



HARFORD COUNTY SHERIFF'S OFFICE OPERATIONAL POLICY

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Protective/Peace Court Orders

Distribution:	All Employees	Index:	OPS 1802
Responsible Unit:	Domestic Violence Unit	Rescinds:	MAN2300B
		MD Code:	FAM LAW § 4-501 CRIM PROC § 2-204 CRIM PROC § 6-233

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1. Purpose

To provide guidance to law enforcement deputies regarding peace and protective orders.

2. Policy

Deputies will enforce domestic violence court orders in accordance with the law.

3. Definitions

FINAL PEACE ORDER: issued by a judge after a Final Peace Order Hearing; generally valid for up to six months.

FINAL PROTECTIVE ORDER: issued by a judge after a Final Protective Order Hearing; generally valid for up to one year, however, may be issued/extended for up to two years or life based on certain circumstances.

IMMINENT DANGER: A situation in which the respondent/suspect was in the physical presence of the petitioner/victim or other protected party (i.e. family member, child etc. as listed in the order) or on the property of the victim (i.e. in their home or work etc.) within the last 48 hours. OR If the victim feels the nature of the violation is escalating and may lead to further violations or harm. (Example: Suspect enters the home of the victim in violation of the order.)

INTERIM PEACE ORDER: issued by a court commissioner during hours courts are closed; remains valid until the Temporary Peace Order Hearing, or the end of the second court business day.

INTERIM PROTECTIVE ORDER: issued by a court commissioner during hours courts are closed; remains valid until the Temporary Protective Order Hearing or the end of the second court business day.

NON-IMMINENT DANGER: A situation in which the respondent/suspect is contacting the petitioner/victim or other protected party in violation of the order without the previously described threat qualifiers. (Example: The suspect calls or sends text messages to the victim in violation of the order.)

PEACE ORDER: A form of civil relief for anyone who is not eligible for a protective order and who alleges the commission of certain specified acts within 30 days of filing. Only the District Court has jurisdiction for these orders.

PERSONS ELIGIBLE FOR RELIEF: The current or former spouse or cohabitant of the respondent; a person related to the respondent by blood, marriage, or adoption; a vulnerable adult; a person who has a child in common with the respondent; a parent, stepparent, child, or stepchild of the respondent; an individual who has had a sexual relationship with the respondent within one year before filing of the petition; or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition.

PETITIONER: A person who files for a peace order or a protective order against a respondent.

PROTECTIVE ORDER: Issued by a court to protect a person from harm or harassment, in a domestic dispute, and prevents one party from approaching another, often within a specified distance and amount of time.

RESPONDENT: The person alleged to have committed abuse.

TEMPORARY PEACE ORDER: issued by a judge after a hearing; remains valid for up to seven days but may be extended for up to 30 days.

TEMPORARY PROTECTIVE ORDER: issued by a judge after a hearing; remains valid for up to seven days but may be extended for up to six months.

VULNERABLE ADULT: An adult who lacks the physical or mental capacity to provide for his daily needs.

4. Procedures

A. Protective Orders

1. Protective Orders are issued by a judge or commissioner to prevent respondents from committing certain acts against the petitioner.
2. Only Persons Eligible for Relief are covered by a Protective Order.
3. The petitioner must be able to show abuse has occurred.

B. Peace Orders

1. Peace Orders are issued by a judge to prevent the respondents from committing certain acts against the petitioner.
2. A person cannot file for a Peace Order if they are eligible for a Protective Order.
3. The Petitioner must be able to show the respondent committed abuse, harassment, trespass or malicious destruction of property against the petitioner within 30 days before the filing of the Peace Order:

