



**CHEVY CHASE
VILLAGE
POLICE
DEPARTMENT**

Police Chief: John Fitzgerald

**GENERAL ORDER: 5-24.2; RESPONSE TO DOMESTIC VIOLENCE
INCIDENTS**

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I. POLICY

The department is committed to reducing the incidence and severity of domestic violence by recognizing it as both a significant societal problem and serious criminal offense. It is Department policy that officers shall make an on-scene, warrantless arrest of the primary aggressor and place criminal charges against that person for domestic violence when the primary aggressor can reasonably be determined and the law of arrest has been satisfied.

II. DOMESTIC ABUSE LAWS OF ARREST

- A. Under the Criminal Procedure Article, Section 2-204:
 - 1. “A police officer may arrest a person without a warrant, if:
 - a. The police officer has probable cause to believe that:
 - i. The person battered the person’s spouse or another person with whom the person resides;
 - ii. There is evidence of physical injury; and
 - iii. Unless the person is arrested immediately, the person:
 - May not be apprehended,
 - May cause physical injury or property damage to another, or
 - May tamper with, dispose of, or destroy evidence; and
 - b. A report to the police was made within 48 hours of the alleged incident.
 - 2. Self-defense - If the police 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.”

- B. When the arrest criteria in Section A, above, are met, officers shall make a warrantless physical arrest. The only exception to this policy is when, in the best judgment of the officer, an arrest would be counter productive.
- C. When an officer is able by law to make an arrest and chooses not to, the officer will explain in the narrative of the incident report why an arrest was not made and the specific actions taken to ensure the safety of the victim.

III. DOMESTIC VIOLENCE COMPLAINTS

- A. Domestic violence calls require at least two officers; CCVPD officers who are working by themselves must ensure that back-up is requested from Montgomery County prior to responding to the scene.
- B. When officers are on the scene of a domestic violence incident, the following steps shall be taken:
 - 1. **Secure the scene** for officer safety, victim safety, and evidentiary purposes.
 - 2. **Conduct a thorough preliminary investigation.** It is imperative that the patrol officer’s investigation be as thorough as possible. Victim, witness, and suspect statements should all be included in the investigation. Photographs should be taken whether or not an arrest is made. A written incident report is mandatory.
 - 3. Notify proper investigative unit per FC 611, “Follow-Up Investigations.”
 - 4. Complete the MCP 535, “Domestic Violence Supplemental,” for all domestic violence incidents where an incident report is written.
 - 5. Complete the MCP 536, “Domestic Violence Lethality Screen,” for all domestic violence incidents when an intimate relationship is involved and:

- a. The officer believes an assault has occurred; or
 - b. The officer believes the victim faces danger once the officer leaves; or
 - c. The parties have been involved in prior domestic violence incidents; or
 - d. There have been prior domestic violence incidents at that address; or
 - e. The officer simply believes one should be conducted.
6. Contact the Abused Persons Program (APP) counselor at (240) 777-4673 to relay high danger lethality assessment findings only. If no one answers, contact the Crisis Center at (240) 777-4000, 24 hours a day. Explain the situation to the counselor and attempt to have the victim speak with the counselor. The APP/Crisis Center is designed to provide the victim with information on shelter, counseling, and safety planning. If the victim refuses to speak with the counselor, document the refusal in the incident report.
7. Provide the victim with the brochure entitled, "Crime Victims and Witnesses: Your Rights and Services" in accordance with Family Law Article, Section 4-503.
8. Forward copies of the MCP 535, the MCP 536, and the incident report to the Domestic Violence Unit (DVU) by the end of the officer's tour of duty.
- B. In cases of alleged domestic violence where no arrest is made, parties involved will be advised of the following:
- 1. The individual may respond to a district court commissioner to apply for a charging document. The commissioner will determine whether a warrant or summons will be issued.
 - 2. If the commissioner does not issue a charging document, the victim may elect to request the issuance of a charging document through the State's Attorney's Office.
 - 3. The victim will be given the CCVPD report number. The victim may, at a later date, obtain a copy of the incident report from the Information Management and

Technology Division for a fee.

- 4. The individual may seek a court order for protection from domestic violence. Information can be obtained by contacting the court at the Civil Office at (301) 279-1500. The petitions can be filed between 0830 - 1630 hours, Monday through Friday.
- 5. Outside normal business hours for the District Court (i.e., nights, weekends and holidays), an interim Protective Order or a Peace Order can be obtained through the district court commissioner.
- 6. To obtain shelter, counseling, and legal advice, the individual may contact the Crisis Center at (240) 777-4000, 24 hours a day.

