



# SYKESVILLE POLICE DEPARTMENT

Domestic Violence Investigations

General Order 6-13      Effective: 11/02/17

Authorized by: *Michael A. Spaulding* Chief of Police

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## I. PURPOSE

To provide the guidelines and procedures for the investigation and reporting of domestic violence.

## II. POLICY

The Police Department shall properly investigate all domestic violence investigations as per the procedures listed herein.

## III. DEFINITIONS

A. DOMESTIC VIOLENCE (Model Domestic Violence Policy for the Maryland Law Enforcement Community, page 14) occurs when a person commits or attempts to commit one of the following types of offenses against a current or former spouse or a person with whom he/she has, or has had, an intimate relationship:

1. An act that causes physical injury;
2. An act that places one in fear of physical injury to self or others;
3. Sexual assault;
4. Property crimes;
5. Violation of a protective order; or
6. False imprisonment.

B. VICTIM OF DOMESTIC VIOLENCE [Md. Fam. Law Code §4-513]: an individual who:

1. Has received deliberate, severe, and demonstrable physical injury, OR
2. Is in fear of imminent deliberate, severe, and demonstrable physical injury from a current or former spouse, or a current or former cohabitant (cohabitant in this situation means a victim who has had a sexual relationship and resides with the batterer).

C. ABUSE is any of the following acts [Md. Fam. Law Code §4-501(b)]:

1. An act that causes serious bodily harm

2. An act that places a person eligible for relief in fear of imminent serious bodily harm
  3. Assault in any degree
  4. Rape or sexual offense as defined by Criminal Law Article § 3-303 through § 3-308 of the Code or attempted rape or sexual offense in any degree.
  5. False imprisonment
  6. Stalking under § 3–802 of the Criminal Law Article.
- D. Abuse of a child [Md. Fam. Law Code §5-701(b)], which is
1. The physical or mental injury of a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member, under circumstances that indicate that the child's health or welfare is harmed or at substantial risk of being harmed; or
  2. The sexual abuse of a child, whether physical injuries are sustained or not.
- E. Abuse of a vulnerable adult, which is an adult who lacks the physical or mental capacity to provide for the adult's daily needs [Md. Fam. Law Code §14-101(q)]
- F. COHABITANT [Md. Fam. Law Code §14-5018]: a person who has had a sexual relationship with the respondent and resided with the respondent in the home for a period of at least 90 days within one year before the filing of the petition (definition used for Ex-parte/Protective Order).
- G. PERSON ELIGIBLE FOR RELIEF [Md. Fam. Law Code §14-501(h)] includes:
1. The current or former spouse of the respondent;
  2. A cohabitant of the respondent;
  3. A person related to the respondent by blood, marriage, or adoption;
  4. A parent, stepparent, child or stepchild of the respondent or person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition;
  5. A vulnerable adult; or
  6. An individual who has a child in common with the respondent.

- H. RESPONDENT [Md. Fam. Law Code Ann. §14-501(j)]: the person alleged in the petition to have committed the abuse.

#### **IV. PROCEDURES**

##### **A. Lethality Assessment**

The Lethality Assessment Program, as offered by the Maryland Network Against Domestic Violence [MNADV], is a lethality screening tool and accompanying referral protocol that provides direction for law enforcement officers to initiate appropriate action based on the results of the screening process when responding to calls for domestic violence. The Domestic Violence Lethality Screen for First Responders provided by MNADV should be completed by officers responding to domestic violence calls for service involving intimate partners, especially those incidents during which a physical assault has occurred. Refer to General Order 6-8 for instructions for completing this assessment.

##### **B. Arrest Policy**

1. Recognizing the potential for injury to a victim during a domestic violence crime the Maryland law enforcement community advocates a preference for domestic violence policies that call for an arrest of an offender whenever probable cause exists to arrest the offender for a domestic violence crime.
2. Accordingly, whenever the law permits, officers should arrest the assailant if there is probable cause to believe that a crime of domestic violence has been committed.
3. When an officer is able by law to make an arrest, and he/she chooses not to, the officer will prepare an Incident Report. In the report, the officer will explain why an arrest was not made and what specific actions were taken to ensure the safety of the victim.

##### **C. Enabling Statutes**

Law enforcement officers may arrest a person without a warrant for the following reasons:

1. Felony or misdemeanor committed or attempted in officer's presence. Under CP § 2-202 (a), when a felony or misdemeanor is committed, or attempted, in the presence or view of the officer;
2. Felony or misdemeanor, committed or attempted in officer's presence or view, based on probable cause. Under CP § 2-202 (b), when the officer

has probable cause to believe that a felony or misdemeanor is being committed, or attempted, in the officer's presence or view;

3. Felony based on probable cause. Under CP § 2-202 (c), when the officer has probable cause to believe that a felony has been committed, or attempted, whether or not in the officer's presence or view;
4. Domestic battering with physical injury. Under CP § 2-204 (a):
  - a. When an officer has probable cause to believe that:
    - (1) a person battered his/her spouse or other individual with whom the person resides;
    - (2) there is evidence of physical injury; and
    - (3) unless the person is immediately arrested, he/she:
      - i. might not be apprehended;
      - ii. may cause physical injury to the victim or damage to the property of one or more other persons; or
      - iii. may tamper with, dispose of, or destroy evidence; and
  - b. When a report (or call for service) was made to the police within 48 hours of the alleged incident.
5. Specific misdemeanor offenses under CP §2-203 (a) for which an officer may arrest without a warrant that are common to domestic violence, include, but are not limited to:
  - a. CR § 4-101 (relating to carrying or wearing a concealed weapon); and
  - b. CR § 6-301 (relating to destroying, injuring, etc., property of another), including attempts.
6. Stalking (Under CP § 2-205, when)
  - a. The officer has probable cause to believe that a stalking under CR § 3-802 has been committed;
  - b. The officer has reason to believe that the alleged stalking victim or a third person is in danger of imminent bodily harm or death; and

- c. The probable cause under CP § 2-205 is supported by credible evidence other than statements of the alleged stalking victim.

D. Mandated Arrest for Violation of a Protective Order

1. Under FL § 4-509 (b), an 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 Interim, Temporary or Final protective order in effect at the time of the violation.
2. Under FL § 4-509 (a), the officer shall arrest a person, with or without a warrant, for the following violations of a protective order:
  - a. Failure to refrain from abusing or threatening to abuse a petitioner;
  - b. Failure to refrain from contacting, attempting to contact, or harassing a petitioner;
  - c. Failure to refrain from entering any residence of a petitioner;
  - d. Failure to vacate the home immediately and to award temporary use and possession of the home to the petitioner;
  - e. Failure to remain away from the place of employment, school, or temporary residence of a petitioner or the home of other family members; or
  - f. Failure to remain away from the residence of any family member of a petitioner.

