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I. Purpose

This Directive provides guidance to officers when handling incidents of domestic violence, criminal and civil, including the various judicial protective orders.

II. Policy

Physical assault as the result of domestic violence is a criminal conduct violation. Officers will make a physical arrest whenever probable cause exists to believe a person has been assaulted in a domestic situation and the other arrest criteria are present (see below).

III. Definitions

A. Victim

For the purposes of this Directive, a victim of criminal domestic violence means an individual who was battered by their spouse or other individual with whom the person resides and there is evidence of physical injury. For the criteria of those that may qualify as a victim to receive civil judicial relief in the form of a protective or peace order see Attachment A.

B. Abuse

Abuse takes many forms it may be acts that are criminal or civil in nature. The officer should consider as abuse, any act that in their judgment is detrimental to the victims physical and/or mental well being. Certain acts of abuse may merit independent criminal enforcement actions or referral for civil relief in the form of protective or peace orders. (see Attachment A).

C. Other Individual

The relationship of parties involved in a battery may be any kind, whether it is intimate or not, whereby the parties are residing together.

D. Resides

A permanent living relationship between the involved parties as determined by an officer asking parties if they live together, or by their own admission, or by such indications as clothing and belongings in the dwelling or the receipt of mail at the location.

E. Personal Belongings

Includes such property as clothing, toiletries, medicine and medical devices and other items that are required for respondent's immediate needs.

## F. Interim Protective Order

An order of protection from abuse issued by a District Court Commissioner which may last no longer than the end of the second business day after it is issued. In an Interim Protective Order a commissioner may order the respondent to: 1) not abuse, contact or attempt to contact, or harass any Person eligible for relief; 2) to remain away from a residence, school, place of employment; 3) to vacate the home; or 4) under certain circumstances award temporary custody.

## G. Temporary Protective Order

An order of protection from abuse issued by a judge which may last as long as 30 days. A Temporary Order may be passed on a petitioner's application alone or, if the respondent appears at the Temporary Protective Order hearing, on testimony from both petitioner and respondent.

## H. Final Protective Order

An order of protection from abuse issued by a judge which may last as long as one year and thereafter be extended for another six months.

## IV. Domestic Disputes Prior to Court Intervention

Domestic disputes can be both criminal and civil and the courts have specific procedures and designated personnel to resolve these issues. When officers respond to domestic disputes, their primary concern will be to resolve the incident without violence. The following guidelines should be used when considering and forming the response to an incident of domestic violence:

## A. Duties of Law Enforcement

The Annotated Code of Maryland places specific duties on police officers (Md. Code Ann., Family Law § 4-502 (2002)). The law provides that which provides that:

1. Any person who alleges to have been a victim of abuse and who believes there is a danger of serious and immediate injury to himself or herself may request the assistance of a local law enforcement agency.
2. A local law enforcement officer responding to the request for assistance shall:
  - a. Protect the complainant from harm when responding to the request; and
  - b. Accompany the complainant to the family home so that the complainant may remove the following items, regardless of who paid for the items:
    - 1) The personal clothing of the complainant and of any child in the care of the complainant; and
    - 2) The personal effects, including any medicine or medical devices, of the complainant and of any child in the care of the complainant that are required for the immediate needs of the complainant or the child.

3. Any law enforcement officer responding to such a request shall have the immunity from liability described in the Courts Article.

B. Arrest Criteria

1. Pursuant to Maryland Law, a police officer **may** arrest a person **without a warrant** when the officer has probable cause to believe:
  - a. The person battered his or her spouse or other individuals with whom the person resides.
  - b. There is evidence of an physical injury; **and**
  - c. That unless the person is immediately arrested, he/she may not be apprehended, may cause personal injury; **or**
  - d. The person may tamper with, dispose of or destroy evidence; **and**
  - e. A report to the police was made within 48 hours of the alleged incident. The officer's taking of a report on the scene satisfies this requirement.
2. Although the state law gives the respective officer discretionary powers to arrest or not arrest under these criteria, **our Division policy is that when these criteria are met we will arrest the offender.**
3. In order to discourage dual arrests by officers when victims have struck out in self defense, Maryland law provides the following:
  - a. If the police officer has probable cause to believe that mutual battery has occurred and arrest is necessary, the officer will consider whether one of the parties acted in self-defense when making the determination whether to arrest the person whom the officer believes is the primary aggressor.

