


Rockville City Police Department

GENERAL ORDER



Subject DOMESTIC VIOLENCE		Procedure G.O. # 4 - 36
Authorizing Signature 	Effective: 09/01/08 Revised: 04/10/26	Total Pages 9

I. POLICY

The Maryland law enforcement community has adopted a “preferred-arrest policy in domestic violence cases. The Rockville City Police Department will make all efforts will be made to affect an arrest and successful prosecution. All cases of domestic violence will be thoroughly investigated and documented.

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. 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.
- F. Strangulation: The application of external pressure to the neck or throat impeding normal breathing and blood circulation

III. ARRESTS IN DOMESTIC ABUSE SITUATIONS

- A. Physical assault, as relating to domestic abuse, shall be treated as a criminal violation and an incident report will be written. It is strongly recommended that the individual responsible be arrested if the conditions of The Criminal Procedure Article, Section 2-204 are met. When an officer is able by law to make an arrest and chooses not to, the officer will explain in the narrative of the event report why an arrest was not made and the specific actions taken to ensure the safety of the victim. 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.
- B. A police officer may arrest a person without a warrant under The Criminal Procedure Article, Section 2-204, if:
1. The officer has probable cause to believe that:
 - a. The person battered the person's spouse or other individual with whom the person resides;
 - b. There is evidence of physical injury; and
 - c. Unless the person is immediately arrested:
 - (1) The person may not be apprehended;
 - (2) The person may cause injury to the person or damage to the property of one or more other persons; or
 - (3) The person may tamper with, dispose of, or destroy evidence; and
 2. A report to the police was made within 48 hours of the alleged incident.
- C. Officers should avoid dual arrest whenever the investigation reveals that a person acted in self-defense. If one party was the primary aggressor, that person should be arrested. If both parties committed domestic offenses and neither was acting in self-defense, both parties should be arrested. Officers should, however, make every effort to determine the primary aggressor. Severity of injury or lack of injury is not necessarily a good indicator of who is the primary aggressor.

IV. RESPONDING TO DOMESTIC VIOLENCE COMPLAINTS

- A. Maryland law requires that law enforcement officers provide crime victims with information on services available to them. Officers will provide Victims of domestic violence with the Victim Witness Assistance/Information Sheet in accordance with Family Law Article, Section 4-503.

- 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 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 case number of the report. The victim may, at a later date, obtain a copy of the incident report from the RCPD Records 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. Petitions can be filed between 0830 – 1400 hours, Monday – Friday. Outside normal business hours for the District Court (i.e., nights, weekends and holidays), an interim order of Protection and Peace can be obtained through a District Court Commissioner.
 5. To obtain shelter, counseling, and legal advice, the individual may contact the Abused Persons Program.
- C. The MCP “Domestic Violence Supplemental (DVS- form MCP 535), will be thoroughly completed on all domestic violence calls where an event report is written. This includes felony and misdemeanor offenses involving domestic partners. Officers may use two (2) MCP 535s for the same incident to keep each party’s statement shielded from the other.
- D. Complete the Domestic Violence Lethality Screen, Form RCPD 213, for all domestic violence incidents involving an intimate relationship when:
1. The officer believes an assault has occurred.
 2. The officer believes the victim faces danger once the officer leaves.
 3. The parties have been involved in prior domestic violence incidents, whether reported or not.
 4. There have been prior domestic violence incidents at that address.
 5. The officer simply believes one should be completed.
 6. The White copy of the RCPD 213 will be placed inside the Domestic Violence folder. The yellow copy is attached to the Statement of Charges, States’ Attorneys Copy in instances where an arrest has been made. The officer maintains the pink copy for their records.
- E. Contact the Abused Persons Program (APP) counselor at 240-777-4673 to relay high danger

lethality assessment findings. If no one answers, the Crisis Center at 240-777-4000, can be contacted 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.

- F. The follow-up investigation of domestic violence may be assigned to either a patrol officer or an MCPD SVID investigator depending upon the complexity of the case. An SVID investigator will be notified of any cases of aggravated assault requiring medical attention.
- G. Domestic violence will be investigated with the same vigor and thoroughness as stranger-to-stranger crime. Some techniques that may prove useful in domestic violence investigations include:
 - 1. Obtaining written or recorded statements from victims, witnesses, and suspects.
 - 2. Noting res gestae (excited utterances and present sense impressions) remarks made by victims, witnesses, and suspects. Such statements may prove valuable in impeaching perjured testimony or limiting defense strategies.
 - 3. Photographing the crime scene may illustrate the violence which occurred in the household.
 - 4. Photographing the victim's and suspect's injuries at the time of the initial investigation and later after bruising has developed.
 - 5. Alcohol/drug involvement and the presence of children and vulnerable adults should be noted.
 - 6. A check of police records can determine the number and nature of law enforcement responses.
- H. Domestic violence will be documented in accordance with report writing procedures. There are no criteria for injury to be visible for a report to be written.
- I. Criteria for warrantless arrest may not be met under the Criminal Procedure Article, Section 2-204. In such cases, the officer should refer the victim to the District Court Commissioner to press charges.
- J. In a case in which warrantless arrest criteria are not met, an investigating officer may apply as an affiant for a charging document against an offender. As domestic violence victims are often unable or unwilling to press charges, this may be the preferred course of action. In situations where the victim is unable to press charges for practical reasons (language barrier, childcare problems, lack of transportation, etc.), officers are strongly encouraged to apply for a charging document.

