



OFFICE OF THE COUNTY SHERIFF  
Montgomery County, Maryland  
*Darren M. Popkin, Sheriff*



GENERAL OPERATIONAL PROCEDURES

<u>Subject:</u>	<u>Number:</u>	<u>Effective Date:</u>
Interim, Temporary and Final Protective Orders	3.28	08/26/15

Purpose: This directive establishes procedures for the service of Interim, Temporary and Final Protective Orders issued pursuant to the Family Law Article of the Annotated Code of Maryland. (74.2.1)

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I. Definitions

A. Abuse:

- (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; or attempted rape or sexual offense.
- (5) False imprisonment.
- (6) *Stalking*.
- (7) Abuse of a child or vulnerable adult.

B. Cohabitant: A person who has had a sexual relationship with the respondent and resided with the respondent in the home for at least *ninety* (90) days within *one* (1) year before filing the petition.

- C. Commissioner: A District Court Commissioner appointed in accordance with Article IV, Section 41G of the Maryland Constitution.
- D. Employee: *Sworn or civilian employee assigned to the Domestic Violence Section.*
- E. Final Protective Order: *A civil order issued by a Judge after an interim or temporary protective order hearing to protect a person eligible for relief.*
- F. Home: Property in the State of Maryland that is the principal residence of a person eligible for relief; and is owned, rented or leased by the person eligible for relief or respondent or, in a petition alleging child abuse or abuse of a vulnerable adult, an adult living in the home at the time of the domestic violence proceeding.
- G. Interim Protective Order: A *civil order* issued by a District Court Commissioner pending a hearing by a Judge.
- H. Person Eligible for Relief:
- (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, step-parent, child, or step-child of the respondent or the person eligible for relief who resides or resided with the respondent or the person eligible for relief for at least *ninety (90)* days within one *(1)* year before filing the petition.
  - (5) A vulnerable adult.
  - (6) An individual who has a child in common with the respondent.
  - (7) *An individual who has had a sexual relationship with the respondent within one (1) year before filing of the petition.*
- I. Pet: *A domesticated animal; does not include livestock.*
- J. Petitioner: An individual who files a petition eligible for relief. The following persons may seek relief from abuse for a minor child or vulnerable adult:
- (1) The State's Attorney for the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have occurred.
  - (2) The Department of Social Services that has jurisdiction in the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have occurred.
  - (3) A person related to the child or vulnerable adult by blood, marriage, or adoption.
  - (4) An adult who resides in the home.

- K. Residence: Includes the yard, grounds, outbuildings, and common areas surrounding the residence.
- L. Respondent: The person alleged in the petition to have committed the abuse.
- M. Temporary Protective Order: A civil protective order issued by a Judge to protect a person eligible for relief.
- N. Vulnerable Adult: An adult who lacks the physical or mental capacity to provide for the adult's daily needs.

## II. **Interim Protective Order**

A District Court Commissioner may issue an Interim Protective Order if the Office of the Clerk of the Circuit Court and District Court are closed for business and the Commissioner finds that there are reasonable grounds to believe that the respondent has abused a person eligible for relief. *The issuing Commissioner will forward a copy of the Petition and Interim Protective Order to the Domestic Violence Section of the Sheriff's Office located at the Family Justice Center.*

- A. An Interim Protective Order may:
  - (1) Order the respondent to refrain from further abuse or threats of abuse of a person eligible for relief.
  - (2) Order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief.
  - (3) Order the respondent to refrain from entering the residence of a person eligible for relief.
  - (4) Order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief.
  - (5) Order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members.
  - (6) Order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider.
  - (7) Award temporary custody of a minor child.
  - (8) *Award temporary possession of any pet.*
- B. An Interim Protective Order *is* effective until the end of the second business day that the Office of the Clerk of the District Court is open.

### III. Temporary Protective Order

The District or Circuit Courts may issue an order if the court, in an ex parte proceeding, finds reasonable grounds to believe that a person eligible for relief has been abused.

- A. A Temporary Protective Order may include all the provisions provided for in an Interim *Protective Order* and may also order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the Temporary Protective Order.
- B. A Temporary Protective Order may remain in effect for not more than seven (7) days after issuance of the order. However, the court may extend the order as needed, but not to exceed *six (6) months*, to effectuate service of the order where necessary to provide protection or for other good cause.

