



Office Of The Sheriff
Allegany County
Maryland

GENERAL ORDER NO: 4-000.00

TO: All Patrol and Judicial Personnel

REFERENCE: **DOMESTIC VIOLENCE CALLS**

PURPOSE: To establish policy governing Sheriff's Office responses to Domestic Violence incidents.

REL: Courts and Judicial Proceedings, Title 4
Family Law Article 4-503
Family Law Article 9.5-201
Family Article 9.5-204

EFFECTIVE DATE: 2004

REVISION DATE: 3/1/2016

4-001.00 Definitions

- .01 Interim Protective Order – issued by a District Court Commissioner under the Family Law Article, Title 4, pending a hearing by a judge. A Commissioner may issue an interim protective order only when the Office of the Clerk of the District or Circuit Court is closed. An interim protective order is valid until a temporary protective order hearing before a judge or the end of the second business day the Office of the Clerk of the District Court is open following the issuance of the interim protective order.
- .02 Temporary Protective Order – issued by a judge under the Family Law, Title 4. A temporary protective order is valid for not more than seven (7) days from the date of issuance and may be extended by a judge for not more than 30 days.
- .03 Final Protective Order – issued by a judge under the Family Law, Title 4. A final protective order is valid for not more than twelve (12) months from the date of issuance.

- .04 Interim Peace Order – issued by a District Court Commissioner under Courts and Judicial Proceedings, Title 3, pending a hearing by a judge. A Commissioner may issue an interim peace order only when the Office of the Clerk of the District Court is closed. An interim peace order is valid until a temporary peace order hearing before a judge or the end of the second business day the Office of the Clerk of the District Court is open following the issuance of the interim peace order.
- .05 Temporary Peace Order – issued by a judge under Courts and Judicial Proceedings, Title 3. A temporary peace order is valid for not more than seven (7) days from the date of issuance and may be extended by a judge for not more than 30 days.
- .06 Final Peace Order – issued by a judge under Courts and Judicial Proceedings, Title 3. A final protective order is valid for not more than twelve (12) months from the date of issuance.

4-002.00 Policy for Response to Domestic Violence Calls for Service

- .01 It is the policy of the Allegany County Sheriff's Office to respond as quickly as possible, take control of the scene, and protect victim(s) of domestic violence from further harm to the extent possible. All domestic violence incidents will be approached with professionalism, and thoroughly investigated if probable cause exists that a crime was committed. Evidence will be collected as at other crime scenes using all available means. If probable cause exists that a physical assault has occurred, an arrest WILL be made, or a warrant obtained.

4-003.00 Nature of Domestic Violence Calls for Service

- .01 Calls for service involving domestic violence are among the most difficult and sensitive for law enforcement officers to respond to. When responding to such a call, involving family or household members, deputies must be alert, impartial, and concerned with the needs of the victim(s) whenever violence is apparent or alleged.
- .02 While being impartial and caring, deputies must always anticipate the unexpected. Domestic conflicts can quickly escalate into a situation of dangerous proportions because of the explosive range of intense emotions including anger and frustration.

.03 Feelings of anger and rage can easily be directed against the responding deputies, who suddenly become the focus and target of erupting violence. It is not unusual for aggressive outbursts in domestic violence situations to lead to serious injury or death. For this reason, at least two deputies, if available, will be assigned to a domestic violence call, or assistance will be requested from another agency.

4-003.00 Law of Arrest as Related to Domestic Violence Situations

.01 The Criminal Procedures Article, Section 2-204, authorizes a police officer to make a warrantless arrest of a person who commits a crime of Domestic Violence Assault with the following conditions:

- A. The officer has probable cause to believe that:
 1. The suspect has battered their spouse or other individual with whom they reside;
 2. There is evidence of physical injury; AND,
 3. Unless the suspect is immediately arrested:
 - a. He/She may not be apprehended;
 - b. The suspect may cause injury to the person or damage to the property of one or more persons; OR,
 - c. The suspect may tamper with, dispose of, or destroy evidence; AND,
 4. A report was made to law enforcement within 48 hours of the alleged incident.

