



Domestic Violence

Section: 2.420
Effective Date: June 10, 2011

2.420 Domestic Violence

2.420.02 Domestic Violence

- A. This directive is adopted from the Model Domestic Violence Policy for the Maryland Law Enforcement Community.
- B. Domestic violence occurs when current or former spouses, or persons with whom they have, or previously had, intimate relationships, commit or attempt to commit:
 - 1. Acts causing physical injury;
 - 2. Acts placing victims in fear of physical injury to self or others;
 - 3. Sexual assaults;
 - 4. Property crimes;
 - 5. Violations of temporary *ex parte* or protective orders; or
 - 6. False imprisonment.
- C. For the purposes of domestic violence, the definition of persons involved in "intimate relationships" have or previously had, regardless of gender or sexual orientation, sexual or emotional relationships and:
 - 1. Are married, separated, or divorced;
 - 2. Live or previously lived together;
 - 3. Had children in common;
 - 4. Date, or previously dated, but do not live, or never lived, together;
 - 5. Are other family members, such as children or parents; or
 - 6. Are individuals living together in a situation in which the relationship is usually not considered intimate, such as in a dormitory or rooming arrangement.

2.420.04 Preferred Arrest in Domestic Violence Cases

- A. When permitted by law, agency officers should arrest assailants when there is probable cause to believe that crimes of domestic violence have been committed, unless such arrests would be clearly counterproductive.
- B. CP 2-204 provides warrantless arrest authority to officers where probable cause exists to believe that:
 - 1. The person battered is the person's spouse or other individual with whom the person resides;
 - 2. There is evidence of physical injury; and
 - 3. Unless the person is immediately arrested;
 - a. The person may not be apprehended;

- b. The person may cause injury to the person or damage to the property of one or more persons;
or
- c. The person may tamper with, dispose of, or destroy evidence; and
- 4. A report to the police was made within 48 hours of the alleged incident.

2.420.06 Mutual Battery & Dual Arrest

- A. Dual arrests should be avoided whenever investigations reveal parties acted in self-defense.
 - 1. Primary aggressors should be arrested.
 - 2. Parties defending themselves from assaults should not be arrested.
 - 3. Both parties should be arrested if they committed domestic offenses and neither was acting in self-defense.
- B. Consistent with CP 2-204, officers developing probable cause to believe that mutual batteries occurred will consider whether one of the parties acted in self-defense.
 - 1. Self-defense determinations arise in situations when:
 - a. Persons actually believe they were in immediate and imminent danger of bodily harm;
 - b. The belief was reasonable; and
 - c. Only that amount of force was used and determined reasonably necessary for defense in light of the threatened or actual harm.
 - 2. Officers should consider that the extent of victims' injuries do not substantiate suspects' claims of self-defense when injuries are severe enough to demonstrate an intent to do great bodily harm and officers have probable cause to believe suspects committed the offenses.
- C. Investigating officers will consider primary aggressor factors in order to determine whether one of the parties' actions constitute acts of primary aggression.
 - 1. Primary aggression factors include, but are not limited to:
 - a. A history of committing crimes of violence;
 - b. Being a current or past respondent of a temporary *ex parte* or protective order;
 - c. Threatening the other party;
 - d. Carrying out threats; and/or
 - e. Being more capable than the other party of being assaultive.
 - 2. Verbal provocation, outside the definition of "fighting words," is not cause or justification for assaultive behavior.

2.420.08 Response to Domestic Violence Calls

- A. The agency will dispatch officers to all domestic violence calls and assign them the same priority as any other crime of violence according to the degree of danger.
 - 1. Initial information to be obtained by Communications personnel includes, but is not limited to determining:
 - a. Whether callers are at the same location as the incidents;
 - b. When incident/s occurred;
 - c. If assailant/s are on the scene;
 - d. Descriptions of assailant/s;
 - e. If assailant/s have weapons or where weapons at the scene are located;

- f. If there are any injuries or sexual assaults;
 - g. If assailant/s are under the influence of drugs or alcohol;
 - h. The number of people, including children, on the scene;
 - i. If officers previously responded to the scene for domestic violence calls before; and
 - j. If civil protective orders have been issued against assailants.
2. Calls will not be canceled based on the request of callers.
- B. When possible, two officers are to be sent to in-progress or just occurred calls regarding domestic violence.
- 1. Supervisors will respond and assist, as necessary or prudent, in determining the levels of police responses to incidents of domestic violence.
 - 2. Officers will, when practical, await backup when responding to in-progress or just occurred calls of domestic violence.
 - 3. Officers should comply with victims' requests to meet at alternate locations if assailants are still at scenes of domestic violence.
 - 4. Officers will identify themselves upon their arrival, and request permission to enter the premises. If confronted by persons who decline assistance, officers should insist that all others present at the premises come to the door to determine whether domestic violence has occurred.
 - 5. Officers should enter residences only when invited and when significant opposition to the invitation is not displayed. If officers' presence antagonizes assailants, officers should employ non-confrontational methods to assist abused parties.
 - 6. Forcible entries into residences may be made in order to:
 - a. Suppress affrays which are heard from the outside; or
 - b. Remove children believed by officers to be in immediate danger.
 - 7. Officers will not forcibly enter residences merely to obtain complainants' clothing or personal items.