C. Enforcement of Protective and Peace Orders

1. Protective and Peace Orders must be served on the respondent before enforcement action can be taken.
2. When deputies are told of the existence of a Protective or Peace Order, but no document is present, they will query METERS/NCIC to verify whether a Protective or Peace Order exists, if it has been served, and the conditions of the order.
3. A deputy will arrest the respondent if he has probable cause to believe the respondent is in violation of a Protective or Peace Order.
4. If the violation is non-arrestable, the deputy will inform the respondent and petitioner that:
 - a. The respondent is in violation and that the court can find the respondent in contempt;
 - b. The parties cannot mutually consent to changing the conditions of the order and only the issuing court can modify or rescind the order; and
 - c. If the petitioner wants to change the conditions of the order, he should go to the court and seek a modification or cancelation of the order.
5. A law enforcement officer does not have standing to file for contempt; only a petitioner and a respondent have standing to file a petition for contempt.
6. Deputies who are called to a scene where a respondent has been invited into the residence by the petitioner will:
 - a. Arrest the respondent, if he is in violation of an arrestable condition; and
 - b. Not arrest the petitioner.

D. Out-of-State Court Orders

1. Out-of-state Peace Orders and Interim Protective Orders cannot be enforced in Maryland.
2. Temporary and Final Protective Orders issued by another state or an Indian tribe will be accorded full faith and credit by a court of this State and will be enforced to the extent permitted under MD. CODE ANN., FAM. LAW § 4-501 et seq.
3. An out-of-state Temporary Protective Order may be enforced **within** seven days after service of the order.
4. A deputy may enforce an out-of-state Final Protective Order for as long as it is effective in the other state.
5. A deputy will arrest a person if he has probable cause to believe the person is in violation of the out-of-state Temporary or Final Protective Order, but only if the condition is an arrestable offense in Maryland.

6. If the condition is a civil violation in Maryland, even if it is a criminal violation in the other state, the deputy may not make an arrest but will refer the petitioner to a Maryland court where the petitioner may petition for contempt.

E. Validating Out-of-State Protective Orders

1. Deputies should examine any out-of-state Protective Order to determine whether it appears valid on its face (e.g., names, dates, terms, court, signature).
2. Deputies can validate out-of-state Protective Orders by contacting the court or a law enforcement agency in the issuing state.
3. When the petitioner does not possess a copy of the Protective Order, the Deputy may make an arrest when:
 - a. The Protective Order is confirmed through METERS/NCIC; or
 - b. Verification from a Maryland court with whom the petitioner seeks assistance that the order is on file.
4. Deputies unable to verify an out-of-state Protective Order should:
 - a. Arrest the respondent for any arrestable offenses he has committed;
 - b. Advise the petitioner on how to file for contempt with the issuing court; and
 - c. Refer the petitioner to the local domestic violence service provider for assistance in obtaining a Maryland Protection Order and additional safety planning.

F. Serving Protective and Peace Orders

1. When serving a Protective or Peace Order that orders the respondent to vacate the residence, the deputy will ensure the respondent vacates and takes only those personal belongings he may need to live and work during the period before the hearing.
2. If the respondent refuses to vacate after being served, the deputy will arrest the respondent for violating the order.
3. If conflicting vacate orders have been issued by different courts, the deputy will first attempt to reconcile the conflicting orders before service.
4. If unable to reconcile the conflicting orders, the deputy will serve both orders and enforce them as necessary.
5. After service, the deputy will refer both parties to the issuing court for resolution and will notify both courts of the conflict.
6. Commanders will coordinate with the Provost Marshal regarding serving Protective and Peace Orders for people who reside or work on a military base.

G. Notification of Service for Protective Orders

1. The law requires law enforcement agencies to notify petitioners regarding the service of Protective Orders when the petitioner requests such notification through the court.
2. Deputies serving a Protective Order will immediately notify Law Enforcement Records personnel upon serving the order
3. Deputies will contact Law Enforcement Records and notify them of the date and time of the service.
4. Deputies will complete the return of service form that is attached to the order indicating the type of order served, the deputy who served it and the date and time of service.
5. Deputies will complete the Return of Service Firearm Disposition (SO-184).
6. Deputies will FAX or e-mail a copy of the original return of service form and the Return of Service Firearm Disposition (SO-184) to Law Enforcement Records and send the original via interoffice mail to them.

H. Child Custody

1. Except for cases involving a child's safety, all child custody issues, including those which are addressed in Protective Orders, are civil matters and should be referred to the local Department of Social Services and the courts.
2. If a child visitation situation constitutes a violation of a Protective Order, the deputy should advise the petitioner that he may file for contempt with the issuing court.
3. When a child's safety is at risk, deputies will ensure the child is moved to a safe environment.