C. When an Arrest is Made

In cases when there is an arrest made, officers will:

- 1. Complete the "Central Processing Unit – Domestic Violence Victim Notification Form" which is available at CPU and attach it to the Arrest Packet Form 513. If the defendant is released within 12 hours of arrest, this step will enable a timely notification of the victim by the Montgomery County Detention Center (MCDC) personnel. In the event the MCDC is unable to contact the victim, the MCDC will then notify the Crisis Center.
- 2. Provide the victim with the Victim Information Notification Everyday (VINE) brochure prior to leaving the scene. The victim must register for this service if they wish to receive notification.

- D. DVU investigators will obtain any recordings pertaining to the domestic violence incident and maintain them for use as evidence.

IV. DOMESTIC STANDBYS

- A. Officers will conduct domestic standbys in accordance with Family Law Article, Section 4-502.
- B. Officers will accompany the complainant to the family home so that clothing and personal effects of the complainant and that of children in the complainant's care may be obtained. Personal effects can include medicine, eyeglasses, or medical devices, regardless of who paid for the items. The needs of each person will vary according to the circumstances and will dictate the definition of necessary items. Mutual property items such as televisions or stereos would not be considered personal items needed for everyday living requirements.

- C. If the complainant's name is not on the lease and a request for entry is refused, the complainant does not have the right to enter and the responding officer does not have the authority to make entry.
- D. Officers responding to domestic standbys are immune from civil liability if the law enforcement officer acts in good faith and in a reasonable manner.
- E. All property disputes regarding vehicles shall be referred to the district court commissioner. Officers are instructed to:
 1. Advise participants to respond to the nearest commissioner's office to apply for a charging document.
 2. Inform the participants that the commissioner has no authority to order any party to give up property, even if a charging document is issued. The commissioner will determine the proper charges to be issued or recommend the participants pursue their claim through civil procedures.

V. MARYLAND COURT ORDER FOR PROTECTION FROM DOMESTIC VIOLENCE (PROTECTIVE ORDERS)

- A. No arrest power is inherent in *a Maryland* court order for protection from domestic violence. However, failure to comply with certain provisions as outlined in the Family Law Article, Sections 4-504, 4-505, and 4-506 are misdemeanors *and §4-509 mandates that officers make a physical arrest upon probable cause to believe that a person is in violation of an interim, temporary or final protective order.*
- B. When writing charges for a violation of a civil Protective Order, officers should use the Family Law Article, Section 4-509, for the violation of the Interim, Temporary, or Final Protective Order. Officers will cite in the charging document which civil Protective Order is violated, Interim (4-504.1), Temporary (4-505), or Final (4-506). Officers should use the CJIS code 2-0254. The State's Attorney's Office is responsible for amending the penalty so the defendant can be prosecuted as a repeat offender.

C. Sheriff's Responsibilities

The Montgomery County Sheriff's Office is the primary agency for the service of civil Protective Orders and citizen-generated domestic violence warrants and maintains all records of these.

D. Police Officer's Responsibilities

Although the Sheriff's Office bears the primary responsibility for the service of protective orders, the sometimes volatile nature of domestic disputes will sometimes require police officers to both serve and enforce these orders. The following procedures will be followed in cases where Sheriff's Office personnel are unavailable or it would otherwise be impractical or unsafe for the petitioner to wait for their arrival:

1. Interim, Temporary, and Final Protective Orders will be entered in METERS. Officers will be able to determine if an order is on file while on the scene of a domestic disturbance call.
 - a. If the order has not been served, officers will serve the petitioner's copy by personally delivering the order to the respondent (accused) if the respondent is present. If the petitioner does not have a copy of the order, officers should contact the Sheriff's Office at (240) 777-7016. A copy can be faxed to the CCVPD station to be relayed to the officers on the scene. However, because the order is civil, the respondent cannot be detained to wait for the copy of the order.
 - b. Officers may call the Sheriff's Office to confirm prior service of the order or if officers have any questions about the order.
 - c. If an officer serves the order, the officer shall immediately notify the Sheriff's Office via telephone, and provide the date, time, and name of the officer serving the order.
 - d. Officers will read the order to the respondent and explain the provisions of the order. Officers will advise the respondent that a violation of any provision in paragraphs one through five of the protective order constitutes a criminal violation of an otherwise civil order and will result in the respondent's arrest if they do not comply. If child custody is awarded in paragraph six, a violation of that provision does not constitute a criminal violation. The respondent should be advised that failure to comply could result in a finding of contempt by the court.

