



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 Peace Orders	3.40	08/26/15

Purpose: This directive establishes procedures for the service of Interim, Temporary, and Final Peace Orders issued pursuant to the Courts and Judicial Proceedings Article of the Annotated Code of Maryland. (74.2.1)

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I. Definitions

- A. Commissioner: A District Court Commissioner appointed in accordance with Article IV; Section 41G of the Maryland Constitution.
- B. Court: The District Court of Maryland.
- C. Final Peace Order: A peace order issued by a judge after the respondent has had an opportunity to be heard on the question of whether the judge should issue a final peace order. If the judge finds clear and convincing evidence that the respondent has committed, and is likely to commit in the future, an act specified in Courts and Judicial Proceedings Article, Section 3-1503(a), against the petitioner, or if the respondent consents to the entry of a peace order, the court may issue a final peace order to protect the petitioner.
- D. Interim Peace Order: An order that a Commissioner issues *when the Office of the District Court Clerk is not open for business*, pending a hearing by a Judge.
- E. Person Eligible for Relief: Any person not eligible for a Protective Order, as defined in Section 4-501 of the Family Law Article.

- F. Petitioner: An individual who files a petition because they are experiencing problems with another person, including someone in a dating relationship, neighbor, or acquaintance.
- G. Residence: Includes the yard, grounds, outbuildings, and common areas surrounding the residence.
- H. Respondent: The person alleged in the petition to have committed one or more of the underlying acts.
- I. Temporary Peace Order: A peace order issued by a Judge, after a hearing on a petition, whether ex-parte or otherwise and a finding that there are reasonable grounds to believe that the respondent has committed and is likely to commit in the future one or more of the underlying acts as enumerated in *Courts and Judicial Proceedings Article § 3-1503*.
- J. Underlying acts: A petitioner may seek relief by filing with the court a petition that alleges the commission of any of the following acts against the petitioner by the respondent, if the act occurred within thirty (30) days before the filing of the petition:
- (1) An act that causes serious bodily harm;
 - (2) An act that places the petitioner in fear of imminent serious bodily harm;
 - (3) Assault in any degree;
 - (4) Rape or sexual offense; or attempted rape or sexual offense in any degree;
 - (5) False imprisonment;
 - (6) Harassment;
 - (7) Stalking;
 - (8) Trespass;
 - (9) Malicious destruction of property.

II. Interim Peace Order

- A. A District Court Commissioner may issue an Interim *Peace* Order if the Office of the Clerk of the District Court is closed for business and the commissioner finds that there are reasonable grounds to believe that the respondent has committed, and is likely to commit in the future one or more of the underlying acts, as listed in section I, *subsection* J above.

- B. An Interim Peace Order may:
- (1) Order the respondent to refrain from further committing or threatening to commit an act against the petitioner.
 - (2) Order the respondent to refrain from contacting, attempting to contact, or harassing the petitioner.
 - (3) Order the respondent to refrain from entering the residence of the petitioner.
 - (4) Order the respondent to remain away from the place of employment, school, or temporary residence of the petitioner.
- C. An Interim Peace Order *is* effective until the end of the second business day that the Office of the Clerk of the District Court is open or until superseded by an order of the District Court.
- D. The Commissioner's decision whether to grant or not to grant an order is not binding on a Judge.

III. Temporary Peace Orders

- A. The District Court may issue a Temporary Peace Order if the court, after a hearing on the petition, finds that there are reasonable grounds to believe that the respondent has committed or is likely to commit one or more of the underlying acts enumerated in section I, *subsection J above*.
- B. A Temporary Peace Order may include any or all of the *provisions provided for in an Interim Peace Order*.
- C. A Temporary Peace 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 thirty (30) days, to effect service of the order where necessary to provide protection or for other good cause.

