

## La Plata Police Department – General Order

	Title: <b>Domestic Violence</b>		Order #: <b>652</b>	
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Approved by: <b>Chief Carl Schinner</b>			CALEA 5 <sup>th</sup> Edition	
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**01 PURPOSE:** This Order establishes policy and procedures for investigations, arrests and referrals in all incidents of domestic violence and other types of family disputes.

**02 POLICY:** The policy of the La Plata Police Department is to take a pro-active posture on domestic violence. This policy will recognize domestic violence as criminal activity and will not differentiate this from other criminal activities. Arrest will be affected whenever the law authorizes and victims will be referred for assistance and family counseling as needed.

**03 DEFINITIONS:**

**A.** Domestic violence occurs when a person commits or attempts to commit one of the following types of offenses against a current spouse or a person whom they have had an intimate relationship:

1. An act that causes physical injury;
2. An act that places one in fear of physical injury to self or others; and/or,
3. Sexual assault.
4. Property crimes;
5. Violations of an Ex-Parte or Protective Order; or,
6. False imprisonment.

**B.** Abuse:

1. An act that causes serious bodily harm;

2. An act that places one in fear of imminent serious bodily harm to self or others;

3. Assault in any degree;

4. Rape or sexual assault, or attempted rape or sexual assault; and/or,

5. False imprisonment;

**C.** Explanation of “Intimate Relationship”

1. Persons involved in an intimate relationship are partners who:
  - a. Are married, separated or divorced;
  - b. Live or have lived together;
  - c. Have children in common; or,
  - d. Date, or have dated, but do not live, or never lived together.

**D.** Respondent: The person alleged to have committed the abuse.

**E.** “Temporary Ex-Parte” Ex-Parte Order: An order by the court, based upon “reasonable grounds” to believe that a person eligible for relief has been abused by a respondent. For the protection of a person eligible for relief, the court may order the respondent to comply with a number of conditions. The duration of the Ex-Parte order typically does not exceed seven (7) days after the date of issue, but can be extended by the judge for up to 30 (thirty) days to effect service. This Order becomes effective when it is served by a law enforcement officer. The Order includes notice of hearing (typically the last day the order is in

effect), during which the court will determine if a Protective Order is needed.

NOTE: An Interim Protective Order can be issued by a court commissioner when courts are closed.

**F. Protective Order:** Similar to an Ex-Parte, except that the duration can last up to, but not exceed one (1) year and is issued after a final hearing before the court. A Protective Order may be extended by the issuing judge up to six (6) additional months. A Protective Order is granted by a judge after a hearing, on the seventh or extended day of the Ex-Parte Order to determine if the person eligible for relief needs continued protection from the respondent. If the respondent consents, or if the judge determines that abuse occurred, whether the respondent is present or not, the judge will issue a final Protective Order. The court can issue mutual Protective Orders, if both parties have filed for an Ex-Parte Order, and the judge finds that both have been abusive.

**G. Person Eligible for Relief Through Ex-Parte or Protective Order:**

1. Current or former spouse.
2. A person who has lived with the respondent as a sexual partner in the same home for at least ninety (90) days during the last year.
3. A person related to the respondent by blood, marriage or adoption.
4. A parent, step-parent, child, or step-child who has resided with the respondent or person eligible for relief for 90 days during the last year.
5. A vulnerable adult-defined as an adult who lacks the physical or mental capacity to provide for their own daily needs.
6. An individual who has a child in common with the respondent.

**H. Consent Order:** A court order, the terms of which have been agreed to by the parties, signed by a judge setting forth the conditions and terms of contact between the two parties. This order can be criminally enforceable if either party is in violation of the terms which constitute a misdemeanor (similar to an Ex-Parte Order). Out of state consent orders are enforceable to the same extent of orders issued in Maryland.

**I. Peace Order:** A peace order is available to individuals who are having problems with another person, including someone in a dating relationship, a neighbor, or a stranger but a petition must be filed within 30 (thirty) days of the alleged incident. This order is issued by a District Court judge. The Peace Order typically does not exceed seven (7) days after the date of issue, but can be extended by the judge for up to thirty (30) days to effect service. This order becomes effective when it is served by a law enforcement officer. An interim Peace Order can be issued by a court commissioner when the District Court is closed. A final peace order may be granted by a judge after a hearing on the seventh or extended day of the temporary Peace Order. The duration of a final Peace Order is up to six months with no extension.

