Domestic Violence

311.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of the Elkton Police Department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence (Md. Code FL § 4-514).

311.1.1 DEFINITIONS

Definitions related to this policy include:

Court order - All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

Domestic violence - Abuse occurring between current or former spouses or cohabitants, persons who have a child in common, or persons currently or formerly involved in a dating relationship (Md. Code FL § 4-701(c)).

311.2 POLICY

The Elkton Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

311.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

311.4 INVESTIGATIONS

The following guidelines shall be followed by officers when investigating domestic violence cases to protect the victim from harm (Md. Code FL § 4-502(a)(2)):

(a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.

(b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.

(c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other

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children who may not have been in the house at that particular time should also be obtained for follow-up.

(d) When practicable and legally permitted, video or audio record all significant statements and observations.

(e) All injuries shall be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Elkton Police Department in the event that the injuries later become visible.

(f) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.

(g) Seize and remove any firearms upon a consent search or in plain view if appropriate and legally permitted. The officer shall provide information to the owner on the process of retaking possession of the firearm. The Department shall then provide safe storage during the pendency of any domestic violence proceeding (Md. Code FL § 4-511).

(h) When completing an incident or arrest report for violation of a court order, officers shall include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.

(i) Officers shall take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:

1. Whether the suspect lives on the premises with the victim.
2. Claims by the suspect that the victim provoked or perpetuated the violence or abuse.
3. The potential financial or child custody consequences of arrest.
4. The physical or emotional state of either party.
5. Use of drugs or alcohol by either party.
6. Denial that the violence or abuse occurred where evidence indicates otherwise.
7. A request by the victim not to arrest the suspect.
8. Location of the incident (public/private).
9. Speculation that the complainant may not follow through with the prosecution.
10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
11. The social status, community status, or professional position of the victim or suspect.

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311.4.1 IF A SUSPECT IS ARRESTED
If a suspect is arrested, officers should advise the victim that there is no guarantee the suspect will remain in custody.

311.4.2 IF NO ARREST IS MADE
If no arrest is made, the officer should:

(a) Advise the parties of any options, including but not limited to:

1. Voluntary separation of the parties.
2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness assistance).

(b) Document the resolution in a report.

311.5 VICTIM ASSISTANCE

Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected.

(a) Victims shall be provided with the department domestic violence information handout, even if the incident may not rise to the level of a crime (Md. Code FL § 4-503).

(b) Victims should also be alerted to any available victim advocates, shelters, and community resources.

(c) When an involved person requests law enforcement assistance while removing essential items of personal property, officers shall accompany the person to the family home and stand by while personal clothing and effects are removed (Md. Code FL § 4-502(a)(2)(ii)).

(d) If the victim has sustained injury or complains of pain, officers shall seek medical assistance for the victim as soon as practicable.

(e) Officers should ask the victim whether the victim has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a safety concern or if the officer determines that a need exists.

(f) Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.

(g) If appropriate, officers should seek or assist the victim in obtaining an interim protective order.

(h) Use the substitute address if the victim is registered in the state Address Confidentiality Program (Md. Code SG § 7-302).

(i) Prepare a Lethality Assessment Form and advise victim accordingly.

311.6 DISPATCH ASSISTANCE

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable.

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Communications Operators are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that communications operators check whether any of the involved persons are subject to the terms of a court order.

311.7 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state (Md. Code FL § 4-508.1(b)).

311.8 VERIFICATION OF COURT ORDERS

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and, where appropriate and practicable:

(a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.

(b) Check available records or databases that may show the status or conditions of the order.

(c) Contact the issuing court to verify the validity of the order.

(d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed.

311.8.1 COURT-ORDERED SURRENDERED FIREARMS

If a respondent surrenders a firearm to the Department under a temporary or final court order, the officer shall provide the respondent information on the process for retaking possession of the firearm. The officer shall transport and store the firearm in a protective case, if one is available, and in a manner intended to prevent damage to the firearm during the time the protective order is in effect (Md. Code FL § 4-506.1).

If a defendant in a criminal case who is ordered to surrender firearms pursuant to Md. Code CP § 6-234 transfers a firearm to the Department, the officer receiving the firearm shall issue the person transferring the firearm a written proof of transfer containing:

(a) The name of the person transferring the firearm.

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(b) The date the firearm was transferred.

(c) The serial number (or identifying marks if the firearm was manufactured before 1968), make, and model of the firearm.

(d) Any other information required by state or federal law.

The receiving officer should keep a copy of the written proof of transfer and should make appropriate entries in any required logs. The Chief of Police may develop additional procedures pertaining to the storage and disposal of any surrendered firearms.

311.9 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report:

(a) May arrest a person without a warrant if the report to law enforcement was made within 48 hours of the alleged incident and the officer has probable cause to believe that (Md. Code CP § 2-204):

1. The person battered his/her spouse or another person with whom the person resides.
2. There is evidence of physical injury.
3. Unless the person is arrested immediately, the person:
    (a) May not be apprehended.
    (b) May cause physical injury or property damage to another.
    (c) May tamper with, dispose of, or destroy evidence.

(b) Shall arrest with or without a warrant and take into custody a person who the officer has probable cause to believe is in violation of an interim, temporary, or final protective order in effect at the time of the violation (Md. Code FL § 4-509(b)).

(c) Shall arrest, with or without a warrant, and take into custody a person the officer has probable cause to believe is in violation of an order for protection that was issued by a court of another state or a Native American tribe, and that is in effect at the time of the violation if the person seeking the assistance (Md. Code FL § 4-508.1(c)):

1. Has filed a copy of the order with the District Court or circuit court for the jurisdiction in which the person seeks assistance.
2. Displays or presents to the officer a copy of the order that appears valid on its face.

311.9.1 MUTUAL BATTERY

If an officer has probable cause to believe that mutual battery occurred and arrest is necessary, the officer shall consider whether one of the persons acted in self-defense to determine who was the primary aggressor (Md. Code CP § 2-204(b)).

311.10 REPORTS AND RECORDS

The Records Department shall provide a copy of the domestic violence report to the victim upon request (Md. Code FL § 4-503.1).

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311.11 SERVICE OF COURT ORDERS

Generally, the service of Interim Protective Orders and Temporary Protective Orders will be handled by the Cecil County Sheriff's Office (CCSO). However, if an Order needs to be served by the Elkton Police Department, the following shall apply.

311.11.1 INTERIM PROTECTIVE ORDER

An officer shall immediately on receipt of a petition and interim protective order serve them on the respondent named in the order. Immediately after service, the officer shall submit the documents to the Records Department, which will make a return of service to the commissioner's office or, if the Office of the District Court Clerk (Clerk) is open for business, to the Clerk; and within two hours after service of the order, electronically notify the Department of Public Safety and Correctional Services (DPSCS) of the service (Md. Code FL § 4-504.1(g)).

311.11.2 TEMPORARY PROTECTIVE ORDER

An officer shall immediately serve the temporary protective order on the alleged abuser. Immediately after service the officer shall submit the documents to the Records Department which will within two hours after service of the order on the respondent, electronically notify the DPSCS (Md. Code FL § 4-505(b)).

311.12 REQUIRED NOTIFICATIONS

When an officer arrests an individual for violating an interim, temporary, or final protective order and has probable cause to believe that the individual is a service member who has also violated a military protection order which has been entered into the FBI's NCIC database, the officer shall notify the agency that entered the military protection order (Md. Code FL § 4-509).

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