.02 The law does not require that there be outward signs of abuse, such as black eyes and/or a bloody nose to constitute evidence of physical injury to make a warrantless arrest. A victim that has been assaulted may have sustained internal injuries, but show no external signs; i.e., bruises. If the victim informs the deputy of abuse, appears to have suffered injury by his/her mannerisms, and intends to seek medical treatment, there is ample justification for “the evidence of physical injury” standard above.

4-005.00 Response to Domestic Violence/Child Custody Disputes Calls for Service

.01 When responding to a domestic violence call, deputies shall:

- A. Restore order by taking control of the situation.
- B. Seize any weapons used or threatened to be used during the incident; (See 43-506.00, of this Order).
- C. Assess the need for medical attention and call for medical assistance, if needed.
- D. Interview all parties, including witnesses.
- E. Determine if an arrest is appropriate. If an arrest is made, emphasize to the victim and the offender that the criminal action is being initiated by the State and not the victim.
- F. If an arrest is made, collect and record evidence. Take digital image photographs of injuries, property damage, and obtain a photograph of the suspect, if possible. Request a written and signed statement from the victim, and from witnesses. If the assault is of a more serious nature, (death or serious injury possibly resulting in death), notify the on-call Allegany County Criminal Investigations (C3I) supervisor.

.02 If the suspect has left the scene and probable cause exists that a crime has been committed, the deputy will:

- A. Conduct or request a check of the immediate area for the suspect, or other areas as indicated by any information available.
- B. Obtain pertinent information about the suspect from victims and witnesses.
- C. If the suspect cannot be located, make application for a statement of charges with the District Court Commissioner's Office.

.03 The victim will be given a Domestic Violence Information packet which outlines the following information as required by the Family Law Article, Title 4-503.

- A. If the investigating deputy declines to file charges due to a lack of probable cause, the victim may request that a District Court Commissioner file a criminal charging document against the alleged abuser.
- B. The victim may request the State's Attorney to file a charging document against the alleged abuser if the District Court Commissioner declines to do so.

- C. Procedures for obtaining a Protective Order/Peace Order from the Courts or the District Court Commissioner against the abuser.
- D. Information and telephone numbers of organizations offering support and/or shelter for abuse victims; i.e., CASA.
- E. The victim may obtain a copy, upon request, of any written report.
 - 1. A police agency may not require the victim to obtain a subpoena in order to receive a copy of the written report.

.04 Domestic Violence Calls Resulting in Dual Arrests:

- A. If probable cause exists that a mutual assault has occurred, the law requires the deputy to consider, when making the determination of a primary aggressor, whether one of the parties was acting in self-defense. There will be incidents where a primary aggressor cannot be determined, or that both parties were aggressors. The decision as to whom to arrest, or if to arrest, will lie with the deputy.

.05 Child Custody Disputes

- A. The Sheriff's Office will respond to child custody disputes on a case by case basis.
- B. Deputies will inform callers that child custody disputes are civil in nature and the Sheriff's Office cannot take any action beyond maintaining order and ensuring no crimes are committed, unless;
 - 1. a court order has been issued that directs a police officer to take custody of a child and hand him over to another person, or
 - 2. a parent has violated Family Law, section 9.5 201 or 9.5 204. That section applies to a child under 16 years. The law prohibits a relative who knows that another person is the lawful custodian of a child from;
 - a. abducting, taking, or carrying away the child from a lawful custodian to a place within Maryland;
 - b. having acquired lawful possession of the child, detaining

the child within Maryland for more than 48 hours after the lawful custodian demands that the child be returned;

GENERAL ORDER NO: 4-000.00 –Page 6

- c. harboring or hiding the child within Maryland, knowing that possession of the child was obtained by another relative in violation of law;
- d. acting as an accessory to a prohibited act.

C. If a person states a court order has been issued that directs a police officer to take custody of a child and hand him over to another person, the deputy will require that person to produce the order for review. A deputy will not take custody of a child unless he reviews the original copy or a true test copy of the order.