I. Reporting

1. Imminent/Non-Imminent danger cases will be completed as follows and the deputy will:
 - a. Complete an incident report documenting any alleged violation of a protective or peace order and use SF Code N12 (Protective Order Violation) or N14 (Peace Order Violation).
 - b. Use a separate report number for every violation even if it is an ongoing issue.
 - c. Relate or reference all known incidents to the new report.
 - d. Obtain a signed written statement for the victim and any witnesses documenting what occurred.
 - e. Obtain whatever evidence is available (example: video surveillance, witness statements, pictures, Text messages, etc.).

- f. Instruct victims to save voice mail messages from the suspect and if possible, obtain a recording of the messages.
- g. Take photographs of text messages.
- h. Obtain phone carrier information (i.e. Verizon, Sprint, AT&T) as applicable.
- i. Complete an application for statement of charges or effect an arrest if the suspect is located, if probable cause exists.
- j. Forward copies of all reports and supporting documents to the Domestic Violence Unit (DVU).

J. Domestic Escorts or Domestic Stand-By

- 1. A person who alleges to have been a victim of abuse and who believes there is a danger of harm may request the assistance of the Sheriff's Office for a domestic stand-by.
- 2. Deputies responding to domestic escorts or a domestic stand-by will:
 - a. Protect the person from harm;
 - b. Attempt to coordinate with both parties, if time permits, a mutually agreeable time for the escort; and
 - c. Accompany the person to the home so he may remove the following items belonging to the person or a child in the care of the person, regardless of who paid for the items:
 - i. Clothing; and
 - ii. Personal effects, including medicine or medical devices, that the person or child needs immediately.

K. Protective Order Process

- 1. Prior to serving an Interim, Temporary, or Final Protective Order the Deputy will review the order regarding specific relief granted by the issuing Judge.
- 2. The serving Deputy will obtain any missing information such as a date of birth, current address, and note updates on the return of service form.
- 3. If the issuing Judge ordered the immediate surrender of all firearms and ammunition to law enforcement, the duty officer or on-duty shift supervisor will query available databases to determine ownership/possession of all firearms/ammunition to include:
 - a. The Maryland Automated Firearm Service System
 - b. Records Management System (RMS by reviewing prior issued protective orders and alerts that may indicate firearms ownership/possession).

4. If a deputy is serving a protective order that was directly obtained from the district/circuit court or court commissioner's office, then the serving deputy must contact the duty officer to query the above listed databases prior to service.
5. Deputies will confirm all listed firearms through Maryland Automated Firearms Service System are accounted for and seized.
6. Deputies will inquire the validity of any mention of firearms written in the Petition for Protection.
7. Unaccounted firearms will be investigated thoroughly by the serving deputy and the investigation will be the responsibility of the serving deputy.
8. An investigation which requires extensive efforts which may exceed the scope of patrol functions may be assumed by the DVU after consultation.
9. When ownership of a firearm is in question the firearm will be seized until ownership can be determined through an investigation by the DVU.
10. All service attempts will require a call for service to be opened by Department of Emergency Services (DES) and will be documented on the appropriate worksheet.
11. Once service is made, the serving agency member will immediately notify Law Enforcement Records via radio.
12. The return of service and the Return of Service Firearms Disposition (SO-184) will also be faxed or e-mailed (as a scanned attachment) to Law Enforcement Records as soon as possible.
 - a. In the absence or unavailability of the Return of Service Firearm Disposition (SO-184) a handwritten response will suffice on the return of service form.
 - b. The deputy will note a refusal response by writing "refused" above signature line if applicable.

L. Reporting

1. Deputies will complete a report documenting the seizure or efforts made to locate known missing firearms/ammunition.
 - a. The allegation of the firearms/ammunitions based merely on suspicion may be documented on the "Protective Order Log Sheet" if found not to be sustained.
 - b. The "Protective Order Log Sheet" will be scanned into RMS when returned to Law Enforcement Records.
2. Forward DRAFT copy of the police report to the Domestic Violence Unit and use SF Code N8 Firearm Seizure (Court Ordered) prior to end of shift.