- K. All domestic violence offenses (excluding Civil Orders of Protection) will be cleared, using the code for Spouse/Other Domestic, as aggravated assault (0400) or assault and battery (0800).
- L. Supervisors will ensure that officers under their command document all domestic violence incidents properly with the use of the Event Report and/or Supplemental form. They will also ensure the Domestic Violence Packet is completed and all required materials are included. The original DVS form will be forwarded to the Team Supervisor by the end of the officer's tour of duty. The Team supervisor upon final review will return the packet to the investigating officer. The officer will then forward the original DVS form as well as a copy of the event report and photos submitted to the Montgomery County Police Department's SVID, Domestic Violence/Elder abuse Unit (Family Justice Center) for processing. Officers must appropriately tag BWCS videos on domestic-related events for evidence retention.
- M. Evidence contained on 9-1-1 tape recordings.
 - 1. Tapes for cases involving family violence cases or intimate partner relationships will be ordered from ECC and RCPD Public Safety Communications Center by the County's Domestic Violence Unit.
 - 2. The investigating officer will order RCPD Communications tapes and screen and make a copy if relevant.

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

- A. A victim of domestic violence may petition the courts for a temporary protective or peace order from abuse and, later, for a final protective or peace order. When court is not in session, a person may go to a District Court Commissioner to seek an interim protective (or peace) order. Interim protective (or peace) orders remain in effect until the temporary protective (or peace) order hearing or until the end of the second court business day after issuance of the interim order, whichever occurs first. If the petitioner does not report to court for the scheduled temporary protective (or peace) order hearing, the interim protective (or peace) order continues to remain in effect until the close of the second court business day. The close of the court's business day is 2400 hours. A Protective Order may be in effect up to 365 days, and the court may extend it an additional year.
 - 1. The expiration date and provisions of a Protective or Peace Order will be itemized on the document. While these orders are civil in nature, violation of certain provisions are criminal acts. The criminal acts include abuse, harassment, contact, and trespass (paragraphs one through five on the document). Other violations (e.g. child custody, financial support, counseling) are civil in nature. An officer may not arrest for civil violations absent a bench warrant or body attachment.
 - 2. Maryland Family Law mandates an arrest for a criminal violation of a Protective or Peace Order. Rockville City Police policy is to affect a full custody arrest for violations of Protective or Peace Orders. Criminal Citations shall not be issued.

B. MILES Entry of Interim, Temporary, and Final Protection Orders.

1. Interim, Temporary, and Protection Orders are entered in MILES. A MILES response indicating the existence of an Interim, Temporary, or Final Protection Order, does not mean the existence of an arrest warrant.
2. An officer receiving an Interim, Temporary, or Final Protection Order hit via MILES should confirm the specifics of the hit by contacting the originating law enforcement agency. The MILES hit and the originating agency should indicate whether the order has been served, its expiration date, and the specific provisions of the order. Officers should not take enforcement action until the Interim, Temporary, or Final Protection Order has been confirmed by the originating law enforcement agency.

C. Police Responsibilities

1. The Montgomery County Sheriff's Department bears primary responsibility for service of Interim, Temporary, and Final Protection Orders, in this jurisdiction. Police officers may, however, be called upon to serve these orders if Deputy Sheriffs are not available.
2. A police officer may serve the petitioner's copy or the law enforcement copy of an Interim, Temporary, or Final Protection Order. A FAX copy of an Interim, Temporary, or Final Protection Order, may also be served. After serving an Interim, Temporary, or Final Protection Order, the officer should contact the originating agency to advise of the service. A respondent may not be involuntarily detained for the sole purpose of waiting for the arrival of an Interim, Temporary, or Final Protection Order.
3. If the Interim, Temporary, or Final Protection Order requires the respondent to vacate a residence, officers should allow a reasonable amount of time for the respondent to gather personal belongings sufficient to stay away until the hearing date on the order. Officers will not allow the respondent to remove any disputed property. Both petitioner and respondent will be advised that the court will determine any property disputes.
4. Violation of an Interim, Temporary, or Final Protection Order, will be documented on an Event Report. The petitioner will be carried as the victim. If the Court Order is the result of a previously reported event, that incident will be linked with the current report by use of the connecting CR number procedure.
5. If the violator of a court order has fled prior to police arrival, the investigating officer may refer the petitioner to the District Court Commissioner or may serve as an affiant on a charging document.

