with that the order is on file.
4. Officers unable to verify an out-of-state Protective Order should:
  - (a) arrest the respondent for any arrestable offenses he/she has committed;
  - (b) advise the petitioner on how to file for contempt with the issuing court; and
  - (c) refer the petitioner to the local domestic violence service provider for assistance in obtaining a Maryland Protection Order and additional safety planning.

#### **311.9 VERIFICATION OF COURT ORDERS**

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and, where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

##### **311.9.1 COURT-ORDERED SURRENDERED FIREARMS**

If a respondent surrenders a firearm to the Department under a temporary or final court order, the officer shall provide the respondent information on the process for retaking possession of the firearm. The officer shall transport and store the firearm with the Property Custodian in a manner intended to prevent damage to the firearm during the time the protective order is in effect (Md. Code FL § 4-506.1).

### *Domestic Violence*

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If a defendant in a criminal case who is ordered to surrender firearms pursuant to Md. Code CP § 6-234 transfers a firearm to the Department, the officer receiving the firearm shall issue the person transferring the firearm a written proof (i.e., Property Record) of transfer containing:

- (a) The name of the person transferring the firearm.
- (b) The date the firearm was transferred.
- (c) The serial number (or identifying marks if the firearm was manufactured before 1968), make, and model of the firearm.
- (d) Any other information required by state or federal law.

The receiving officer shall keep a copy of the Property Record of transfer and the appropriate entries shall be captured in any required logs maintained by the Evidence Collection Unit.

### **311.10 STANDARDS FOR ARRESTS**

Officers investigating a domestic violence report:

- (a) May arrest a person without a warrant if the report to law enforcement was made within 48 hours of the alleged incident and the officer has probable cause to believe that (Md. Code CP § 2-204):
  1. The person battered his/her spouse or another person with whom the person resides.
  2. There is evidence of physical injury.
  3. Unless the person is arrested immediately, the person:
    - (a) May not be apprehended.
    - (b) May cause physical injury or property damage to another.
    - (c) May tamper with, dispose of, or destroy evidence.
- (b) 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 (Md. Code FL § 4-509(b)).
- (c) Shall arrest, with or without a warrant, and take into custody a person 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 that is in effect at the time of the violation if the person seeking the assistance (Md. Code FL § 4-508.1(c)):
  1. Has filed a copy of the order with the District Court or circuit court for the jurisdiction in which the person seeks assistance.
  2. Displays or presents to the officer a copy of the order that appears valid on its face.

#### **311.10.1 MUTUAL BATTERY**

If an officer has probable cause to believe that mutual battery occurred and arrest is necessary, the officer shall consider whether one of the persons acted in self-defense to determine who was the primary aggressor (Md. Code CP § 2-204(b)).

*Domestic Violence*

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**311.11 REPORTS AND RECORDS**

The Records Division shall provide a copy of the domestic violence report to the victim upon request (Md. Code FL § 4-503.1).

**311.12 SERVICE OF COURT ORDERS**

**311.12.1 INTERIM PROTECTIVE ORDER**

An officer shall immediately on receipt of a petition and interim protective order serve them on the respondent named in the order. Immediately after service, the officer shall submit the documents to the Shift Supervisor and Records Division. The Records Division will make a return of service to the commissioner's office or, if the Office of the District Court Clerk (Clerk) is open for business, to the Clerk. The law requires the Department of Public Safety and Correctional Services (DPSCS) to notify petitioners of Protective Orders regarding the service of the orders when the petitioner requests such notification through the court. Within two hours of the Protective Order being served, Communications will complete the METERS/NCIC confirmation of service which will trigger the notification to DPSCS (Md. Code FL § 4-504.1(g)).

**311.12.2 TEMPORARY PROTECTIVE ORDER**

An officer shall immediately serve the temporary protective order on the alleged abuser. Immediately after service the officer shall submit the documents to the Shift Supervisor and Records Division. The Records Division will within two hours after service of the order on the respondent, electronically notify the DPSCS (Md. Code FL § 4-505(b)).

**311.13 ARRESTABLE AND NON-ARRESTABLE CONDITIONS FOR PROTECTIVE AND PEACE ORDERS**

See attachment: Arrestable and Non-Arrestable Conditions for Protective and Peace Orders.pdf

## Attachments

## **Arrestable and Non-Arrestable Conditions for Protective and Peace Orders.pdf**

## Arrestable and Non-Arrestable Conditions for Protective and Peace Orders

| Possible Court Ordered Actions  | Interim Protective Order | Interim Peace Order | Temporary Protective Order | Temporary Peace Order | Final Protective Order | Final Peace Order | Arrestable Offense |
|---|--------------------------|---------------------|----------------------------|-----------------------|------------------------|-------------------|--------------------|
| <b>Order the respondent to refrain from further abuse or threats of abuse.</b>  | Yes                      | Yes                 | Yes                        | Yes                   | Yes                    | Yes               | Yes                |
| <b>Order the respondent to refrain from contacting or attempting to contact or harass the victim</b>                    | Yes                      | Yes                 | Yes                        | Yes                   | Yes                    | Yes               | Yes                |
| <b>Order the respondent to refrain from entering the victim's residence</b>   | Yes                      | Yes                 | Yes                        | Yes                   | Yes                    | Yes               | Yes                |
| <b>Order the respondent to stay away from the victim's place of employment, school, or temporary residence</b>          | Yes                      | Yes                 | Yes                        | Yes                   | Yes                    | Yes               | Yes                |
| <b>Grant temporary possession of the residence to the victim or an adult family member, under certain circumstances</b> | Yes                      | No                  | Yes                        | No                    | Yes                    | No                | Yes                |
| <b>Award temporary custody of minor children</b>  | Yes                      | No                  | Yes                        | No                    | Yes                    | No                | No                 |
| <b>Establish temporary visitation and conditions</b>  | No                       | No                  | Yes                        | No                    | Yes                    | No                | No                 |
| <b>Award emergency family maintenance</b>   | No                       | No                  | No                         | No                    | Yes                    | No                | No                 |
| <b>Award temporary use and possession of jointly owned vehicle</b>  | No                       | No                  | No                         | No                    | Yes                    | No                | No                 |
| <b>Order counseling</b>   | No                       | No                  | No                         | No                    | Yes                    | Yes               | No                 |
| <b>Order respondent to pay court costs</b>  | No                       | No                  | No                         | No                    | Yes                    | Yes               | No                 |
| <b>Order the respondent to remain away from the victim's child care provider</b>  | No                       | No                  | Yes                        | No                    | Yes                    | No                | No                 |
| <b>Order the respondent to surrender firearms</b>   | No                       | No                  | No                         | No                    | Yes                    | No                | Yes                |
| <b>Order the respondent to vacate the residence immediately</b>   | Yes                      | No                  | Yes                        | No                    | Yes                    | No                | Yes                |