



DOMESTIC VIOLENCE INVESTIGATION

FC No.: 535

Date: 04-30-2021

If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with state law or the Police Collective Bargaining Law. (FOP Contract, Article 61)

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I. Policy

*The Montgomery County Department of Police (MCPD) is committed to conducting trauma-informed and victim-centered domestic violence investigations. Officers will employ these strategies when conducting investigations of this nature with an eye towards ensuring the safety and security of the victims. MCPD is committed to reducing the incidence and severity of domestic violence by recognizing it as a significant societal problem **and** dealing with it as a serious criminal offense. The department strives to:*

1. Educate victims as to their legal rights.
2. Advise victims of the help that is available to them.
3. Encourage victims to seek assistance *from social service agencies and legal resources.*
4. **Strive to hold abusers** accountable for their actions.
5. Ensure that officers are prepared to respond to and effectively deal with domestic violence calls for service and;
6. **Work closely with public/private partners to ensure the highest level of service and options to victims.**

II. Definitions

- A. **Asphyxiation:** *The state or process of being deprived of oxygen, which can result in unconsciousness or death; suffocation.*
- B. **Choking:** *An internal obstruction of the airway or trachea, impeding normal breathing*
- C. **Domestic Incident:** *Any occurrence, criminal or non-criminal, involving a person with whom the individual has or had an intimate relationship, other family members, such as children or parents and individuals living together in a non-intimate situation, such as in a dormitory or rooming arrangement.*

- D. ***Domestic Violence:*** Any criminal act or attempted criminal act involving persons who have an intimate relationship, other family members, such as children or parents and individuals living together in a non-intimate situation, such as in a dormitory or rooming arrangement.
- E. ***Family Justice Center (FJC):*** A facility which is a collaboration of public and private agencies that provides a family-friendly environment in which multiple agencies provide coordinated advocacy, law enforcement, civil legal services, and social services for wrap-around support and services for victims of family violence.
- F. ***Intimate Relationship:*** Persons involved in an Intimate Relationship are partners, regardless of sexual orientation, who:
 - 1. Are married, separated, or divorced.
 - 2. Live or have lived together in an intimate manner.
 - 3. Have a child or children in common; or
 - 4. Have engaged in sexual or other intimate activity regardless of whether they have lived together.
- G. ***Strangulation:*** The application of external pressure to the neck or throat, impeding normal breathing and blood circulation.

III. 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. Physical assault alleged or verified, as the result of domestic abuse, shall be treated as a criminal violation, and an incident report will be written. It is strongly recommended that the responsible individual be arrested if the conditions of the Criminal Procedure Article, Section 2-204 are met (See section III.A). 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. The Family Law Article, Section 4-501, "abuse means any of the following acts:
 - 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, ***to include strangulation.***
 - 4. Rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree.
 - 5. False imprisonment; or
 - 6. Stalking under § 3-802 of the Criminal Law Article."
- C. The department's position in determining a situation of domestic violence will involve an intimate relationship. A common denominator is a "couple" or "partner" relationship. Victims can include the following persons who reside or have resided with the abuser:

1. The current or former spouse
2. An individual who has a child in common with the abuser, whether or not they reside together
3. A cohabitant or former cohabitant
4. An individual who is dating, or has dated, the abuser.

Note: Whether or not the partners reside together should not be a determining factor in regard to ensuring the victim's safety or determining the likelihood of further violence.

IV. Domestic Violence *Calls for Service*

- A. When an officer is on the scene of a domestic violence incident, the following steps should be taken:
1. Secure the scene for officer safety, victim safety, and evidentiary purposes.
 2. Conduct a preliminary investigation (*refer to V, Patrol Response/Investigations*). It is imperative that the patrol officer's investigation *is* 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. Digital photographs will be uploaded to evidence prior to the end of the officer's tour of duty.
 3. Notify proper investigative unit per FC 611, "Follow-Up Investigations."
 - a. *In burglary incidents where there is clear evidence the perpetrator is a current or former intimate partner, the case will be handled by SVID, Domestic Violence/Elder Abuse Unit (DV/EAU).*
 - b. *If the incident does not meet the criteria for DV/EAU investigative responsibility, then patrol officers will handle any follow-up investigation.*
 4. Complete the MCP 535, "Domestic Violence Supplemental," for all domestic violence incidents where an incident report is written. *Officers may use two (2) MCP 535s for the same incident to keep each party's statements shielded from the other.*
 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 an MCP 1107, "Victim/Witness Assistance Information," to the victim in accordance with Family Law Article, Section 4-503.
 8. *The MCP 535 will be sent to DV/EAU (Family Justice Center) for processing by the end of the officer's tour-of-duty. Scan and attach the MCP 535, the MCP 536, to the incident report and forward copies of the incident report and forms to the DV/EAU by the end of the officer's tour of duty.*
 9. *Appropriately tag BWCS on domestic-related events for evidence retention. (see FC 430).*
- 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 CR number of the *incident* report. The victim may, at a later date, obtain a copy of the incident report from the *Information Management and Technology Division (IMTD), Records Section* 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.
7. ***Appropriately tag BWCS on domestic-related incidents for evidence retention. (see FC 430).***

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 MCDC *personnel* is unable to contact the victim, MCDC *personnel* 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 a notification.