**J. Regulated Firearm:** Any handgun or assault weapons as defined by the Maryland Annotated Code.

**04 INVESTIGATION:** Officers will investigate domestic violence incidents as any other criminal investigation.

**A. Interviewing:** The goal of the interview is to obtain information from the involved parties and witnesses, including children, pertaining to potential criminal activity for later use in court, to assess injuries and to capture relevant information. All questions should be clear, direct and concise.

**B. Observations:** Officers are to be alert to other signs of problems or violence

within the household, such as child abuse or neglect. Officers shall fully document such incidents and take appropriate action. If an officer notices unhealthy living conditions, he/she should contact the Town's Code Enforcement for intervention.

- C. Lethality Assessment: The La Plata Police Department voluntarily participates in the Domestic Violence Lethality Assessment Program through the Maryland Network against Domestic Violence.

In the context of the protocol, lethality assessment for first responders is comprised of conducting an assessment through the use of a screening instrument; contacting the domestic violence hotline when a victim is assessed as being in danger, asking the victim to speak with a hotline counselor; and offering services to the victim as determined by the situation.

1. An officer should initiate a Lethality Assessment on all Domestic calls when the following conditions exist:
  - i. There is reason to believe that an assault or an act that constitutes domestic violence has occurred, whether or not there is an arrest; or,
  - ii. There is a belief or sense on the part of the investigating officer that once the victim is no longer in the care or presence of the officer, the potential for assault or danger is high; or,
  - iii. There have been multiple repeat calls for service; or,
  - iv. The investigating officer believes that one should be conducted.
2. The investigating officer will complete the Domestic Violence Lethality Screening form. The completed form will be attached with the officer's report (if applicable).

3. Assessing Responses:

- i. Yes to questions 1-3: A yes or positive response to any of those questions reflects a high degree of danger and automatically triggers the protocol referral process.
- ii. Yes to questions 4-11: If the victim gives negative responses to all of questions 1-3, but gives a yes or positive response to at least 4 of these questions, that reflects a high degree of danger and triggers a protocol referral.
- iii. A no or negative response to all of the assessment questions or positive response to no more than three of questions 4-11, the protocol is not automatically triggered, however, the investigating officer may still trigger the protocol if he/she feels it is appropriate.
- iv. High Danger Protocol Activation:
  1. Advise the victim that he/she may be at an increased level of danger.
  2. Advise the victim that he/she should contact the Domestic Violence Hotline and speak with a counselor. The officer should offer to help the victim make contact.
  3. If the victim agrees to speak with the counselor, the investigating officer will call the Domestic Violence Hotline and advise the counselor that he/she has made a high degree assessment and believes that the victim is in danger. The officer shall then encourage the victim to speak with the counselor.
  4. If the victim refuses to speak with the counselor, the investigating officer will

provide the victim with the contact information for the Domestic Violence Hotline prior to clearing the scene.

**D. Supervisor Notification:** The investigating officer will notify the Shift Supervisor if there has been a felony assault. The nature and seriousness of the victim's injuries may dictate the need for a criminal investigator to respond to the scene or have follow-up conducted by the Criminal Investigations Unit.

**E. Collection of Evidence:** Unfortunately, many domestic violence victims choose not to testify on behalf of the State. Evidence collected at the scene must speak for them. Whenever possible an officer will:

1. Obtain written statements from the involved victim and other parties and witnesses.
2. Identify and seize weapons or objects used as weapons.
3. Seize clothing which may be evidence.
4. Photograph the victim, the perpetrator, and injuries and the crime scene.
5. Arrange for or take additional photographs of the victim, two or three days later when bruises would be more developed.
6. Interview neighbors to see if they heard any screaming and/or acts of relevance to the investigation.
7. Retrieve any notes/writings made by the perpetrator, victim or witnesses.
8. If appropriate, secure a copy of the 911 tape.