E. Maryland Statutes Commonly Related to Domestic Violence

Almost any crime can be related to domestic violence. The following Maryland criminal statutes, as contained in the Maryland Criminal Laws - Annotated, while not an exclusive list, are commonly associated with domestic violence situations:

1. First degree murder (CR § 2-201),
2. Second degree murder (CR § 2-204),
3. First degree rape (CR § 3-303),
4. Second degree rape (CR § 3-304),
5. First degree sexual offense (CR 3-305),

6. Second degree sexual offense (CR § 3-306),
7. Third degree sexual offense (CR § 3-307),
8. Fourth degree sexual offense (CR § 3-308),
9. Rape and Spousal offense – spousal defense (CR § 3-318),
10. Arson and related offenses (CR § 6-102 – 6-105),
11. Burglary in first degree (CR § 6-202),
12. Burglary in second degree (CR § 6-203),
13. Burglary in third degree (CR § 6-204),
14. Burglary in fourth degree (CR § 6-205),
15. First degree assault (CR § 3-202),
16. Second degree assault (CR § 3-203),
17. Reckless endangerment (CR § 3-204),
18. Kidnapping (CR § 3-502),
19. False imprisonment (common law offense),
20. Harassment (CR § 3-803),
21. Stalking (CR § 3-802),
22. Destroying, injuring, etc., property of another (CR § 6-301),
23. Unlawful use of telephone (CR § 3-804), and
24. Trespass (CR § 6-402)

F. Probable Cause

Probable cause is a "set of facts and circumstances, or reliable information that would lead a reasonable, prudent, and cautious officer to believe that a crime had been committed and a certain person committed it" (Stacy v. Emery).

G. Factors a Law Enforcement Officer Should Consider in Determining Probable Cause

1. In domestic violence cases there may be factors present that help to establish probable cause for an arrest that do not exist for the same offense if it occurred in another situation. These factors can aid the law enforcement officer in his/her investigation of the incident.
2. The presence of one or any combination of probable-cause factors can help a law enforcement officer establish probable cause to make an arrest in a domestic violence case.
3. The following are some factors that a law enforcement officer should consider in building probable cause in a domestic violence case:
  - a. Visible injuries, and whether they are of an offensive or defensive nature;
  - b. Evidence of victim's pain from nonvisible injuries, such as a blow to the stomach causing the victim to wince and hold the affected area;
  - c. Furniture in disarray;
  - d. Torn clothing;
  - e. Need for medical attention;
  - f. Corroborating statements of witnesses who can verify violence or threats of violence;
  - g. Threats made in officer's presence;
  - h. Presence of weapons;
  - i. Demeanor of complainant (upset, angry, confused because he/she may have been assaulted);
  - j. Demeanor of suspect (agitated, or calm and composed because he/she may have relieved his/her tension by striking the complainant);
  - k. Upset children;
  - l. Information derived from the call-taker's record;
  - m. History of violence or repeat calls for service at location;

- n. Existence of a civil protective order;
  - o. Refusal of the suspect to allow the victim to be interviewed out of the suspect's presence even when the victim complies; and
  - p. Dynamics of domestic violence being exhibited by the parties, as articulated in this policy.
- H. Factors a Law Enforcement Officer Must Disregard in Determining Probable Cause
- 1. In domestic violence cases, there are some factors that an officer must disregard in determining probable cause, although historically these factors may have influenced an officer in deciding not to arrest a suspect.
  - 2. Accordingly, the following are factors that an officer *must* disregard in determining probable cause:
    - a. An officer must disregard the marital status of the parties. Although an officer must consider the relationship of a couple in determining probable cause, the fact that a couple is married should not serve to indicate to an officer that no crime has occurred, or that it is not the responsibility of law enforcement to intervene.
    - b. An officer must disregard the race or ethnic background of the complainant or suspect. Domestic violence occurs among people of all races and ethnic backgrounds; moreover, the fact that striking a person is acceptable in another culture does not excuse its occurrence in the State of Maryland.
    - c. An officer must disregard the sexual orientation of the complainant or suspect. In this policy, heterosexual and homosexual relationships alike are included in the definition of domestic violence.
    - d. An officer must disregard the existence (or lack) of a civil protective order. The officer should not consider, when an order has been issued, that since the problem has been handled by the court there is nothing further that he/she can or should do. When no order exists, the officer should not consider that the only solution to the problem is to advise the victim to petition for a civil protective order. A civil protective order is a legal certification of a problem and is thus a factor to consider in building probable cause. The existence of a civil protective order may contain an order of

the court for which the respondent may be in violation and which requires that he/she be arrested.

- e. An officer must disregard the location of the incident, whether on public or private property. There is a tendency by law enforcement officers to settle altercations between individuals who know one another, especially if they occur in the home, but also on the street, by advising one or both of the parties to obtain a warrant, or by mediating the dispute and referring the parties for other services.
- f. An officer must disregard the presence of a lease. There is a tendency by law enforcement officers to settle disputes by removing the person whose name is not on the lease. This action does not take into account what occurred in the incident.
- g. An officer must exercise care in considering the history of complaints at a location. Although a history of complaints at a location helps an officer to build probable cause, because officers respond to a location frequently they may tend to treat the situation lightly, dismiss it, and not take, or continue to take, positive action to stop the violence in the relationship. They may feel that earlier positive intervention efforts were fruitless.
- h. An officer must disregard the verbal assurances of the suspect that the violence will stop. Such a statement is an admission that there is a problem and that perhaps violence did recently occur. It is also a statement on which a professional law enforcement officer cannot rely.
- i. An officer must disregard the potential financial consequences of arrest to the suspect and/or the victim. An officer may sincerely feel that if he/she arrests the abuser that action will negatively affect the family's ability to bring money into the household. That may be a correct assessment; however, the focus for the officer should be on the fact that a crime occurred for which the Maryland law enforcement community holds that an arrest, based on probable cause, is the appropriate action.
- j. An officer must disregard the belief that the complainant will not want to prosecute and will not appear in court. This will occur in many domestic violence cases, although some jurisdictions in the State of Maryland have a "no-drop" policy. In addition, Maryland State law [CP § 9-106 (a) (2)] limits the right to refuse to testify in cases where the victim and the abuser are married.