IV. Office Procedures for Interim and Temporary Peace Orders

- A. *When* a District Court Commissioner grants an Interim Peace Order, the Commissioner will notify the Sheriff's Office by phone and fax a copy of the petition and 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 obtain as much information as possible about the respondent and their locations *for service. This information must be included on the interview sheet.* The interview sheet *provides* deputy safety information and must be filled out as completely as possible.

- B. *When the Court issues a Temporary Peace Order, 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*. Employees conducting *safety* interviews must obtain as much information as possible about the respondent and their locations *for service*. The Information Sheet *provides* deputy safety information and must be filled out as completely as possible.
- C. A copy of *either the Interim or the Temporary Peace Order* and *the accompanying* petition must be provided to the petitioner if they have not already received copies from the *commissioner or the Court*. Further, the petitioner must be provided an Instruction Sheet that provides guidance in what action can be taken prior to and after service of the order.

V. Service of Interim and Temporary Peace Orders

- A. Deputies must ensure the Interview Sheet is complete and service is attempted as soon as possible. Deputies must record the service, all attempts, *and any deputy safety information* on the worksheet.
- B. Prior to the end of the deputies' tour of duty, a return of service *must be* made *by faxing a* copy of the return to the District Court assigned to conduct the *interim* Peace Order hearing.
- C. No authority exists for forcible entry to serve an Interim *or Temporary* Peace Order.
- D. *Deputies* must *attempt to* read and explain the order to the respondent *then* serve them a copy of the order and *the* petition. *If the respondent is uncooperative, serve the respondent with a copy of the order and the petition and instruct them to read the order on their own.*
- E. If the order directs that 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 additional order* from the issuing court.

VI. Final Peace Orders

- A. As a result of a Interim or Temporary Peace Order hearing, the Court may issue a Final Peace Order. The relief granted in a Final Peace Order may include all the provisions provided for in an Interim or Temporary Peace Order and may include, but is not limited to, *directing* the respondent or petitioner to participate in professionally supervised counseling or, if the parties are amenable, mediation.
- B. The relief granted in a Final Peace Order shall be effective for the period stated in the order, not to exceed six (6) months. *However, after a hearing for good cause, a judge may extend the order for an additional six (6) months beyond the original expiration date.*

- C. If the respondent is not present at the Final Peace Order hearing, the Court will serve the respondent by first class mail to the respondent's last known address.

VII. Sanctions for Violating Order

- A. A violation of an Interim, Temporary, or Final Peace Order may result in a finding of contempt, criminal prosecution, *fine or imprisonment*.
- B. If a respondent fails to comply with the following relief granted in an Interim, Temporary, or Final Peace Order, they must be placed under arrest and charged with violating Courts and Judicial Proceedings Article, Sections 3-1503, 3-1504, or 3-1505 of the Annotated Code of Maryland:
- (1) Refrain from committing or threatening to commit an act specified in sections 3-1503, 3-1504 or 3-1505.
 - (2) Refrain from contacting, attempting to contact, or harassing the petitioner.
 - (3) Refrain from entering the residence of the petitioner.
 - (4) Respondent fails to remain away from the place of employment, school, or temporary residence of the petitioner.
- C. *Penalties*
- (1) *For a first offense, a fine not exceeding \$1,000 or imprisonment not exceeding ninety (90) days or both. (Maryland Code, Courts and Judicial Proceedings § 3-1508 (c))*
 - (2) *For a second or subsequent offense, a fine not exceeding \$2,500 or imprisonment not exceeding one year or both. (Maryland Code, Courts and Judicial Proceedings § 3-1508 (a))*

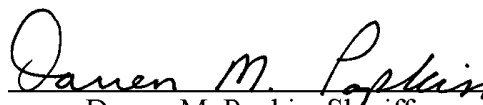
VIII. CALEA Standards

74.2.1

IX. Cancellation

This directive cancels and replaces General Operational Procedures 3.40, Interim, Temporary, and Final Peace Orders, effective *06/10/2003*.

AUTHORITY:


 Darren M. Popkin, Sheriff
 08/26/2015