3. The original signed return of service and the Return of Service Firearm Disposition (SO-184) is required and will be forwarded to Law Enforcement Records via inter-office mail or hand delivery as soon as possible.
4. The criteria that apply to violations of Protective and Peace Orders also apply to Interim Orders.
 - a. A deputy will arrest with or without a warrant and take into custody an individual whom the deputy has probable cause to believe is in violation of an Interim Peace Order, Temporary Peace Order, or Final Peace Order in effect at the time of the violation.
 - b. A deputy will arrest with or without a warrant and take into custody an individual whom the deputy has probable cause to believe is in violation of an Interim, Temporary, or Final Protective Order in effect at the time of the violation.
 - c. A deputy will refer to the Arrestable and Non-Arrestable Conditions for Protective and Peace Orders listed below for guidance listed in Appendix A.

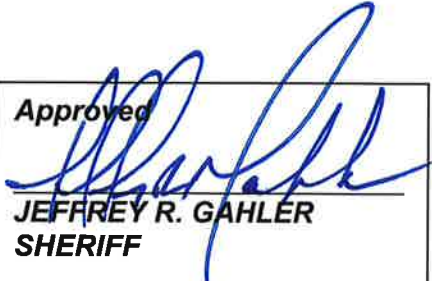
M. Duty officer/Supervisor Responsibilities

1. The duty officer/supervisor will review the protective order regarding the specific relief granted by the issuing judge prior to assigning the order for service, specifically checking:
 - a. If the order vacates the respondent from the residence.
 - b. If firearms/ammunition are to be seized.
2. If firearms/ammunition is ordered to be seized, refer to the "Protective Order Information Sheet" provided by Law Enforcement Records as ownership/quantity of known firearms may have been provided.
3. The duty officer/supervisor will review the protective order return of service and Return of Service Firearm Disposition (SO-184) before it is sent back to Law Enforcement Records and all discrepancies must be addressed with the serving deputy.

N. Eligibility to Petition for a Protective Order

1. Only the following persons are eligible for the relief provided by a protective order:
 - a. Current and former spouses,
 - b. Persons who have a child in common,
 - c. Cohabitants,
 - d. Persons related by blood, marriage, or adoption,
 - e. Parents, stepparents, children, and stepchildren,
 - f. Vulnerable adults, and/or

- g. An individual who has had a sexual relationship with the respondent within 1 year before the filing of the petition.

Approved

JEFFREY R. GAHLER
SHERIFF
DATE 1.20.2021

Appendix A

Arrestable and Non-Arrestable Conditions for Protective and Peace Orders

Possible Court Ordered Actions	Interim Protective Order	Interim Peace	Temporary Protective	Temporary Peace Order	Final Protective Order	Final Peace Order	Arrestable Offense
Order the respondent to refrain from further abuse or threats of abuse.	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Order the respondent to refrain from contacting or attempting to contact or harass the victim	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Order the respondent to refrain from entering the victim's residence	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Order the respondent to stay away from the victim's place of employment, school, or temporary residence	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Grant temporary possession of the residence to the victim or an adult family member, under certain circumstances	Yes	No	Yes	No	Yes	No	Yes
Award temporary custody of minor children	Yes	No	Yes	No	Yes	No	No
Establish temporary visitation and conditions	No	No	Yes	No	Yes	No	No
Award emergency family maintenance	No	No	No	No	Yes	No	No
Award temporary use and possession of jointly owned vehicle/property/pets	No	No	No	No	Yes	No	No
Order counseling	No	No	No	No	Yes	Yes	No
Order respondent to pay court costs	No	No	No	No	Yes	Yes	No
Order the respondent to remain away from the victim's childcare provider	No	No	Yes	No	Yes	No	Yes/No*
Order the respondent to surrender firearms	No	No	No	No	Yes	No	Yes
Order the respondent to vacate the residence immediately	Yes	No	Yes	No	Yes	No	Yes

* Could be YES or NO depending if the child is listed as a protected party in the protective order and there is no custody or visitation ordered by the Judge.