- k. An officer must disregard the complainant's statement that he/she does not want the suspect arrested. This will occur in many domestic violence cases. In fact, the victim may have only wanted for the police to intervene and stop the violence or potential violence. However, the Maryland law enforcement community advocates domestic violence policies that call for an arrest based on probable cause as the appropriate action in response to domestic violence calls for service in order to stop the violence. Such a policy also relieves the complainant of the problem wherein the abuser blames the victim for being arrested.
- l. An officer must disregard the denial by either party that abuse occurred, despite evidence to the contrary. This is often done in domestic violence cases. Obviously, the abuser has his/her interests at stake and may even believe he/she has not been abusive; the victim may also be in denial, but may also be afraid to say that he/she has been injured by the abuser. The officer must consider the evidence, not the words of denial, and consider that the victim may be in fear of the abuser.
- m. An officer must disregard claims by the suspect that the complainant provoked the violence. This is a frequent claim and may even be true; however, the officer must not allow himself/herself to be influenced by claims of provocation. The officer must examine the evidence and determine whether a crime has been committed. Verbal provocation, if indeed there was provocation, does not justify an act of criminal conduct in response.
- n. An officer must disregard the fact that the suspect is a fellow law enforcement officer or supervisor, a public official, or a person of stature in the community. The officer should handle this situation according to the policy established by this document.
- o. An officer must disregard evidence that the suspect is under the influence of drugs or alcohol. This will frequently be the case; however, the use of alcohol or drugs by an abuser does not mitigate the criminal acts he/she committed.

#### I. Dual Arrest

- 1. "Dual arrest" is the term used to describe the arrest of both parties involved in a domestic violence situation, usually a mutual battery.
- 2. Dual arrests may occur in cases where:

- a. Both parties commit a crime, most often a battery, against each other. In such cases, dual arrest is appropriate;
- b. A victim strikes an aggressor in self-defense, and the officer decides to arrest both parties. [In such cases, a law enforcement officer in the State of Maryland has the authority not to arrest a person who acts in self-defense – CR § 2-204 (b)];
- c. The assailant lies about his/her or the victim's actions. In such cases, the investigation was inadequate to discount the assailant's allegations; or
- d. There is no probable cause to believe that the victim committed a battery, but the victim is arrested anyway. In such cases, the issue of false arrest arises.

3. Consideration of the law

The State of Maryland guides law enforcement officers legislatively through CP § 2-204 (b) of the warrantless arrest statute when a mutual battery has occurred: “If the officer has probable cause to believe that mutual battery occurred and arrest is necessary under subsection (a) of this section, the police officer shall consider whether one of the persons acted in self-defense when determining whether to arrest the person whom the police officer believes to be the primary aggressor.”

4. Investigation and evaluation of injuries:

When a mutual battery has occurred, the responding officer will:

- a. Investigate and interview the parties as in any domestic violence case;
- b. While investigating, pay particular attention to the history of violence, including any previous or current protective orders;
- c. Evaluate injuries sustained by the parties, considering:
  - (1) The degree and type of injury, determining whether injuries are offensive or defensive;
  - (2) The relative strength, size, and capability to inflict injury of each person; and
  - (3) The relative fear displayed by each of the parties;

- d. Consider whether one of the parties acted in self-defense; and
  - e. Determine whether one of the parties was the primary aggressor.
5. Maryland law requires that the law enforcement officer "consider whether one of the parties acted in self-defense." A person may act in self-defense when:
- a. The person actually believed that he/she was in immediate and imminent danger of bodily harm,
  - b. The person's belief was reasonable, and
  - c. The person used no more force than was reasonably necessary to defend himself/herself in light of the threatened or actual harm [even if a weapon is used in self-defense].
    - (1) In cases where a person's injuries are severe enough to demonstrate an intent to do great bodily harm and the officer has probable cause to believe that the suspect committed the offense, the officer should consider that the extent of the victim's injuries do not substantiate the suspect's claim of self-defense.
    - (2) The investigating officer will consider the self-defense factors and decide whether one of the parties' actions constituted an act of self-defense.
6. Determination of primary aggressor:
- a. In determining if one of the parties is a primary aggressor, the investigating officer will ascertain whether one of the parties:
    - (1) Has a history of committing crimes of violence;
    - (2) Is or has been a respondent in a protective order;
    - (3) Has threatened the other individual involved;
    - (4) Has carried out his/her threats; and/or
    - (5) Is more capable than the other party of being assaultive.
  - b. A determination as to who the primary aggressor is should not necessarily include who started a verbal argument, because verbal provocation is not cause for assaultive behavior. Likewise, the

primary aggressor is not necessarily the person who strikes the other person first, but the party that presents the most ongoing danger and who has the greatest ability and inclination to inflict physical injury, i.e. generally the abuser in the relationship.

- c. The investigating officer will consider the primary-aggressor factors and decide whether one of the parties' actions constituted an act of primary aggression.

#### 7. Basic Arrest Policy in Cases of Mutual Battery

- a. Officers should avoid dual arrest whenever investigation reveals that a person acted in self-defense.
- b. If one party was the primary aggressor, that person should be arrested. The party who was defending himself/herself from a battery should not be arrested.
- c. If both parties committed domestic offenses and neither was acting in self-defense both parties should be arrested.
- d. Because of the recognition of the dynamics of domestic violence and because Maryland law seeks to hold the primary aggressor accountable, cases of dual arrest should not be a frequent occurrence.

#### J. Emergency Communications

- 1. All domestic violence calls will be dispatched and assigned the same priority as any other crime of violence according to the degree of danger.
- 2. Priority will be given to victim and law enforcement officer safety.
- 3. Should the caller hang up and not answer the call back, notification will be made to the responding units immediately.
- 4. Calls will not be canceled based on the request of the caller. Officers will continue to respond to the caller's location to check on his/her safety and investigate the complaint.
- 5. Persons answering the call will not ask the victim about his/her intention to prosecute or proceed in any other manner with the case. Such questions or statements, which seek to place the responsibility for enforcement action with the victim, are inappropriate.