C. Officers responding to a domestic abuse complaint will provide a Victim/Witness Assistance Information form to the victim. In cases of alleged domestic violence where no arrest is made, all parties involved **will** be advised of the following:

1. An Incident Report will be written in all instances where a victim is referred to the District Court Commissioner for charging document application.
2. Under the current law, there are no filing fees for obtaining interim protective orders and subpoenas.
3. An individual may respond to a commissioner to apply for a charging document; the commissioner will determine whether a warrant, summons, or protective order will be issued.
4. If the commissioner does not issue a charging document or protective order, the victim may elect to request the issuance of a charging document through the State's Attorney's office.
5. The victim will be given the IR# of the report. The victim will be informed that a copy of the report will be available for a fee of \$5.00 from Records in 5 days. Officer will provide victim with Records phone number and hours of operation.

6. To obtain shelter, counseling, and legal advice, the individual may contact the "Abused Persons Program" at 240-777-4000.
7. Non-violent domestic disputes are primarily civil matters and the courts have specific proceedings and personnel to resolve them.

V. Court Order for Protection from Domestic Violence

A. Sheriff's Responsibilities

The Sheriff's Department is the primary agency responsible for the service of all protective orders and the maintenance of related records.

B. Police Officer's Responsibilities

Although the Sheriff's Department has the primary responsibility for the service of said orders, there may be situations that require police officers to both serve and enforce these orders. No arrest power is inherent in any Court Order for Protection from Domestic Violence; however, it is a misdemeanor not to comply with certain provisions as outlined in the Family Law Article.

The following procedures will be followed in cases where a protective order has been issued or where Sheriff's Department personnel have otherwise agreed that the Park Police shall ensure service of process.

1. **On-scene with a respondent whom the officer can verify has an outstanding protective order (not yet served).** While there is no authority to detain the subject officers should use the following guidelines:
  - a. Seek the subject's voluntary compliance to standby or be escorted to the nearest police station so that either the Sheriff's department can respond to serve the order, or the order can be faxed by the Sheriff's department and served by Park Police.
  - b. If the subject refuses to comply voluntarily, no arrest can be made. However, the officer should get as much personal information on the subject as possible to assist in expeditious service by the most proper authority under the circumstances. This may include home address and telephone number, place of employment and telephone number, etc.
  - c. **In the event that the petitioning party is on-scene with their copy of the order the officer may serve the respondent with the petitioners copy.** If service is completed in this manner the officer must then immediately notify the Sheriff's Department with the date, time, and location of service, as well as, the name of the officer completing service.

The officer will explain each of the orders provisions to the respondent. The officer should further explain that a violation of certain provisions of the order will result in the respondents arrest.

2. **Serving the respondent with a Protective Order.** The service of a protective order is not an arrest, simply service of civil process. The officer will explain each of the orders provisions to the respondent. The officer should further explain that a violation of the orders provisions will result in the respondents arrest.

The officer must then immediately contact the Sheriff's Department concerning the requisite service information noted above and the forwarding of all required hard copies.

- a. If the respondent has been ordered to vacate the residence, officers will allow a reasonable amount of time for the respondent to gather enough personal belongings to remain away until the hearing date set forth in paragraph 9 of the order. Aside from personal belongings and property that a victim agrees to let respondent remove, officers will not permit the respondent to remove any other property, especially property that is in dispute. Officers will advise both parties that disputed property may be settled by the court and may note disputed items in the incident report.

3. **Enforcing Criminal Violations of a Protective Order**

The law provides that an officer **will** arrest, with or without an arrest warrant, and take into custody, the respondent if the officer has **probable cause** to believe the respondent is in violation of a certain provisions of a protective order, as outlined below, that is in effect at the time of the violation.

- a. **Interim or Temporary Protective Order:** A person who fails to comply with the following provisions of an interim or temporary protective order is subject to arrest as noted above:
  - 1) An order for the respondent to refrain from further abuse or threats of abuse of a person eligible for relief;
  - 2) An order for the respondent to refrain from contacting, attempting to contact, or harassing a person eligible for relief;
  - 3) An order for the respondent to refrain from entering the residence of a person eligible for relief;
  - 4) An order for the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief; or
  - 5) An order for the respondent to remain away from the residence of any family member of a person eligible for relief.
  - 6) If the person eligible for relief and the respondent are residing together at the time of the alleged abuse then:  
Under an Interim Protective Order: the order for the respondent to vacate the home immediately.
- b. **Temporary or Final Protective Order:** In addition to the provisions listed under Interim Protective Order a person who fails to comply with the following provisions of a temporary protective order is subject to arrest.