4-006.00 Removal of Firearm(s) from Scene of Domestic Violence Act (This section does not apply if the firearm is being removed as evidence):

.01 Section 4-511 of the Family Law Article, enacted as part of the Maryland Gun Violence Act of 1996, authorizes law enforcement officers to remove firearm(s) from the scene of a domestic violence situation as follows:

- A. When responding to the scene of an alleged act of domestic violence, as described in Family Law Article, Title 4, a law enforcement officer **MAY REMOVE** a firearm(s) from the scene if:
 - 1. The officer has probable cause to believe that an act of domestic violence has occurred; **AND**,
 - 2. The officer **HAS OBSERVED** the firearm(s) at the scene during the response.
- B. If a firearm is removed from the scene under this section, the deputy will take the following action:
 - 1. Complete an Incident report and state in the contents that the weapon(s) will be held at the Sheriff's Office for safe keeping, and the procedure for reclaiming the weapon(s).
 - 2. Enter the weapon(s) into the Property Room, stating on the Property Sheet that the weapon(s) were taken as a result of a Domestic Violence incident, but not for evidence. Property custodians will make a copy of the Property Sheet and forward it to

the Patrol Commander.

GENERAL ORDER NO: 4-000.00 –Page 7

- .02 At the conclusion of a proceeding on the alleged act of domestic violence, the owner of the firearm(s) may retake possession of the firearm(s) unless ordered to surrender the firearm(s) under Family Law Article, section 4-506.
- .03 Attachment #1 is an advisory letter from the Maryland State's Attorney General's Office in reference to removal of firearms under Family Law 4-511.

4-007.00 Protective/Peace Orders

- .01 Receiving New Orders
 - A. The District/Circuit Court will notify the Sheriff's Office when a Protective/Peace Order has been issued. Upon notification, the Order will be picked up as soon as possible for attempted service. The PCO @ EOC will ensure all paperwork is properly logged/filed.
 - B. The Duty Officer will separate the two copies of the Order and:
 - 1. Deliver one copy of the order to the on duty Police Communications Operator (PCO) at EOC for immediate entry into the MILES/NCIC Computer, log sheet and In house Computer System. (Protective Only)
 - 2. Place the second copy of the order and application, which includes a "Court Return of Service", along with the "Allegany County Sheriff's Office Paper Service" form in the Protective or Peace Order mail slot in the file/process service room at the Sheriff's Office. Information on the person to be served and date the order was received will be entered on the "Protective/Peace Order Log", also maintained on the clipboard.
 - C. After receiving a copy of the order, the PCO (EOC) will:
 - 1. Complete a "MILES/NCIC Computer Check Off Sheet", for the person who is to be served the order. (Protective Only)
 - 2. Enter the applicable information in both the MILES/NCIC and In house computer System. (Protective Only)
 - 3. The Protective/Peace Order will be attempted by all shifts until served.

D. Orders received by any other means; i.e., faxed from the court or another agency, will be handled in the same manner, but without the “Allegany County Sheriff’s Office Paper Service” form being completed.

GENERAL ORDER NO: 4-000.00 –Page 8

E. Protective Orders issued after a hearing will be entered into the MILES and In- house Computer System by the PCO @ EOC. Any pertinent information from the original Protective/Peace Order file will be attached for deputy information or safety.

.02 Attempts at Service

A. Service of Protective/Peace Orders will be attempted as soon as possible by uniformed deputies.

B. The Deputies will indicate on the “Protective/Peace Order Log” all attempted service dates on the clipboard in in the file/process room.

C. A minimum of two deputies will be assigned for attempts at service, unless otherwise directed by the Duty Officer.

D. Personnel attempting service will record all attempts on both the “Court Return of Service” section and the “Allegany County Sheriff’s Office Paper Service” form.

E. Deputies assigned orders for attempted service will be responsible for returning any orders not served during their tour of duty to the Duty Officer.

.03 Service

A. Service is complete when the Application and Order are served and all instructions on the Order are carried out; i.e., custody of children, removal of abuser from residence, etc.

B. The deputy making service will complete the “District Court Return of Service” and the “Allegany County Sheriff’s Office Paper Service” form, indicating when/where the order was served.

C. The serving deputy will notify Communications of the service for entry into the in-house computer system and return the “Allegany County Sheriff’s Office Paper Service” form to the on duty PCO @ EOC.

D. Once the Order has been served, the completed “Return of Service” form shall be returned to the court of issuance.

- E. The serving deputy will assure the date the order was served was appropriately entered on the “Protective/Peace Order Log” in the file/process service room.
- F. The PCO @ EOC will complete computer entries relative to the service and place the “Allegany County Sheriff’s Office Paper Service” form in the “Protective/Peace Order” files stored EOC..
- G. If the service was for an allied agency, from a faxed copy, the serving deputy will ensure that the completed “Court Return of Service” is faxed back to the agency.