6. Because of the volatility of domestic violence calls, two officers should respond whenever possible. If another member of the Sykesville Police Department is not immediately available, a request will be made through Dispatch for a member of the Sheriff's Office or State Police to respond.
7. Gathering the following information is of particular importance in domestic violence cases:
  - a. Whether the caller is calling from the same location as the incident;
  - b. When the incident occurred;
  - c. Whether the assailant is on the scene;
  - d. Whether there is a weapon involved, whether anyone is armed with a weapon, or whether a weapon is in the residence;
  - e. Whether the assailant is under the influence of drugs/alcohol;
  - f. A brief description of the assailant;
  - g. Whether there are any injuries;
  - h. The number of people, including children, who are on the scene;
  - i. Whether the police have responded to the home on domestic violence calls before;
  - j. Whether the caller/victim has a protective order against the assailant; and
  - k. Whether the victim has been sexually assaulted. If the victim responds affirmatively, officers will treat the call as he/she would any other rape or sexual assault call that has just occurred by interjecting information that would assist in ensuring the preservation of potential evidence and the crime scene. The victim should always be advised to refrain from:
    - (1) Using the bathroom,
    - (2) Bathing or showering, and
    - (3) Changing his/her clothing.

K. The Investigation

1. Responding officers will treat domestic violence calls as any other criminal investigation.
2. After verifying that a domestic violence incident has occurred, officers will conduct a thorough investigation which will include the following steps and responses:
  - a. They will physically approach and handle the scene of a domestic violence call using appropriate safety, intervention, and investigative techniques.
  - b. They will interview all parties separately, if possible, taking into consideration the dynamics of domestic violence.
  - c. They will be thorough in the collection of evidence. They will pay particular attention to the need for:
    - (1) Collecting the "911" tape of the call;
    - (2) Taking photographs of injuries and of the crime scene and arranging for or taking additional photographs of the victim's injuries one to three days later, when bruises would be more developed;
    - (3) Documenting "excited utterances" made in the presence of the officers; and
    - (4) Interviewing witnesses, including children.
  - d. Officers will determine whether probable cause exists that a crime has been committed, and who committed it.
  - e. In cases where probable cause exists and an on-scene, warrantless arrest is authorized:
    - (1) Officers should make the arrest.
    - (2) Officers should take a statement from the defendant, after he/she has been given Miranda warnings.
    - (3) In cases of mutual battery under CP § 2-203 (b), if the investigation reveals that:
      - i. One party was the primary aggressor and the other acted in self-defense, law enforcement officers

- should arrest the primary aggressor and should not arrest the person who acted in self-defense; or
      - ii. Both parties committed crimes against the other, and neither was acting in self-defense, officers should arrest both parties.
  - (4) Where a violation of a protective order under § 4-509 of the Family Law Article has occurred, officers will make the arrest.
  - (5) For an offense committed in their presence or view under CP § 2-202, officers should make the arrest. Most commonly, officers will hear threats made in their presence. In deciding whether to arrest the party(ies) making the threats, they will consider:
    - i. The nature of the threat,
    - ii. The capability of the person making the threat to carry it out, and
    - iii. Whether threats have been carried out in the past.
- f. Where probable cause exists, but an on-scene arrest cannot be made either because the assailant is not on the scene or because the law does not authorize a warrantless arrest, officers:
  - (1) Will actively assist the victim in obtaining a warrant; or,
  - (2) Should apply for the warrant on behalf of the victim in cases where the victim will be best served.
- g. Where probable cause does not exist, officers will ensure that the environment is safe and that the potential for danger is unlikely before they leave. The officers should recommend that one or both of the parties temporarily leave the residence and stay with third parties to at least allow the immediate dispute to "cool down" in order to prevent the possibility of violence erupting.
- h. Conduct a Lethality Assessment Screen as described previously in this model policy. Once completed, the officer conducting the Lethality Assessment Screen should follow the protocol referral by contacting the appropriate domestic violence hotline and conferring with a counselor as described in General Order 6-8.
- i. Officers may transport the victim to a safe location or a location where he/she can obtain assistance.

- (1) When they believe that the victim will be best served by removing the victim from the premises, and
    - (2) When the victim has no reasonable means of transportation, and
  - j. When the assailant has left the scene and there is probable cause to arrest him/her, officers will broadcast a look-out and conduct an active search for the assailant.
  - k. In all cases of domestic violence, officers will provide the victim with written notice of his/her rights in accordance with FL § 4-503, and verbally explain the victim's rights to him/her. In addition, they will explain that Maryland law allows victims, at their own request, to obtain a copy of the field report, and will advise the victim of the procedures to do so.
  - l. Officers will document the call by preparing an Incident Report.
  - m. When preparing the application for statement of charges, officers should check the domestic violence box.
  - n. In cases where the officer determines that an arrested person is under the supervision of the Department of Public Safety and Correctional Services - Community Supervision [formerly referred to as the Division of Parole and Probation], the officer will notify that agency of the arrest.
3. Seizure of Firearms
- a. Under § 4-511 of the Family Law Article, officers may remove a firearm from the scene, if they have:
    - (1) probable cause to believe that an act of domestic violence has occurred; and,
    - (2) have observed the firearm on the scene during the response.
  - b. The law does not authorize a search of the dwelling for firearms beyond the normal rules covering the search for and seizure of evidence. A resident of the dwelling with proper standing, however, may lead the officer to the location of other firearms.
  - c. The statute does not require that the owner of the firearm be a party to an act of domestic violence in order to authorize the

seizure of the weapon. Likewise, the statute does not require that either party indicate a desire to initiate charges.

- d. If they remove the firearm from the scene officers will:
- (1) Explain to the victim that if a Temporary Order or Final Order for Protection is not granted or if criminal charges are not filed, the firearm will be returned to the respondent if the respondent is still eligible to possess a firearm.
  - (2) Provide the owner of the firearm with information on the process for retaking possession of the firearm.
  - (3) Provide for the safe storage of the firearm, per General Order 10-1, while any proceeding related to the alleged act of domestic violence is pending;
  - (4) Complete a check for stolen on any firearms seized, document the seizure in the "Property/Evidence" section of the Incident Report, and complete a SPD Form 27, Firearms Seized report.
  - (5) Advise the owner that he/she may retake possession of the firearm at the conclusion of a proceeding on the alleged act of domestic violence, unless the court orders the surrender of the firearm.
- e. The completed SPD Form #27, Firearms Seized report will be utilized to check for stolen on each weapon seized as well as to conduct the appropriate checks on the possessor of the firearm to determine if he/she is eligible to lawfully possess a firearm. The MSP Gun Center (410-953-8200) will be contacted to assist with the tracing of these firearms.
- (1) The results of these efforts will be documented in a supplement report and a copy of the report will be forwarded to the case investigator for disposition of the firearm(s).
  - (2) If these checks determine that (1) the firearm possessor is not lawfully permitted to possess a firearm or (2) criminal charges are indicated, the State's Attorney's Office will be consulted for the determination of any additional charges or the release of the firearm.