D. ***DV/EAU*** investigators will obtain any recordings pertaining to the domestic violence incident and maintain them for use as evidence.

E. All domestic violence offenses (excluding civil Protective Orders) will be cleared, using the code for "Spouse/Other Domestic," as aggravated assault (04x3), assault and battery (0813), or simple assault (0823).

F. ***Appropriately tag BWCS on domestic-related incidents for evidence retention. (see FC 430).***

V. ***Patrol Response/Investigation***

A. ***Officer Safety and Securing the Scene***

Domestic Violence calls-for-services can be highly emotional, volatile, and unpredictable. Officers should be cognizant of these facts when responding to these scenes. Domestic Violence incident responses are a major part of every patrol officer's tour of duty. When responding to these calls-for-service, officers should make every effort to:

1. ***Respond in pairs (or more officers if deemed necessary);***
2. ***Develop a plan for engaging the individuals involved in the domestic violence incident;***
3. ***Secure the scene and determine if medical attention is needed for any individual on the scene;***
 - a. ***If medical assistance is needed, it shall be rendered/requested as soon as possible.***
 - b. ***In the event medical assistance is rendered at a medical facility, inform the hospital staff the person entering their facility is there for a domestic violence investigation and the person is suspect or victim involved.***

B. ***Victim Physical/Emotional Responses***

Victims of domestic violence incidents can respond to the officers in a multitude of ways once the officers are on-scene. Even if the victim contacted the police, the officer may experience hostility (and even greater threat) from the victim. It is important for officers to remember these emotional (and potentially physical) responses are possible and should not influence the decision-making process for the officer while on these scenes. This information is provided as potential victim responses, and this list is not exhaustive:

1. ***Crying.***
2. ***Laughing.***
3. ***Fearful of the officers.***

4. *Screaming/yelling.*
5. *Stating the victim did not call the police (when in fact they did).*
6. *Other potential emotional/physical responses not normally observed when officers are called to a scene.*

C. *Victim Evidence*

Victim evidence of a domestic violence victim may include but are not limited to:

1. *Petechiae in eyes or on the face (small red dots clustered in eyes and/or face);*
2. *Hoarse voice.*
3. *Evidence of urination.*
4. *Marks on the victim's neck.*
5. *Lacerations/marks/bruises on person; and*
6. *Fractured bones/ sprains*

D. *Strangulation*

Strangulation is one of the most lethal forms of domestic violence. Unconsciousness may occur within seconds and death within minutes.

1. *It is not uncommon for a victim of strangulation to not present any visible signs.*
2. *For a list of evidence of strangulation, refer to Section V.C Victim Evidence.*
3. *In non-emergency situations, if it is necessary to transport the victim to the hospital prior to the investigator's arrival, the victim has the right to choose any hospital within Montgomery County. However, Shady Grove Medical Center (SGMC) is currently best equipped to conduct a forensic exam for victims of strangulations.*

E. *Suspect Information*

Domestic Violence suspects range from the first-time aggressor to a multi-incident aggressor (with multiple victims). These suspects can be skilled at manipulating situations and providing false narratives to officers when outlining an incident. Officers are reminded to be cognizant of the suspect's account of the incident and compare that information to all other available evidence. Potential suspect evidence:

1. *Injuries on hands (i.e., bruising on knuckles).*
2. *Scratches on face/chest (potential defensive wounds).*
3. *Ripped clothing.*

F. *Children*

Children who are on-scene of domestic violence incidents may have witnessed the current incident and other previous incidents. Children should be interviewed separately by on-scene officers. Officers should consider contacting the Department of Health and Human Services: Child Protective Services prior to clearing the scene. The officer(s) should send a copy of the approved incident report to Child Protective Services when possible.

G. *Referrals to the Family Justice Center (FJC)*

Officers will refer ALL victims of Domestic Violence (as defined above), regardless of the outcome of the investigation, to the FJC during business hours (Monday thru Friday 0830-1700). When the FJC is closed, officers will refer them to the District Court Commissioner and/or the Crisis Center. The FJC is a collaboration of public and private agencies in a centralized location. Victims can file for an ex-parte temporary protective order on site via video link and receive other services to promote their safety and well-being, including safety plans, initial protective orders, legal representation, counseling, emergency food and shelter, and investigative services. The Family Justice Center is located at 600 Jefferson Plaza, Suite 500, Rockville, 240-773-0444.

VI. 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 *an* 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 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.