2.420.10 Investigating Incidents of Domestic Violence

- A. See also **2.308 Preliminary Investigations**.
- B. Evidentiary duties and responsibilities of officers investigating incidents of domestic violence include, but are not limited to:
- 1. Ensuring audio tapes of related phone calls and radio conversations are retained for potential use as evidence;
 - 2. Ensuring photographs are taken of crime scenes, any initial injuries, and any injuries one to three days post incident;
 - 3. Documenting "excited utterances" made in the presence of officers; and
 - 4. Interviewing all victims and witnesses, including children.
- C. Officers will remove firearms from scenes of domestic violence consistent with the provisions of FL 4-511.
- D. Arrests will be made as applicable.
- 1. Arrests will be made for violations of temporary *ex parte* or protective orders consistent with FL 4-509.
 - 2. When probable cause exists, but on-scene arrests cannot be made because assailants are not on-scene or the law does not authorize warrantless arrests, officers will:

- a. Actively assist victims in obtaining charging documents; or
 - b. Apply for charging documents themselves when victims would best be served by this action or are physically incapacitated.
5. Investigating officers will ensure look-outs are broadcast and active searches for assailants are conducted when assailants are not on-scene and probable cause exists for arrests.
- E. Officers leaving scenes of domestic violence when probable cause does not exist to make arrests will attempt to ensure the environment is safe and the potential for danger is unlikely.
- F. Responding officers are responsible for ensuring the Division of Parole and Probation is notified if arrestees are under the jurisdiction of that agency.

2.420.12 Domestic Stand-Bys

- A. Agency officers will conduct domestic stand-bys consistent with Family Law (4-502).
- B. Officers will accompany complainants to the family home, as necessary, so complainants may collect their clothing and that of children in their care, personal effects, including medicine and medical devices, regardless of who paid, required for the immediate needs of complainants or their children.
1. Victims whose names appear on leases have the right to enter the premises to collect their effects.
 2. Victims whose names do not appear on leases do not have the right to enter the premises and responding officers do not have the authority to forcibly enter the premises. In such cases, officers will:
 - a. Suggest that complainants petition the courts for protection orders;
 - b. Seek other legal means to enable complainants to obtain their property; or
 - c. Refer complainants to local domestic violence service providers for assistance.

2.420.14 Civil Protective Orders

- A. Family Law, Title 4, Subtitle 5 requires officers to serve temporary *ex parte* orders and protective orders on respondents.
- B. Temporary *ex parte* orders are effective when served by a law enforcement officer and remain in effect for seven days, but can be extended for up to 6 months to effect service.
- C. The service of civil protective orders is primarily the function of sheriffs' offices, but police agencies may also be called upon to serve the orders.
- D. Protective orders may be issued only after temporary *ex parte* orders are issued and are effective for 12 months, but may be extended by the courts an additional six months. Under certain circumstances, a judge may issue a final protective order for up to 2 years.
- E. Civil protective orders must be served before enforcement actions can be taken.
- F. If civil protective orders have been filed, but not served, and subjects named in the orders are present, Baltimore Sheriff's Office will be requested to respond and serve the orders. Officers will advise the subjects that civil protective orders have been filed and request that subjects standby to be served by deputy sheriffs. Officers will not detain persons who decline to wait for service of the orders.
- G. Officers are required to arrest, with or without warrants, respondents who violate civil protective orders by not:
 1. Refraining from abusing or threatening the petitioners;
 2. Refraining from contacting, attempting to contact, or harassing the petitioners;