### IV. Office Procedures for Interim and Temporary Protective Orders

- A. *When* an Interim Protective Order is *issued* by a District Court Commissioner, the Commissioner will notify the Sheriff's Office by phone and fax a copy of the petition *and the accompanying* order to the Domestic Violence Section. Deputies from the Domestic Violence Section will respond to the Commissioner's office to conduct a safety interview with the petitioner. *If deputies are unavailable to respond to the Commissioner's office, employees of the Domestic Violence Section may conduct the interview over the phone. Employees* conducting *safety* interviews must *document* as much information as possible about the respondent and locations *for service on* the *interview* sheet. The interview sheet provides information pertinent to the deputy's safety and must be filled out as completely as possible.
  - (1) *If the Commissioner issues an arrest warrant with the Interim Protective Order, deputies will deliver the arrest warrant to the Sheriff's Office Criminal Section to be processed in accordance with Criminal SOP 01, Establishing Wanted Person Files. When the arrest warrant is served by the Domestic Violence Section, deputies must provide the Criminal Section with:*
    - (a) *Copy of the CEPI'd arrest warrant,*
    - (b) *Copy of the interview sheet,*
    - (c) *A picture of the respondent,*
    - (d) *A copy of the MCP513, and*
    - (e) *An Arrest Summary/Prisoner Receipt/Bond Status (MCSO3).*

- B. *When a Temporary Protective Order is issued by the Court, the Court should direct the petitioner to report to the Family Justice Center with a copy of the petition and the accompanying order. An employee of the Sheriff's Office must interview the petitioner and conduct a safety interview with the petitioner. Employees conducting safety interviews must document as much information as possible about the respondent and locations for service on the interview sheet. The interview sheet provides information pertinent to the deputy's safety and must be filled out as completely as possible. If the petitioner does not arrive at the Family Justice Center, employees must attempt to contact the petitioner by phone to complete the safety interview. Even if contact is not made with the petitioner, deputies must still attempt service of the Temporary Protective Order using the information contained within the petition and the accompanying Temporary Protective Order.*
- C. *A copy of either the Interim or the Temporary Protective Order and the accompanying petition must be provided to the petitioner if they have not already received copies from the Commissioner or the Court. Employees must provide an Instruction Sheet that provides guidance to the petitioner in what action can be taken prior to and after service of the order. In addition, petitioners will be provided a brochure describing the Victim Information & Notification Everyday (VINE) Protective Order program. VINE Protective Order is an automated service that allows the petitioner to track the status of a protective order over the phone or internet.*
- D. *A wanted check, criminal history, and firearm check must be completed by employees of the Domestic Violence Section before attempting service of any order.*
- E. *All Interim, Temporary and Final Protective Orders must be entered into the Maryland Electronic Telecommunications Enforcement Resource System (METERS) within twenty four (24) hours of receipt of the order by the Sheriff's Office. Employees assigned to the Domestic Violence Section are responsible for the accuracy and timeliness of all entries and cancellations.*

V. **Service of Interim and Temporary Protective Orders**

Deputies must ensure the interview sheet is complete and service is attempted as soon as possible. Deputies must record all attempts, the service, and any deputy safety information on the worksheet.

- A. *An Interim or Temporary Protective Order does not create authority for forcible entry; however a Temporary Protective Order may authorize reasonable and necessary force to obtain custody of a child.*
- B. *Deputies must attempt to read and explain the order to the respondent. If the respondent is uncooperative, deputies should serve the respondent with a copy of the order and the petition then instruct the respondent to read the order on their own. Deputies should inform the respondent that there are potential criminal penalties for violation of the order.*

- C. If the order directs the respondent *to* vacate the home, deputies must allow the respondent a reasonable amount of time to gather only such personal belongings that are necessary. If the order is served at a location other than the home, deputies must inform the respondent that it is a violation of the law to return to the home during the life of the order without an order from the issuing court.
- D. Immediately after service, *deputies must:*
- (1) *Call the petitioner and advise the time the order was served and any additional safety information that was discovered during the service of the order.*
  - (2) *Call the Domestic Violence Section and provide all service information so Vine Protective Order notification can be made. Vine Protective Order notification must be made within two (2) hours of service of the order.*
- E. *For all Interim Protective Orders, a Domestic Violence Section employee must make a return of service via fax to the District Court that was assigned by the Commissioner.*

## VI. Final Protective Orders

- A. As a result of the Interim or Temporary Protective Order hearing, the court may issue a Final Protective Order. The relief granted in a Final Protective Order may include all the provisions provided for in an Interim or Temporary Protective Order and may include the following additional relief:
- (1) Establish temporary visitation with a minor child of the respondent and a person eligible for relief.
  - (2) Award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty to support.
  - (3) Award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief.
  - (4) Direct the respondent or any or all persons eligible for relief to participate in counseling or a domestic violence program.
  - (5) *Order the respondent to pay filing and proceeding fees.*
- B. The Final Protective Order *will* be effective for the period stated in the order, not to exceed;
- (1) *One (1) year; or*
  - (2) *Two (2) years; if*