VII. Court Order for Protection from Domestic Violence (Protective Orders)

- A. No arrest power is inherent in the court order for protection from domestic violence. However, failure to comply with certain provisions outlined in the Family Law Article, Sections 4-504, 4-505, and 4-506 are misdemeanors and carry possible fines and prison sentences as outlined in Section 4-509 (Penalties). 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.
- B. Sheriff's Responsibilities
The Sheriff's Department is the primary agency for the service of civil Protective Orders and citizen-generated D/V warrants and maintains all records of these.
- C. Police Officer's Responsibilities
Although the Sheriff's Department bears the primary responsibility for the service of protective orders, the *potentially* volatile nature of domestic disputes will frequently require police officers to both serve and enforce these orders. The following procedures will be followed in cases where Sheriff's Department 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 MILES. Officers *are* 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 Department at (240) 777-7016. A copy can be faxed to the district station to be relayed to the officers on the scene. However, because the order is civil, the respondent cannot be detained to wait for *a* copy of the order.

- b. Officers may call the Sheriff's Department to confirm prior service of the order or if officers have any questions about the order.
 - c. If an officer serves the order, the Sheriff's Department will immediately be notified, via telephone, and advised of 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 *outlined* 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 *the court may settle those disputes*.
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." (Note: Federal law "full faith and credit" also applies to civil Protective Order issued by a court of another state. The person seeking assistance need only display a copy of an out of state order to an officer.) 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.
 3. On the date *outlined* 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.
 4. 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.

VIII. Removal of Firearms

A. Family Law Article, Section 4-511

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."

IX. Domestic Violence Involving Law Enforcement Officers

In addition to section *IV*, 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-No Probable Cause for Arrest

1. The responding officer will verify that the alleged offender is a law enforcement officer and immediately notify a supervisor to respond to the scene.
2. The patrol/shift supervisor has the following responsibilities:
 - a. Respond to the scene of an officer-involved domestic violence incident.
 - b. Notify the *DV/EAU* by telephone.
 - c. While on the scene of the complaint, notify the district/duty commander.
3. The district/duty commander has the following responsibilities:
 - a. If the officer is a Montgomery County Police (MCPD) officer, notify the involved officer's Assistant Chief and **send** a copy of the *incident* report, **once completed** to the Assistant Chief, *Investigative Services Bureau (FSB)*.
 - b. **When an** officer from another jurisdiction **is involved in a confirmed domestic violence incident**, ensure that the officer's department is immediately notified.

B. Officer Involved-Probable Cause for Arrest

1. The responding officer will:
 - a. Verify that the alleged offender is a law enforcement officer and immediately notify a supervisor to respond to the scene.
 - b. Immediately notify the on-duty or on-call *DV/EAU* investigator who will respond to conduct the investigation.
 - c. Effect an on-scene arrest, if possible.
2. The patrol/shift supervisor will:
 - a. Respond to the scene of an officer-involved domestic violence incident.
 - b. Seize any firearms in accordance with section VI.
 - c. While on the scene of the complaint, notify the district/duty commander.
3. The district/duty commander will:
 - a. Respond to the scene of an officer-involved domestic violence incident where injury is probable or visible, probable cause for arrest exists, or an arrest has been made.
 - b. If the officer is an MCPD officer, notify the involved officer's Assistant Chief and **send** a copy of the report to the Assistant Chief, *ISB*.
 - c. Notify Internal Affairs Division (IAD) of the incident.
 - d. If the officer involved is from another jurisdiction, ensure that the officer's department is immediately notified.

C. Civil Protective Order Issued for an MCPD Officer

1. Sheriff's Responsibilities - The Sheriff's Office will contact the division/district commander and the Director, *Special Victims Investigations Division (SVID)*, when a civil Protective Order is issued for an MCPD officer.
2. Executive Officer Responsibilities
 - a. The division/district commander will obtain the civil Protective Order and ensure service.
 - b. The division/district commander will immediately notify the appropriate Assistant Chief.
 - c. The Assistant Chief will **determine if there is a need to suspend the involved officer** and notify the Chief of Police.
 - d. The department-issued service weapon(s) will be seized upon issuance of a Civil Protective Order, after consultation with the Assistant Chief.
 - e. The Director, *SVID*, will notify the Director, IAD.


D. An officer who is the respondent or petitioner in a Civil Protective Order hearing will not wear any part of their uniform to the hearing.

X. **CALEA Standards: 1.2.1, 1.2.3, 1.2.5, 11.3.3, 26.1.1, 26.3.2, 41.3.8, 42.2.1, 44.1.1, 82.2.1, 82.2.2, 83.2.4, 84.1.1**

XI. Proponent Unit: *Special Victims Investigations Unit (SVID)*

XII. Cancellation

This directive cancels Function Code 535, effective date *11-14-08 and Informational Bulletin 13-01.*



Marcus G. Jones
Chief of Police