- f. When a final protective order is issued under Family Law § 4-506, the respondent is prohibited from possessing a regulated firearm during the period in which the order is in effect. This prohibition applies regardless of whether the Court required surrender of a firearm in the respondent's possession as part of the temporary order.

NOTE: A current Order for Protection issued under Family Law § 4-506 would prohibit the respondent from possessing a firearm (any weapon, including a starter gun) under the federal statute, provided that the order satisfied the requirements under federal statute.

- g. Pursuant to Public Safety Article § 5-113, a law enforcement officer may arrest a person without first obtaining an arrest warrant if he/she has probable cause to believe that the person:
  - (1) Is the respondent of a valid temporary or final protective order; and
  - (2) Is in possession of a "regulated firearm" in the officer's presence.

#### 4. Returning Seized Firearms

- a. Following the expiration of a protective order, the respondent/owner of the firearm may regain possession of the firearm unless:
  - (1) The respondent/owner is not lawfully eligible to possess a firearm; or
  - (2) Criminal charges have been filed against the respondent/owner as a result of the domestic violence incident.
- b. All cases where firearms have been seized pursuant to this order must be classified as "Open" investigations until a final disposition has been made on all firearms seized. The investigating officer's supervisor must enter the appropriate "Supplement Due" date in the RMS according to the timeline prescribed in sections "c" and "d" below to ensure that all necessary follow-up activities are accomplished in a timely and effective manner.
- c. Fifteen (15) calendar days after a domestic violence incident where firearms have been seized and where no temporary or final order

for protection has been filed and no criminal charges have been filed against the aggressor, the investigating officer will:

- (1) Contact the victim by telephone or in person and inquire as to his/her intentions to file criminal charges or a petition for an Order for Protection against the aggressor.
  - i. If the victim indicates that a temporary or final Order of Protection has been issued or criminal charges have been filed, the officer will verify such information and all firearms will be retained until any civil or criminal proceedings have been resolved.
  - ii. If the victim indicates that a temporary or final order has not been issued and criminal charges have not been filed, the officer will inform the victim that, thirty (30) days after the incident (15 days from the date of this contact) the aggressor will be notified how he/she may retrieve the seized firearm(s).
- (2) Document the details of this contact in a Supplement Report.

d. Thirty (30) calendar days after the domestic violence incident where firearms have been seized and where no temporary or final order for protection has been filed and no criminal charges have been filed against the aggressor, the investigating officer will:

- (1) Contact the victim by telephone or in person and inquire as to his/her intentions to file criminal charges, civil charges or a petition for an Order for Protection against the aggressor.
  - i. If the victim indicates that a temporary or final Order of Protection has been issued or criminal charges have been filed, the officer will verify such information and all firearms will be retained until any civil or criminal proceedings have been resolved.
  - ii. If the victim indicates that a temporary or final order has not been issued and criminal charges have not been filed, the officer will notify the victim that the firearms will be released to the aggressor in fifteen (15) calendar days.

- (2) Notify the owner of the firearms (in writing) as to how the firearm(s) may be retrieved. The owner of the firearms will be informed that they may be retrieved fifteen (15) calendar days from the date of this letter.
  - (3) Document the details of items (1) and (2) above in a Supplement Report and submit a copy of the written notification in the case file.
- e. No firearm seized pursuant to this policy shall be released from police custody to the owner until a Supervisor has verified the following:
- (1) The owner to whom the firearm is being released is lawfully permitted to possess a firearm; and
  - (2) A formal firearms trace has been conducted on the weapon.

5. Domestic Stand-by

- a. A Law enforcement officers will conduct domestic a stand-by in accordance with FL § 4- 502 (2) (ii).
- b. When responding to a request for a domestic stand-by an officer shall protect the person making the request from harm.
- c. The officer will accompany the complainant to the family home, as necessary, so that he/she can remove his/her clothing and that of children in his/her care and personal effects, including medicine and medical devices, regardless of who purchased them, required for the immediate needs of the complainant or the children.
  - (1) If the couple is unmarried and the victim's name is on the lease, he/she has the right to enter the premises to collect his/her effects.
  - (2) If the couple is unmarried and the victim's name is not on the lease, he/she does not have a right to enter the premises, and the responding officer does not have the authority to force entry. If the officer is unable to gain entry in such cases, in the interest of enabling the complainant to gather his/her personal effects, the officer will:
    - i. suggest that the complainant respond to the appropriate court to petition the court for an order

- of protection if the complainant is eligible to petition the court for an order of protection,;
    - ii. if the complainant is not eligible to petition the court for an order of protection, direct the complainant to the appropriate court for relief;
    - iii. if feasible, seek another legal means to enable the complainant to obtain his/her personal effects; or
    - iv. refer the complainant to the local service provider for assistance.
  - d. "Personal effects" includes such property as a person might carry, or items having a more or less intimate relation to the person. In most cases, toiletries can be considered personal effects to meet the needs of the complainant and children.
    - (1) Items such as a stereo or VCR usually would not be considered personal effects to meet the immediate needs of a person.
    - (2) Because the law is not entirely specific as to what might constitute personal effects, and what a person's immediate needs might be, officers should carefully consider each situation they encounter and use good judgment in deciding what a person's personal effects and immediate needs are.
  - e. Officers responding to a domestic stand-by are generally immune from civil liability.

## 6. Stalking

Stalking is a "course of conduct" crime that encompasses a broad range of behavior directed at one person, even though acts may be perpetrated against other individuals who have a connection to the victim.

- a. Under Maryland law, CR, § 3-801, "course of conduct" is defined as a "persistent pattern of conduct, composed of a series of acts over time, that shows continuity of purpose."
- b. Under Maryland law, CR, § 3-802, stalking is a "malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear of serious bodily injury, an assault in any degree, rape or sexual offense as defined by §§ 3-303 through 3-308 or attempted rape or sexual offense in any degree, false imprisonment, or death, or that a third person likely will suffer any of the above described acts."

- c. The acts may be either criminal or non-criminal so long as they place the stalking target in fear of one of the described acts. Accordingly, some non-criminal acts could constitute the crime of stalking. The acts that cause fear in the stalking target may be perpetrated against either the victim or even against third parties.