- (a) *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 one (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*
  - (b) *The prior final protective order was issued for a period of at least six (6) months. A subsequent Circuit Court order pertaining to any of the provisions included in the final protective order will supersede those provisions in the final protective order.*
- C. *Unless terminated at the request of the victim, a final protective order will be permanent if:*
- (1) *The individual was previously a respondent against whom a final protective order was issued;*
  - (2) *The individual was convicted and sentenced to serve a term of imprisonment of at least five (5) years under certain crimes listed in the Maryland Criminal Law Article for the act of abuse that led to the issuance of the final protective order and has served at least twelve (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) *The court may grant only the relief that was granted in the original protective order.*
- D. If the respondent is not present at the Final Protective Order hearing, the Court will serve the respondent by first class mail to the person's last known address.

## VII. Removal of Firearms

- A. When *responding to* the scene of an alleged act of domestic violence, a deputy may remove a firearm from the scene if the deputy has probable cause to believe that an act of domestic violence has occurred and the deputy has observed the firearm on the scene during the *response*.
- B. Deputies must take custody of any firearm voluntarily surrendered by either the petitioner or *the* respondent during the service of *or anytime during the duration of* an Interim, Temporary *or Final* Protective Order. The firearms will be stored by the Sheriff's Office for the duration of the Protective Order *in accordance with General Operational Procedures 3.25, Property and Evidence Management*.
- C. Deputies must complete an Incident Report (MCSO9) and a Seized Property Report (MCSO10) by the end of their shift.

- D. Deputies ***must conduct a check through METERS*** on each seized firearm ***to see if the firearm has been reported as stolen*** and ***document*** the results ***in the Incident Report***.
- E. An ATF Firearms Trace Request Form must be completed on all firearms recovered, confiscated or received by any member of this office. One form may be used for multiple firearms if:
- (1) The person in possession is the same for all of the firearms, and
  - (2) The location of the recovery is the same for all of the firearms.
- F. All firearms seized or surrendered must be returned to the Sheriff's Office and stored in accordance with General Operational Procedure 3.25, Evidence and Property Management.
- G. ***If the firearm is suspected to have been used in a crime***, deputies ***assigned to the Firearms Investigations Unit must*** within fourteen (14) calendar days ***of the seizure, transport the*** firearm to the Montgomery County Police Forensic Services Section (FSS).
- (1) ***The*** firearm will be test-fired by the Montgomery County Police Firearms Examination Unit.
  - (2) The ballistic data obtained as a result of the firearms test-fires will be entered into the Bureau of Alcohol Tobacco and Firearms Integrated Ballistics Identification System (IBIS). This system identifies firearms that have been used in crimes.
  - (3) At the conclusion of the firearm's forensic examination by FSS, ***the deputy assigned to the Firearms Investigations Unit*** will return ***the firearm*** to the Montgomery County Sheriff's property room for storage.
- H. Deputies must inform the owner of the firearm that ***as long as they are legally entitled to own or possess the firearm*** they may retake possession of the firearm at the conclusion of all proceedings concerning the alleged act of domestic violence.

### **VIII. Sanctions for Violating an Order**

- A. A violation of an Interim Protective Order, Temporary Protective Order or Final Protective Order may result in an action for contempt or criminal prosecution.
- B. If a respondent fails to comply with the following relief granted in an Interim Protective Order, Temporary Protective Order or Final Protective Order, they must be placed under arrest and charged with violating Family Law Article section 4-504, 4-505 or 4-506 of the Annotated Code of Maryland:
- (1) Refrain from further abuse or threats of abuse.
  - (2) Refrain from contacting, attempting to contact, or harassing any person eligible for relief.

- (3) Refrain from entering the residence of a person eligible for relief.
- (4) Failure to vacate the home immediately.
- (5) Failure to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members.
- (6) *Failure to surrender any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the temporary or final protective order.*

C. Deputies may not enforce provisions of the order concerning child custody, visitation, failure of the respondent to remain away from a child care provider, emergency family maintenance, use and possession of a vehicle, counseling and costs. These are contempt of court issues and deputies must refer the petitioner to the issuing court.

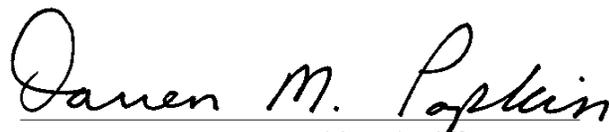
**IX. CALEA Standards**

**74.2.1**

**X. Cancellation**

This directive cancels and replaces General Operational Procedures 3.28, Effective Date: *06/10/03*.

AUTHORITY:



Darren M. Popkin, Sheriff

08/26/15