.04 Protective/Peace Orders Not Served

- A. The “Court Return of Service” will be completed, indicating that the order was not served prior to the hearing date, and the entire order returned to the court of issue.
- B. If the attempt was for an allied agency, the completed “Court Return of Service”, indicating attempts of service were not successful, will be faxed back to the requesting agency.
- C. The deputy attempting service will indicate on the “Protective/Peace Order Log” the date unserved orders are returned to the court of issue.
- D. All Protective/Peace Orders, whether served or unserved, will be retained on file for period of one year past the order’s expiration date and then destroyed.
- E. If the attempt was for an allied agency, contact should be made with that agency explaining why service could not be made. The “Return of Service” form will be faxed to them with the attempts indicated.

.05 Violation of Protective/Peace Orders

- A. Deputies WILL arrest a person when probable cause exists to believe the person has committed a violation of an ARRESTABLE provision of an order, and will charge the person under the following:
 1. Interim/Temporary/Final Protective Orders - Family Law Article,

Section 4-509

2. Interim/Temporary/Final Peace Orders – Courts and Judicial Proceedings, Section 3-1508

GENERAL ORDER NO: 4-000.00 –Page 10

- B. An arrestable provision is generally those dealing with “NO ABUSE” and “STAY AWAY FROM” instructions.
- C. All other violations of an order, not enforceable by law enforcement will be referred to the issuing court for Contempt of Court charges. The appropriate response to this sort of violation is to refer the victim back to the court to inform the judge of the violation by the abuser.

4-008.00 Interim Orders

.01 Receiving New Orders

- A. The District Court Commissioner will notify the Sheriff’s Office when an Interim Order has been issued. Upon notification, the Order will be picked up as soon as possible for attempted service. Hearing’s are set by the District Court Commissioner and will be held within 2 days of issuance, unless issued on Friday. These hearings will be held on Monday.
- B. The Deputy picking up the Order will separate the two copies and:
 1. Deliver the back copy of the Order to the on duty Police Communications Operator (PCO) at EOC for immediate entry in the In-house Computer system. (These Orders are not required to be entered into MILES/NCIC).
 2. The front copy with the Return of Service and Information Sheet will be given to the Duty Officer to assign for service attempts. These Orders are only valid for a short time and efforts will be made to make service as soon as possible. These Orders will be passed on by each shift to the on-coming Duty Officer until service is made. If service cannot be made, these Orders will be returned to District Court.
- C. After receiving a copy of the Order, the PCO @ EOC will:
 1. Complete a “MILES/NCIC Computer Check Off Sheet” for the person who is to be served the Order (Interim Protective Only)

2. Enter the applicable information into in-house Computer only.
(Entry into MILES/NCIC is not required)

GENERAL ORDER NO: 4-000.00 –Page 11

3. Place the Order and the completed “Computer Check Off Sheet” form into the proper slot in the file/process service room.
- D. Orders received from other agencies will not be logged in, but only stored on the respective clipboard after attempts have been made for service. If service cannot be made, the Order will be returned to the sender with attempts logged and reason for return.

.02 Attempts at Service

- A. Service of the Interim Order will be attempted as soon as possible.
- B. Personnel attempting service will record all attempts on both the Court Return of Service and the Information Sheet.
- C. Deputies assigned Orders for attempted service will be responsible returning any Orders not served during their tour of duty to the Duty Officer.

.03 Service

- A. Service is complete when the Application and Order are served and all instructions on the Order are carried out; i.e., custody of children, removal of abuser from residence, etc.
- B. The deputy making service, will complete the “District Court Return of Service” and the “Allegany County Sheriff’s Office Paper Service” form, indicating when/where the order was served.
- C. The serving deputy will notify Communications of the service for entry into the In-house computer system and return the “Allegany County Sheriff’s Office Paper Service” form to the on duty PCO at EOC.
- D. Return to the on-duty Commissioner if in the office, if Court is open, to the Civil Clerk.
- E. The serving deputy will assure the date the order was served was appropriately entered on the “Protective/Peace Order Log” in the Duty Officer’s Room.