7. Cyber-Stalking

- a. Cyber-stalking is the criminal offense of stalking using a computer (e. g., the internet or e-mail), telephone, or other electronic devices as a means of attack.
- b. Under Maryland law, cyber-stalking using electronic mail is a criminal offense under CR, § 3-805.

8. Stangulation

- a. “Choking” is accidental and is caused by an object. It implies a lesser degree of harm or distress and tends to minimize that a violent act against a person has occurred. If the victim uses the term “choke” and she/he was actually strangled, officers should put the victim’s use of the word “choke” in quotes in the report.
- b. “Strangulation” is intentional violence on another person. Officers should recognize and use the correct term when a victim claims to have been strangled. In speaking to a victim, however, officers would not use the terms “choke” or “strangle” for clarification. They should have the victim specifically describe the actions/behavior of their assailant during the assault. The terms “choke” and “strangle” may not be understood or may be used interchangeably by the victim.
- c. Officers will ensure that a SPD Form #12, Strangulation Supplement is completed in addition to an Incident Report and Maryland Domestic Violence Supplement Report in all cases where the victim reports being strangled.

9. Report Writing

- a. Officers will prepare an Incident Report for all domestic situations, criminal and non-criminal.
- b. When a crime of domestic violence has occurred, the "Maryland Domestic Violence Supplemental" form will be prepared, in

addition to the primary field report. For domestic reports not involving a crime, the supplemental form is not necessary.

10. Report Classification

- a. Field reports not involving a crime will be classified as "domestic incident."
- b. On an Incident Report, the first line of the narrative will state that "This case involves domestic violence," unless a space denoting domestic violence is already provided in the report.

11. Report Content

In all domestic field reports, the officer will ensure that:

- a. The parties are identified by name; and
- b. The relationship of the parties is included.

12. Confidentiality of Reports

The following information contained in a report of domestic violence or a domestic incident will not be released to any person other than an authorized law enforcement officer or other officer of the court for the conduct of official business:

- a. The site of, and any revealing information about, the temporary relocation of a victim away from the residence; and
- b. The names, addresses, and phone numbers of witnesses, as well as statements they made concerning a domestic situation.

L. Protective Orders – Authority

- 1. Protective orders are recognized as a positive civil remedy in protecting victims from their abusers.
- 2. They are provided for by the Maryland Family Law Article, Title 4, Subtitle 5 - "Domestic Violence."
- 3. Types of Protective Orders

Officers in the State of Maryland are called upon to enforce and take other police action on the basis of three types of protective orders:

- a. Interim Protective Order;
  - b. Temporary Protective Order;
  - c. Final Protective Order.
4. Protective orders are issued in either a two or three-step process:
- a. A Final Protective Order cannot be issued without a Temporary Protective Order having first been issued. However, a Temporary Protective Order may be issued even if an Interim Protective Order was not.
  - b. A Final Protective Order will not be issued unless the petitioner proceeds to the Final Protective Order phase of the process. Likewise, if an Interim Protective Order was issued, a Temporary Protective Order cannot be issued unless the petitioner proceeds to the Temporary Protective Order phase.
5. Eligibility for a Protective Order
- The following persons are eligible to petition for relief from abuse (such persons must be able to show that abuse has occurred):
- a. Current or former spouse of the respondent [person against whom the protective order is sought];
  - b. Cohabitant of the respondent;
  - c. A person related to the respondent by blood, marriage, or adoption;
  - d. An individual who has a child in common with the respondent;
  - e. A parent, step-parent, child, or step-child of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before filing of the petition; or
  - f. A vulnerable adult.
6. Interim Protective Order:
- a. Persons eligible for relief may file a petition with the commissioner, when neither the District or circuit court clerk's office is open for business, usually in the county in which they reside. This person is referred to as the "petitioner." If the

commissioner finds “reasonable grounds to believe” that the petitioner has been abused by the person known as the “respondent,” the commissioner may issue an Interim Protective Order. The commissioner immediately forwards a copy of the petition and the Interim Protective Order to the appropriate law enforcement agency responsible for service, and, on receipt, the law enforcement agency shall immediately serve the order and make a return of service to the commissioner’s office or, if the Office of the District Court is open for business, to the Clerk.

- b. The Interim Protective Order becomes effective when it is served on the respondent by a law enforcement officer. The Interim Protective Order will remain in effect until the Temporary Protective Order hearing or the end of the second business date the clerk of the District Court’s office is open, whichever occurs first.
- c. If the court is closed on the day on which the Interim Protective Order is due to expire, the Interim Protective Order shall be effective until the next day on which the court is open at which time the court shall hold a Temporary Protective Order hearing.

#### 7. Temporary Protective Order

- a. Petitioners who have already received an Interim Protective Order may continue to the second step of the process by responding to court for the Temporary Protective Order hearing. However, even if an Interim Protective Order has been issued, persons eligible for relief may, as a first step, file a petition with the civil clerk at the civil desk of either the District or circuit court, usually in the county in which they reside.
- b. The petitioner will meet with the judge on the day the petition is filed. If an Interim Protective Order has been issued the respondent may appear for the Temporary Protective Order hearing.
- c. If the judge finds "reasonable grounds to believe" that the petitioner has been abused, the judge may issue a Temporary Protective Order.
- d. This order becomes effective when it is served on the respondent by a law enforcement officer. However, if an Interim Protective Order has already been served by a law enforcement officer in the case, the Temporary Protective Order may be served in open court, or, if the respondent is not present for the Temporary Protective Order hearing, by first class mail at the respondent’s last known address.

- e. The Temporary Protective Order will remain in effect for not more than seven days after service, and can be extended for up to 30 days to effect service.
- f. If an Interim Protective Order has been issued and both parties are present for the Temporary Protective Order hearing and both parties consent, the judge may proceed with a Final Protective Order hearing instead of a Temporary Protective Order hearing.
- g. If the court is closed on the day on which the Temporary Protective Order is due to expire, the Temporary Protective Order shall be effective until the second day on which the court is open, at which time the court shall hold a Final Protective Order hearing.

8. Final Protective Order

- a. A Final Protective Order hearing is usually held within the seven days after a Temporary Protective Order goes into effect/is served on a respondent.
- b. If the respondent consents to the issuance of a Final Protective Order, or if the judge finds a “preponderance of the evidence” that the abuse occurred, the judge may issue a Final Protective Order.
- c. A Final Protective Order is effective upon service in open court or if the respondent is not present at the Final Protective Order hearing, by mailing it first class to the respondent's last known address.
- d. The relief granted in a Final Protective Order shall be effective for the period stated in the order, not to exceed 1 year except as provided by law. Relief granted in a Final Protective Order shall be effective for the period stated in the order, not to exceed 2 years if:
  - (1) the court issues a Final Protective Order against a respondent on behalf of a person eligible for relief for an act of abuse committed within 1 year after the date that a prior Final Protective Order issued against the same respondent on behalf of the same person eligible for relief expires; and
  - (2) the prior Final Protective Order was issued for a period of at least 6 months.

