



<b>4 / 100 General Miscellaneous Operational Procedures</b>		
4 / 105	Domestic Violence	9/28/94 Rev 6/22/98
Accreditation Standards		

**4/105.5 POLICY**

As a result of recent legislation regarding domestic violence and the ever-increasing potential that a domestic incident may lead to a violent act unless proper intervention is initiated, the Department has determined that additional policies and procedures are warranted to address domestic violence incidents.

**4/105.10 PURPOSE**

The following provisions are hereby instituted to instruct department members who may respond to a domestic violence complaint.

**4/105.15 DEFINITIONS**

In accordance with Maryland Family Law 4-501:

*Domestic violence* is defined as an act against an eligible person that:

1. Causes serious bodily harm.
2. Places a person eligible for relief in fear of imminent serious bodily harm.
3. Causes an assault in any degree.
4. Causes a false imprisonment.
5. Spousal rape\*

\*A spouse can be prosecuted for 1st and 2nd degree spousal rape if the parties have a written separation agreement signed by both parties and have continuously lived apart for at least 3 months immediately prior to the incident.

*Respondent* is defined as the alleged abuser.

*Intimate relationship* is defined as one in which heterosexual or homosexual partners are having, or have previously had, a sexual or emotional relationship.

*Eligible person* is defined as:

1. The current or former spouse of the respondent,

2. Parents who have children in common,

3. A person related to the respondent by blood, marriage, or adoption (e.g., cousins, parents, adult children, step parents, grandparents, etc.) residing with the respondent for at least 90 days within the year prior to the incident,

4. People living together for at least 90 days within the year prior to the incident who are having an intimate relationship with each other,

5. People living together for at least 90 days within the year prior to the incident, whether or not they are having an intimate relationship with each other (i.e., roommates), or

6. A vulnerable adult.

**4/105.20 RESPONSE TO DOMESTIC VIOLENCE**

1. Communications Section

The Communications Section is responsible for receiving calls for service from citizens in need of law enforcement assistance. When a complaint of domestic violence is received, the Communications Section will dispatch one primary and one secondary officer.

2. Responding police units shall:

(a) Provide first aid and/or summons medical assistance when indicated.

(b) Take any lawful enforcement action necessary to prevent further violence from occurring. Any act of violence in the presence of an officer *shall* result in the arrest of the person committing the act.

(c) Separate the parties involved.

(d) Secure the scene and be alert to physical evidence to support statements made.

(e) Obtain information from all parties and witnesses involved for reporting purposes.

(f) Provide LPD DV-1 card and a "Maryland Crime Victims and Witnesses" pamphlet that shall serve as written notice of legal options available to assist domestic violence victims.

(g) Request that victim complete a "Domestic Violence Supplement."

(h) *Shall* prepare an offense report of all alleged domestic violence incidents.

(i) Notify the victim as soon as practical if a respondent who is arrested is released from the Commissioner on his/her own recognizance.

#### **4/105.25 ARRESTS FOR DOMESTIC VIOLENCE**

In accordance with Maryland Annotated Code, Article 27, Section 594B, a police officer *may* make a warrantless arrest of a respondent who commits an act of domestic violence against an eligible person when the following conditions are present:

1. There is evidence of, or probable cause to believe an act of domestic violence occurred and,

2. Unless the respondent is immediately arrested;

(a) he/she may not be apprehended or,

(b) he/she may cause injury to the eligible person or damage to the property of any eligible person or,

(c) he/she may tamper with, dispose of, or destroy evidence, and

3. A report of the incident was made to the police within 48 hours of the alleged incident.

Laurel police officers are *encouraged* to exercise the arrest powers granted them in incidents of domestic violence.

When an officer responding to a domestic violence call observes a firearm at the scene, the officer *may* take and hold it for safekeeping until the case is adjudicated. Any person who is found guilty of domestic violence, or has ever been found guilty of domestic violence, *may not* possess or purchase a firearm of any kind.

When an officer responds to a domestic violence call and the respondent can not be located, the officer should take the following action (in addition to reporting procedures);

1. If the alleged assault or attempt is of the 1st degree (aggravated and/or intentional serious physical injury), and probable cause exists, the officer *will* seek a warrant and subsequently schedule a felony screening.