F. The PCO @ EOC will complete computer entries relative to the service and place the “Allegany County Sheriff’s Office Paper Service” on the “Protective/Peace Order” clipboard in the file/process service room..

GENERAL ORDER NO: 4-000.00 –Page 12

G. If the service was for an allied agency, from a faxed copy, the serving deputy will ensure that the completed “Court Return of Service” is faxed back to the agency.

.04. Interim Orders Not Served

A. The “Court Return of Service” will be completed, indicating that the order was not served prior to the hearing date, and the entire order returned to the court of issue.

B. If the attempt was for an allied agency, the completed “Court Return of Service”, indicating attempts of service were not successful, will be faxed back to the requesting agency.

C. All Protective/Peace Orders, whether served or unserved, will be retained on file for period of one year past the order’s expiration date and then destroyed.

D. If the attempt was for an allied agency, contact should be made with that agency explaining why service could not be made. The “Return of Service” form will be faxed to them with the attempts indicated.

.05 Violation of Interim Orders

A. Deputies WILL arrest a person when probable cause exists to believe the person has committed a violation of an ARRESTABLE provision of an order, and will charge the person under the following:

1. Interim/Temporary/Final Protective Orders - Family Law Article, Section 4-509
2. Interim/Temporary/Final Peace Orders – Courts and Judicial Proceedings, Section 3-1508

B. An arrestable provision is generally those dealing with “NO ABUSE” and “STAY AWAY FROM” instructions.

B. All other violations of an order, not enforceable by law enforcement will be referred to the issuing court for Contempt of Court charges. The appropriate response to this sort of violation is to refer the victim back to

the court to inform the judge of the violation by the abuser.

GENERAL ORDER NO: 4-000.00 –Page 13

4-009.00 Domestic Standbys

.01 The Family Law Article, section 4-502, requires law enforcement officers to provide stand-bys to a victim of domestic violence upon request.

 A. The deputy shall:

1. protect the person from harm, and
2. accompany the person to the family home so the person may remove the following items, regardless of who paid for the items:
 - a. the personal clothing of the person and any child in the care of the person, and
 - b. the personal effects, including medicine or medical devices, of the person and any child in the care of the person that the person or child needs IMMEDIATELY.

.02 Other than requiring deputies to standby to protect the victim from further violence, the law is vague as to the extent of the deputy's authority to act. The Maryland Attorney General's Office has issued an advisory letter in an attempt to clarify a domestic standby. For example, deputies may be requested to accompany a victim to a residence for a standby, only to be denied entry to the premises because the victim is not on the lease. The Attorney General has indicated that both the victim and the deputy can be denied entry by the leasee, (person whose name is on the lease), and that attempts to enter could be considered trespassing.

4-010.00 Sheriff's Office Pro-Arrest Policy

.01 Deputies will treat domestic violence calls as potential criminal activity. Once the scene has been secured and medical attention requested, if necessary, a criminal investigation will be initiated if probable cause exists to believe a crime was committed. If probable cause exists for an arrest, an arrest WILL BE MADE, or if the suspect cannot be located, a warrant applied for. Statistics have shown that if an arrest is made, the incidents of domestic violence decrease, thereby reducing repeat calls and potential future violence.

- .02 Domestic Violence calls will be handled with a “**Zero Tolerance**” approach. It is a goal of the Sheriff’s Office to send a strong message that Domestic Violence is not simply a private “family matter,” but rather criminal activity which will not be tolerated.
- .03 When probable cause exists that a crime of violence has occurred, the suspect will be charged whether the victim desires it or not. It will be emphasized to both the victim and the suspect that the criminal action is being initiated by the State, regardless of the desires and wishes of the victim. Any relevant evidence will be collected. Convictions can be obtained without the victim’s testimony with proper evidence.

4-011.00 Lethality Screening

- .01 In cases where domestic violence is observed or imminent, based upon the deputy’s investigation or belief, a Domestic Violence Lethality Screen For First Responders shall be completed.
- .02 The form will be faxed to the number provided on the form and a copy provided to the deputy charged with the maintenance of the lethality screening file.
- .03 The domestic violence section of the reporting system shall be completed.

By Order Of:

Craig A. Robertson, Sheriff