- e. The court may issue mutual Final Protective Orders if both parties have filed a petition under FL § 4 - 504 and the judge finds by “a preponderance of the evidence” that mutual abuse has occurred and makes a detailed finding of fact that:
  - (1) both parties acted primarily as aggressors and
  - (2) neither party acted primarily in self-defense.
- f. A petitioner may seek to make the “stay away/no contact” portion of Final Protective Order permanent if:
  - (1) the individual was previously a respondent under this subtitle against whom a Final Protective order was issued;
  - (2) the individual was convicted and sentenced to serve a term of imprisonment of at least 5 years for the act of abuse that led to the issuance of the Final Protective Order and has served at least 12 months of the sentence, and
  - (3) the victim of the abuse who was the person eligible for relief in the original Final Protective Order requests the issuance of a new Final Protective Order.
  - (4) In a Final Protective Order issued under this subsection, the court may grant only the relief that was granted in the original protective order.

9. Conditions of Protective Orders – No Arrest - Civil Violation

- a. Protective orders also provide relief in the form of temporary child custody, temporary visitation rights, financial support, use of the couple's vehicle, counseling, and payment of filing fees and the cost of the proceedings. They also may require the respondent to stay away from the petitioner’s child care provider while the children are being cared for.
- b. **Violation of these conditions does not constitute a criminal offense and is therefore not subject to arrest**, but, in the case of violations of Temporary and Final Protective Orders, they could result in a finding of contempt by the court.
- c. In addition, in the case of Final Protective Orders, the court shall order the respondent to surrender to a law enforcement officer any firearm in the respondent’s possession for the duration of the Final Protective Order.

10. Respondents Who Are Law Enforcement Officers

The service weapon and any authorized off-duty firearm of any law enforcement officer who has jurisdiction in the State of Maryland and who is a respondent subject to a Final Protective Order will be removed from the officer during the period of time in which the Final Protective Order is in effect.

11. Sanctions for Violating a Protective Order

a. A violation of an Interim, Temporary, or Final Protective Order may result in:

- (1) Arrest;
- (2) Criminal prosecution; and
- (3) Imprisonment or fine or both.

b. A violation of a Temporary or Final Protective Order may also result in a finding of contempt of court.

12. Enforcement of Criminal Violations

FL § 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.”

13. Enforcement of Out-of-State Protective Orders

Out-of-state protective orders are civil protective orders that are issued by a court of another state or an Indian tribe. FL § 4-508.1 (a) states “order for protection means a Temporary or Final order or injunction that is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with or physical proximity to another person; is issued by a civil court in response to a complaint, petition, motion filed by or on behalf of a person seeking protection or by a criminal court; and is obtained by filing an independent action or as a *pedente lite* order in another proceeding.”

FL § 4-408.1 (b) states “an order for protection 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.

- a. Out of state protective orders shall be enforced:
  - (1) To the same extent that a Maryland Temporary or Final Protective Order would be enforced;
  - (2) In the case of Temporary out-of-state orders, for not more than seven days after service of the order; and
  - (3) In the case of Final out-of-state protective orders, for as long as they are effective in the particular state.
- b. A law enforcement officer is mandated to 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 or an Indian tribe, and is in effect at the time of the violation, if the person seeking assistance of the officer.
  - (1) Has filed a copy of the order with the District or circuit court for the jurisdiction in which the person seeks assistance; or
  - (2) Displays or presents to the officer a copy of an out-of-state order that appears valid on its face.
- c. A law enforcement officer acting in good faith and in a reasonable manner concerning the enforcement of out-of-state orders shall be immune from civil liability.

14. Authority

Title 4, Subtitle 5, of the Maryland Family Law Article requires law enforcement officers to serve both Interim and Temporary Protective Orders on respondents.

15. Responsibility

Throughout the State, this function is usually performed by sheriffs' offices, but other law enforcement agencies also may be called upon to serve protective orders.

16. Responding to Calls for Service – Protective Orders

- a. When an officer is given an Interim, Temporary, or Final Protective Order by a complainant during a call for service, the

officer will verify its validity and take whatever action is required by the remedies ordered by the court.

- b. When told of the existence of an Interim, Temporary, or Final Protective Order during a call for service and no document is presented, the officer will query the Maryland Interagency Law Enforcement System (MILES) and verify with the originating sheriff's office whether a protective order is outstanding and has been served, and, if verified, the conditions of the order.
  - (1) If verified, the officer will make an arrest for any violations that call for an arrest.
  - (2) If the existence of an order cannot be verified, the officer may not take action based on the possibility that a protective order exists. However, the officer should advise:
    - i. The alleged respondent of the possible consequences if a protective order is outstanding, and
    - ii. The alleged petitioner to seek safety, confirm the existence of the protective order, and refer the complainant to court to initiate contempt proceedings for any violations of non-arrest conditions.
  - (3) Officers should be mindful that the service of a protective order on a respondent must be completed before enforcement action can be taken.
- c. When serving a "vacate" order, the officer will ensure that the respondent vacates the premises and takes only those personal belongings he/she might need to live and work during the seven-day period before the hearing. If the respondent refuses to vacate after being served, the officer will arrest him/her for "Violation of Interim/Temporary/Final Protective Order."
- d. When a law enforcement officer is called to the scene where a respondent has been "invited" back into the residence by the petitioner, the officer will:
  - (1) Arrest the respondent, if he/she is in violation of an arrest condition; or

- (2) If the violation is of a non-arrest condition, inform the respondent that he/she is in violation of the protective order and that the court can find the respondent in contempt.
- (3) In addition, the officer will inform both parties that:
  - i. The two parties cannot mutually consent to change the conditions of the protective order;
  - ii. Only the issuing court can modify or rescind an Interim, Temporary, or Final Protective Order; and
  - iii. If the victim/petitioner wants to change the conditions of the protective order, he/she should go to the issuing court to seek a modification or rescission of the order.

e. Where No Protective Order Exists

- (1) In situations where no protective order exists, and no probable cause exists for an arrest, yet the officer believes that abuse or the threat of abuse has occurred or is a possibility, he/she should give to the perceived abused person the agency's written notice of rights, explain those rights to him/her, recommend that he/she call a hotline number, and explain the availability and process of a protective order as a civil remedy.
- (2) The officer should also document the incident on an Incident Report as a matter of record.

f. Service of Protective Orders on a Military Base

Sheriffs and Chiefs of Police who are responsible to serve protective orders should contact the commanding officer of the military bases in their jurisdictions to establish protocols for service.