D. The Family Law Article, Section 4-501, defines abuse as any of the following:

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. Battery or assault in any degree.
 4. Rape or sexual offense under 3-303 through 2-308 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.
- E. Victims can include the following person(s) who reside, or had 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. A person related to the abuser by blood, marriage, or adoption.
 5. An individual who is dating, or has dated, the abuser.
 6. A parent, stepparent, child, or stepchild.
 7. A vulnerable adult - someone who lacks the physical or mental capacity to provide for his/her own daily needs.
 8. Categories eligible for protection under the Family Law Article are much wider than those for whom a warrantless arrest may be made under The Criminal Procedure Article, Section 2-204. Officers should carefully determine the relationship of suspect and victim prior to affecting a warrantless arrest for domestic violence under The Criminal Procedure Article, Section 2-204.
- F. A domestic violence victim may travel to Maryland while in possession of a Protective Order issued by an out-of-state court. The Full Faith and Credit Family Law Article, Section 4-508.1, allows a Maryland officer to enforce an out-of-state order for protection if the petitioner has filed with the District Court or Circuit Court for the jurisdiction in which the person seeks assistance a copy of the order, or displays, or presents to the law enforcement officer a copy of the order(s) that appears valid on its face.
1. In the case of an out-of-state exparte, or emergency order, it can be enforced only to the extent that a Maryland temporary exparte order may be enforced, and for not more than seven days after it has been served. In the case of a final out-of-state order for protection,

it may be enforced only to the extent that a Maryland protective order can be enforced, but for as long as the out-of-state protective order is valid.

2. **Exclusion** – Enforcement of out-of-state orders for protection does not include support or child custody orders.
 - a. While Federal law prohibits interstate travel to violate a protective order issued in another state, this statute must be prosecuted in federal court. An officer who feels enforcement of this statute is appropriate should contact federal law enforcement authorities for guidance.
 - b. Federal law also prohibits possessing or receiving firearms or ammunition while subject to a Protective Order. Once again, this is a federal statute, and the officer should contact federal law enforcement authorities for guidance.

VI. DOMESTIC PROPERTY DISPUTES

- A. The police officer will not act as an arbitrator. If a party seeking possession of personal property (furniture, clothing, animal etc.) is the owner or a tenant and is not subject to a court order to vacate, that person can be presumed to have the right to enter the premises unless the party in the dwelling can show otherwise. The police will not enforce one party's claim against the other, nor will assaultive behavior or disorderly conduct be tolerated.
- B. Parties involved should be advised to consider consulting a lawyer and preparing a separation agreement covering the disposition of such household property.
- C. 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 officer to apply for a charging document.
 2. Inform the participants the commissioner has no authority to order any party to give up property, even if a charging document is issued.
 3. Advise the participants that the commissioners will determine the proper charging document to be issued or recommend pursuing their claims through civil procedures, if appropriate.
- D. Family Law, Section 4-502 specifically states:

Any person who alleges themselves to have been a victim of abuse and who believes there is a danger of serious and immediate injury to themselves may request the assistance of a local law enforcement agency. A local law enforcement officer responding to the request for assistance shall:

1. Protect the complainant from harm when responding to the request; and
2. Accompany the complainant to the family home so that the complainant may remove:
 - a. The personal clothing of the complainant and of any child in the care of the complainant; and
 - b. The personal effects of the complainant and of any child in the care of the complainant that are required for the immediate needs of the complainant or the child, including medicine and medical devices required, regardless of who paid for the items.
 - c. If the victim's name is on the lease, he/she has the right to enter the premises to collect personal effects. However, if the victim's name is not on the lease, the responding officer does not have the authority to enter or force entry into the property.
3. For lengthy standbys the requestor will be referred to the Montgomery County Sheriff's Office at 240-777-7016

E. The Family Law, Section 4-508.1, states:

A law enforcement officer who acts in accordance with the provisions of Section 4-508.1, "shall be immune from civil liability if the law enforcement officer acts in good faith and in a reasonable manner."

F. Removal of Firearms

1. Family Law Article, Section 4-511, provides that when a law enforcement officer responds to a complaint of domestic violence and determines that an act of domestic violence has occurred, the officer shall:
 - a. Remove any firearm the officer observes on the premises.
 - b. Provide the owner with the procedures to retake possession.
 - c. Provide safe storage of the firearm following proper departmental procedure.
2. Nothing in this rule or article authorizes a law enforcement officer to conduct a search of a building or vehicle for the presence of weapons that are not observed by the officer during the response to the domestic violence scene.
3. Nothing in this section prohibits the officer from searching for and seizing firearms where otherwise authorized by law to take such action or with the consent of the owner(s).