An order for the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief or in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home.

- c. Upon arrest, the respondent will be charged criminally with violation of a civil protective order either by issuance of a Maryland Uniform Criminal/Civil Citation or by a Statement of Charges. The penalty for violating a protective order is 90 days in jail and/or \$1000.00 for a first offense.

#### 4. **Non-Criminal Violations of a Protective Order**

In situations where other provisions of a protective order are being violated that do not constitute a criminal violation. The respondent should be advised that failure to comply could result in a finding of contempt by the court and that the violation will be documented. Officers should document the violations via an utility report.

#### VI. Domestic Property Disputes

In disputes over property or over access to a residence, the following procedures will be followed:

- A. Officers will not act as an arbitrator. If a party seeking possession of personal property (furniture, clothing, etc.) is the owner or a tenant and is not subject to a court order to vacate, he/she can be presumed to have the right to enter the premises unless the party in the dwelling can show otherwise. The police will not enforce one party's claim against the other nor will assaultive behavior or disorderly conduct be tolerated.
- B. Parties involved should be advised to consider consulting a lawyer and preparing a separation agreement covering the disposition of household property.
- C. All property disputes regarding vehicles will be referred to the District Court Commissioner. Officers will advise the participants to go to the commissioner's office to apply for charging document and inform them that the commissioner has no authority to order any party to give up property, even if a charging document is issued.
- D. Officers should further advise the complainant(s) that the commissioner will determine the proper charging document to be issued or recommend pursuing their claims through civil procedures if appropriate.

**Approved Park Police Document  
Signed Original on File**

<b>WHO</b>	<b>WHAT</b>	<b>WHERE</b>	<b>WHEN</b>	<b>HOW</b>
<p>Anyone eligible for a Protective Order may apply to a District Court Commissioner for an Interim Protective Order when both the Circuit and District Court clerks' offices are closed</p> <p>Anyone eligible for a Peace Order may apply to a District Court Commissioner for an Interim Peace Order when the District Court clerks' offices are closed</p>	<p>District Court Commissioners have authority to issue Interim Protective Orders or Interim Peace Orders that will be good until the second business day after courts open.</p> <p>An Interim Order may provide:</p> <ul style="list-style-type: none"> <li>● Refrain from abuse</li> <li>● Refrain from contact</li> <li>● Stay away. From residence</li> <li>● Removal from home (<i>Vacate order</i>)</li> <li>● Custody ONLY if child is allegedly abused or is living in the home with both parties.</li> </ul> <p>Commissioners will set two further hearings before a judge:</p> <ul style="list-style-type: none"> <li>● Temporary Protective/ Peace Order hearing (set second business day after courts re-open)</li> <li>● Final</li> </ul>	<p>District Court Commissioner</p> <p><b>Rockville</b>                      Central Processing Unit                      1307 Seven Locks Road                      301-610-7217</p> <p><b>Silver Spring</b>                      Police Station                      801 Sligo Ave.                      301-588-5181</p> <p><b>Germantown</b>                      Police Station                      20000 Aircraft Drive                      301-540-0963</p>	<p>When court clerks' offices are closed</p> <p>Weekdays                      4:30 p.m. - 8:30 a.m.</p> <p>Friday 4:30 p.m. - Monday 8:30 a.m.</p> <p>All Court holidays</p> <p>Monday - Wednesday                      4:30 p.m. - 1:00 p.m.</p> <p>Thursday 4:30 p.m. through Friday 8:30 a.m.</p> <p>Friday 4:30 p.m. through Midnight on Sunday</p> <p>Subject to availability</p> <p>Monday – Friday 4:30 p.m. – 11:00 p.m.</p> <p>Subject to availability</p>	<p>Sheriff's Office</p> <p>Commissioners will contact Sheriff's Deputies if an Interim Order is issued. The deputies will respond and attempt to serve the order on the Respondent.</p> <p>Public Safety Aides will conduct telephone interviews with petitioners, obtain information and make referrals for domestic violence assistance.</p> <p>Interim Orders will be entered into MILES/NCIC.</p> <p>No filing/service fees.</p> <p>The Montgomery County Sheriff's Office Domestic Violence Unit will be open 24 hours a day.</p>

## Interim Orders of Protection

End of Directive