3. Refraining from entering the petitioner's residence, which includes the yard, grounds, outbuildings, and common areas surrounding the area;
 4. Vacating the residence and awarding temporary use and possession of the home to petitioners; or
 5. Staying away from petitioners' or other family members' places of employment, school, or temporary residences.
- H. Officers are mandated to arrest, with or without warrants, persons whom officers have probable cause to believe are in violation of civil protective orders issued by courts of other states or Indian tribes, and are in effect at the time of violations
1. Out of state or Indian tribe protective orders will be enforced if the persons seeking assistance of officers:
 - a. Have filed copies of authenticated orders with the district or circuit court; or
 - b. Display or present to officers copies of out-of-state authenticated orders.
 2. Violators of out of state or Indian tribe protective orders will be arrested if they violate provisions of the protective orders by abusing, threatening, contacting or harassing the victims, or if they violate provisions requiring them to stay away from victims' homes, workplaces, school, or families.
 3. Officers having doubts about the authenticity of printed out of state or Indian tribe protective orders will attempt to contact a district or circuit clerk or judge for assistance.
- I. When told of the existence of civil protective orders, but no documents are presented, officers will ensure METERS queries are conducted and any resulting information verified through originating agencies before taking any service or enforcement actions.
1. If verified, officers will make arrests for any violations of arrestable conditions.
 2. If not verified, officers will not take action based on the possibility of civil protective orders.
- J. The terms and conditions of civil protective orders can only be modified or rescinded by the issuing courts.
- K. Respondents of protective orders are prohibited from making straw purchases of regulated firearms or possessing regulated firearms.
- L. The service weapons or any authorized off-duty firearms of law enforcement officers who have jurisdiction in Maryland and who are respondents to protective orders will be removed from the officers during time periods protective orders are in effect.

2.420.16 Victim Assistance

- A. Investigating officers will ensure domestic violence victims are:
1. Presented and explained their rights as contained in **Crime Victim and Witnesses: Your Rights and Services** brochures and the agency's supplemental listing of local victim / witness resources consistent with CP 11-104, CP 11-1002; and
 2. Advised how to obtain report copies consistent with CP 11-1002.
- B. Officers will take reasonable and prudent actions with the intent of ensuring the peace, protecting and assisting the parties, and providing information about services that are available to people involved in non-criminal domestic disputes.
- C. Officers will, as necessary and proper:
1. Assist victims in contacting local service providers;
 2. Inform victims of the civil protective order process, including Commissioner locations;

3. Review procedures with victims intended to assist in ensuring their immediate safety;
 4. Encourage victims to leave if they or officers believe situations are unsafe;
 5. Ensure victims are safe when officers leave and know how to call police if assailants return; and/or
 6. Provide transportation to safe locations or locations where they can obtain assistance when:
 - a. Officers believe victims will be best served by providing this service; and
 - b. Victims have no reasonable means of transportation.
- D. When assailants are on the scene, and officers assess that domestic violence likely occurred in the household, officers will, as necessary and proper:
1. Carry out steps established in **C**;
 2. Assess situational lethality, advise victims of assessments, and encourage victims to leave if officers believe there will be any threats to victims' safety when officers leave;
 3. Stand-by to ensure the safety of victims as they gather clothing and personal effects if they decide to leave; and/or
 4. Advise assailants:
 - a. That pursuit of victims could constitute violations of the stalking statute;
 - b. That domestic violence exists in the relationship and such conduct is criminal; and
 - c. To seek help from local service providers before other incidents occur.
- E. When assailants are arrested for crimes of domestic violence, officers will, as necessary and proper:
1. Obtain medical attention;
 2. Assist victims in contacting local service providers;
 3. Inform victims of the civil protective order process;
 4. Explain the bail process to victims and the likelihood that assailants may be released from custody in short periods of time; and
 5. Encourage victims to find safe locations away from home.

2.420.18 Cases Involving Members of the Criminal Justice System

- A. Supervisory or administrative ranked officers will:
1. Respond to, and take charge of, scenes of domestic violence involving members of criminal justice agencies; and
 2. Ensure respective criminal justice agencies are informed if their personnel are involved as assailants in domestic violence incidents.
- B. Issued service weapons confiscated from law enforcement officers, but not held for evidence, will be returned to issuing agencies.

2.420.20 Reporting Requirements

- A. Officers will complete agency reports for all domestic violence related incidents, both criminal and non-criminal. Information to be included in domestic violence related reports includes, but is not limited to:
1. Any injuries;
 2. Locations of assailants;
 3. The names and relationships of all parties involved;
 4. Use and locations of weapons;

5. Presence of any children;
 6. Nature of threats or disturbances;
 7. Other persons at the scenes;
 8. Presence, use, or involvement of drugs, alcohol, or presence of mental illness;
 9. History of past police responses to locations or involvement of individuals;
 10. Explanations as to why arrests were or were not made; and
 11. Descriptions of the specific actions taken to ensure the safety of victims.
- B. Officers will complete an incident/crime reports, when crimes of domestic violence have occurred.
- C. Information contained in domestic violence or domestic incident reports that cannot be released to persons other than authorized law enforcement officers or officers of the court for the conduct of official business is:
1. Sites of, and any revealing information about, the temporary relocation of victims away from their residences; and
 2. The names, addresses, and phone numbers, of witnesses, as well as statements they made concerning domestic incidents.
 3. The information is also to be entered into the UCR.