M. Peace Orders - Authority

1. A peace order is a form of civil relief for anyone who is not eligible for a protective order and who alleges the commission of certain specified acts within 30 days of filing for the peace order.
2. Peace orders are provided for by the Maryland Courts and Judicial Proceedings Article, CJ §§3-1501- 3-1509.

3. While the process to obtain a peace order closely parallels the one to be followed to obtain a protective order, only the District court has jurisdiction over peace orders. Procedures for application, process, and service of peace orders are the same as for protective orders.
4. Law enforcement officers in the State of Maryland are called upon to enforce and take other police action based on three types of peace orders:
  - a. Interim Peace Order;
  - b. Temporary Peace Order; and
  - c. Final Peace Orders.
5. Peace orders are issued in a two- or three-step process:
  - a. A Final Peace Order cannot be issued without a Temporary Peace Order having first been issued. However, a Temporary Peace Order may be issued if an Interim Peace Order was not.
  - b. A Final Peace Order also will not be issued unless the petitioner proceeds to the Final Peace Order phase of the process. Likewise, if an Interim Peace Order was issued, a Temporary Peace Order cannot be issued unless the petitioner proceeds to the Temporary Peace Order phase.
6. Eligibility to Petition for a Peace Order
  - a. Anyone who is not eligible for relief under a protective order as defined in FL § 4-501 may petition for a peace order.
  - b. The peace order provision does not apply to respondents who are children at the time of the alleged commission of the below specified acts.
  - c. A petitioner may seek relief by filing a petition with the court that alleges the commission of any of the following acts against the petitioner by the respondent, if the act occurred within 30 days before the filing of the petition:
    - (1) An act that causes serious bodily harm,
    - (2) An act that places petitioner in fear of imminent serious bodily harm,
    - (3) Assault in any degree,

- (4) Rape or sexual offense, or their attempts (CR, §§ 3-303 through 308),
  - (5) False imprisonment,
  - (6) Harassment (CR, § 3-803),
  - (7) Stalking (CR, § 3-802),
  - (8) Trespass (CR, Title 6, Subtitle 4), or
  - (9) Malicious destruction of property (CR, § 6-301).
7. The process to obtain a peace order occurs in either two or three steps similar to that used to obtain a protective order (refer to pages 85-87 of Model Domestic Violence Policy manual).
  8. Maryland Law – CJ § -1508 states “An individual who fails to comply with the relief granted in an Interim peace order, a Temporary peace order or a Final peace order is guilty of a misdemeanor...”
  9. CJ § 3 – 1508 (b) states “a law enforcement officer shall arrest with or without a warrant and take into custody an individual who the officer has probable cause to believe is in violation of an Interim peace order, a Temporary peace order or a Final peace order in effect at the time of the violation.”
  10. A respondent who violates one of these orders is guilty of a misdemeanor for which the law enforcement officer is *required* to make an arrest.
  11. Authority  
  
The Maryland Courts and Judicial Proceedings Article requires law enforcement officers to serve Interim, Temporary, and Final Peace Orders on respondents.
  12. Responsibility  
  
Throughout the State, this function is performed by sheriffs' offices, but other law enforcement agencies also may be called upon to serve peace orders.
  13. Firearms  
  
There are no firearms restrictions related to peace orders.

14. Verification of Peace Orders

There is no statutory authorization for the placement of peace orders into the Maryland Interagency Law Enforcement System (MILES), as there is for protective orders. Accordingly, verification of peace orders must be made directly to the agency that is responsible for serving and maintaining them.

N. Victim Assistance

Officers will assist victims of domestic violence by ensuring their safety, listening to them, referring them for additional services, and providing other means of assistance and problem-solving so as to stop the violence if it has already begun and to prevent it from occurring if it has not.

1. When a law enforcement officer responds to a domestic violence situation, Family Law Article § 4-503 of the Maryland Annotated Code requires that the officer give the victim a copy of the brochure entitled "Crime Victims and Witnesses: Your Rights and Services", which:
  - a. states that the victim may:
    - (1) Request that a district court commissioner file a criminal charging document against the alleged abuser;
    - (2) If the commissioner declines to charge the alleged abuser, request that the state's attorney file a criminal charging document against the alleged abuser;
    - (3) File a petition for relief from abuse in the district court or circuit court or with a commissioner when neither the office of the clerk of the circuit court nor the Office of the District Court Clerk is open;
    - (4) Obtain a copy of the incident report as provided under FL § 4-503.1; and,
  - b. includes the telephone number of a local domestic violence program.
2. The officer will also explain the information contained in the notice of rights to the victim.
3. Providing the Victim with a Copy of the Field Report (FL §4-503.1)

- a. When a law enforcement officer responds to a domestic violence incident, he/she will advise the victim of the availability of a copy of the report that he/she will prepare concerning the incident.
  - b. However, the officer on the scene is not required to give the victim the copy. The officer should direct the victim to contact our office Monday through Friday between 9:00 am and 4:00 pm, and inform the victim that there is a \$15.00 fee for the copy of the report.
4. In non-criminal domestic incidents, when a law enforcement officer is not required to make an arrest, he/she will be required to take other action to ensure the peace, protect and assist the parties, and provide information about services that are available to people involved in domestic situations.
5. In situations where the law enforcement officer establishes that one of the parties has been or is a potential victim of domestic violence, the officer will:
  - a. Refer the victim or potential victim to the Family and Children's Services of Central Maryland (410-876-1233) for assistance, and
  - b. Warn the abuser or potential abuser that acts of domestic violence are criminal acts for which he/she can be arrested and that he/she should also seek assistance from the local service provider.
6. In situations where the law enforcement officer establishes that both parties are mutually aggressive, the officer will warn both parties that acts of domestic violence are criminal acts for which both can be arrested and that they should seek assistance from the local service provider.

## **V. CANCELLATIONS**

This General Order cancels and replaces the following policies:

General Order 41.2.6, entitled Nature of Response: Domestic Violence Investigations, dated December 11, 2001.