- e. 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. For safety reasons, officers will accompany the respondent while gathering these belongings and will ensure that the respondent leaves the premises. Officers will not allow the respondent to remove any community property or any property that is in dispute and will advise both parties that those disputes may be settled by the court.
2. Maryland Family Law Article, Section 4-509, states that “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.”
 3. Upon arrest, the respondent will be charged via a Statement of Charges. The respondent will not be charged via a Maryland Uniform Criminal/Civil Citation. If the officers arrive at the residence and the respondent has already left, the petitioner will be advised that the petitioner may apply to the commissioner or the court for a warrant/summons.
 4. On the date set forth in an Interim or Temporary Order, the court will conduct a hearing to determine if the provisions of the order will be continued. If the court finds that sufficient evidence exists, the court can issue a Protective Order that may be in effect for up to 365 days. Violations of these provisions will constitute a criminal violation. Procedures used for the Interim and Temporary Orders will also pertain to the final Protective Order.
 5. The violation of a civil Protective Order will be documented on an incident report (2742), whether or not an arrest is made, with the petitioner as the victim.

VI. OUT-OF-STATE PROTECTIVE ORDERS

A. Section 4-508.1 of the Family Law Article was designed to ensure that a protective order “issued by a court in another state...[will]...be enforced as if it were issued in this State.” Senate Floor Report for House Bill 334 (1996).

Thus, violation of an out-of-state protective order is a criminal offense under FL §4-509(a) to the extent that a similar violation of a Maryland order would be a criminal offense.

B. Officers shall arrest a person who the officer has probable cause to believe is in violation of an order for protection that was issued by a court of another state if the person seeking the assistance of the law enforcement officer:

1. Has filed the out-of-state protective order in the District Court or Circuit Court in Montgomery County, or

2. Displays or presents to the law enforcement officer a copy of the out-of-state protective order that appears valid on its face.

VII.REMOVAL OF FIREARMS

Family Law Article, Section 4-511 states:

1. “In general.- When responding to the scene of an alleged act of domestic violence, as described in this subtitle, a law enforcement officer may remove a firearm from the scene if:
 - a. The law enforcement officer has probable cause to believe that an act of domestic violence has occurred; and
 - b. The law enforcement officer has observed the firearm on the scene during the response.
2. Duty of law enforcement officer - If a firearm is removed from the scene under subsection (a) of this section, the law enforcement officer shall:
 - a. Provide to the owner of the firearm information on the process for retaking possession of the firearm; and
 - b. Provide for the safe storage of the firearm during the pendency of any proceeding related to the alleged act of domestic violence.”

VIII.DOMESTIC VIOLENCE INVOLVING LAW ENFORCEMENT OFFICERS

In addition to section III, the following procedures will be adhered to when an officer responds to a call for domestic violence and finds the alleged offender is a law enforcement officer from any jurisdiction.

A. Officer-Involved Domestic Violence Incidents

1. The responding officer will verify that the alleged offender is a law enforcement officer and

immediately notify a CCVPD supervisor to respond to the scene. If no CCVPD supervisor is on duty, request an MCPD supervisor to respond to the scene.

2. Make an on-scene arrest if the criteria for making a warrantless arrest are satisfied.
3. The supervisor has the following responsibilities:
 - a. Respond to the scene of an officer-involved domestic violence incident.
 - b. Notify the MCPD DVU by telephone.
 - c. If the officer is a CCVPD officer, notify the Chief of Police.
 - d. If the officer involved is from another jurisdiction, ensure that the officer's department is immediately notified, and notify the CCVPD Chief of Police.
 - e. Seize any firearms in accordance with section VII.

IX. VERIZON HOPE LINE/ADT AWARE ALARM

The MCPD DVU and the Sheriff's Office sponsor two programs where the victims of domestic abuse, fitting certain criteria, can obtain the use of a Verizon Hope Line (cellular) phone and/or an ADT AWARE alarm to contact the police department in an emergency. When dispatched to an "AWARE alarm," officers will respond priority.

This directive voids the previous version dated 12/05/2014.