2. If the alleged assault or attempt is of the 2nd degree (simple), and probable cause exists, the officer *may* advise warrant service or seek a warrant on the victim's behalf.

To develop probable cause, signs of physical injury do *not* necessarily have to be outward. If the victim informs the officer that domestic violence has occurred, and the victim appears to have suffered injury or threat of injury by their mannerisms, there is ample justification for "the evidence of injury" standard. Corroborating statements made by witnesses, including children, furniture in disarray, torn clothing, history of violence, and the existence of a civil protection order may also be considered in the development of probable cause.

When considering a dual arrest (when probable cause exists to believe that each half of the incident has battered the other), officers should take steps to determine whether one of the parties was acting in self-defense, and if so, arrest *only* the primary aggressor.

#### **4/105.30 DOMESTIC STANDBY REQUESTS**

Any request for a domestic standby will be referred to the shift supervisor for evaluation. Assistance *shall* be provided to any person who alleges to have been a victim of abuse and who believes there is a danger of serious and immediate injury to him/herself. Assistance *may* also be granted to a respondent *unless* such assistance would violate a valid ex parte or protection order.

Officers providing such assistance *shall*:

1. Protect the complainant from harm when responding to the request.

2. Accompany the complainant to the home so the complainant may remove the personal clothing of the complainant and any child in the care of the complainant that are required for the immediate needs of the complainant or the child.

#### **4/105.35 EXPARTE AND PROTECTIVE ORDERS**

Anytime an officer responds to a situation where an eligible person alleges a violation of an Ex Parte or Protective Order, the officer *must* do all of the following:

1. Confirm that the order is valid. A protective order issued by a court of another state, county, or Indian tribe will be afforded full faith and credit by a court of Maryland and enforced as an order of Maryland, if the eligible person displays an authenticated copy of the order. (The Maryland Attorney Generals Office has not yet issued a clear definition of "authenticated copy.")

2. Confirm that the Respondent has been served with a copy of the order. If the order has been entered into NCIC/MILES, Communications Personnel will contact the issuing agency to confirm the order has been served before enforcement action is taken.

3. Have probable cause to believe a violation of the enforceable portions of the order has, or is occurring. Enforceable portions include only:

(a) Refrain from further abuse or threats of abuse.

(b) Refrain from contacting or attempting to contact or harass the eligible person.

(c) Violations of the vacate portions of the order.

(d) Stay away from the eligible person's place of employment, school, or temporary residence.

(e) Violations of the surrender of firearms provision. (If this provision is part of the order, and the officer sees a firearm in plain view, the firearm shall be seized and may not be released to the respondent unless he/she is subsequently found "not guilty" of the violation in court.)

There are other provisions that can be granted by a judge (e.g., custody of children and/or vehicles, child support, etc.). However, these portions *cannot* be enforced by police officers. If violations of these provisions occur, officers will advise the eligible person to return to court and advise the issuing judge of the violation.

If the above listed conditions are met and probable cause exists to believe that a violation of an ex parte or protective order has occurred, and the respondent can be located, the officer *must* arrest the respondent. If the respondent cannot be located, an offense report *shall* be written and the officer *will* either advise the eligible person of warrant service or apply for a warrant on behalf of the eligible person.

#### **4/105.40 SERVICE OF EX PARTE AND/OR PROTECTIVE ORDERS**

When requested by the issuing agency, an officer will be assigned to attempt to serve a copy of a validated ex parte or protective order on the respondent.

Whenever an ex parte or protective order is served by an officer of this agency, a "return of service" shall be faxed as soon as possible to the issuing agency.

#### **4/105.45 CENTRAL RECORDS' RESPONSIBILITY**

A copy of each report alleging domestic violence or a violation of an ex parte or protection order will be forwarded to the Maryland State Police. If requested, a copy of any domestic violence report will be provided to the victim without a subpoena.

#### **4/105.50 TRAINING OFFICER'S RESPONSIBILITY**

The training officer will ensure all sworn personnel are periodically trained in handling domestic violence incidents and will arrange for the distribution of any changes in the domestic violence laws.

#### **END OF ORDER**