**F. Firearms:**

1. Pursuant to Family Law Article 4-511, law enforcement officers may

remove firearms from the scene if they have probable cause to believe that an act of domestic violence has occurred and observed the firearms in plain view.

2. Family Law Article 4-511 does not authorize a search of the dwelling for firearms beyond that described in section E.1. A resident of the dwelling, however, may lead the officer to the location of other firearms in areas of the dwelling for which the resident has legal standing to enter.
3. The statute does not require that the owner of the firearm be a party of an act of domestic violence in order to authorize the seizure of the weapon. Likewise, the statute does not require the either party indicate a desire to initiate charges.
4. If officers remove a firearm from the scene, they shall advise the owner that the firearm will be held in the La Plata Police Department Property Room pending a proceeding on the alleged act of domestic violence or for no less than sixty (60) days.

**G. Written Report:** A written report will be prepared on all confirmed violent domestic situations, no matter how little information is obtained from involved parties. The following information should be documented in the written report:

1. The status of the relationship between the involved parties;
2. The nature and extent of injuries;
3. The use of force or weapon;
4. The use of threatening language or actions;
5. The nature of the conflict which lead to the violence;
6. The involved party's history of past violence and police intervention;

7. The use of alcohol, illicit drugs or medication;
8. Excited utterances by the victim, suspect and witnesses;

NOTE: The following information within a domestic violence report will not be released without a court order to any person other than law enforcement agencies or the State's Attorney's Office.

9. Temporary location of victim;
10. The names, addresses and phone numbers of witnesses; and,
11. Any statements made by the victim, suspect or witnesses.

**H. Assistance to Victims:** In many cases, victims of abuse only want officers to stop the violence. Officers should make it clear to all parties that domestic violence is a crime, regardless of their relationship with the suspect, and will be dealt with accordingly.

1. In the event a warrantless arrest can not be lawfully effected, officers will review the charging process with the victims;
2. Officers will provide victims with the Victim's Rights Pamphlet regardless of whether an arrest occurred;
3. Officers will explain the Ex-Parte application process to the victim. Officers should recommend the victim make numerous copies of the Ex-Parte Order and distribute them to family member(s), daycare provider and/or a dependent child's school ;
4. Officers will explain to the victim how to obtain the police report.
5. Officers will comply with reasonable requests of the victim, such as transportation to another location. An officer is allowed to

transport a victim of domestic violence up to thirty (30) miles from the Town.

**05 ARREST:**

**A. Criminal arrest will be the primary means of police intervention in domestic violence incidents.**

1. The law permits warrantless arrests for domestic assaults (misdemeanor) that occur outside the presence of an officer. The following elements must be present to apply this law:
  - a. The victim is the spouse, or any other individual that resides with the suspect, and;
  - b. There is evidence of physical injury to the victim, and;
  - c. The assault occurred within forty-eight (48) hours of the report to the police, and;
  - d. Unless the person is immediately arrested:
    - i. The person may not be apprehended; or
    - ii. The person may cause injury to the person or damage to the property of one or more persons; or,
    - iii. The person may tamper with, dispose of, or destroy evidence.
  - e. A police officer may arrest a person for incidence of stalking without a warrant if:
    - i. The officer has probable cause to believe a stalking under Criminal Law 3-803 has been committed.
    - ii. The police officer has reason to believe that the alleged stalking victim or a third person is in danger

- of imminent bodily harm or death; and,
- iii. The probable cause is supported by credible evidence other than statements of the alleged stalking victim.
2. An act of violence against any person in the presence of an officer shall result in arrest, regardless of the relationship between the parties.
  3. An arrest will be affected when probable cause exists that a felony has occurred, regardless of whether an officer was present.
  4. An arrest will be affected when probable cause exists that a subject has violated the criminal provisions, listed below, or a verifiable Ex-Parte, Consent, Protective or Peace Order.
    - a. Further acts of abuse or threats of abuse to a person eligible for relief;
    - b. Contacting, attempting to contact or harassing the person eligible for relief;
    - c. Re-entering the residence of the person eligible for relief;
    - d. Not vacating the home where the person eligible for relief and the respondent has resided; and/or,
    - e. Going to the place of employment, school or temporary residence of a person eligible for relief.
  5. Factors to consider when determining probable cause:
    - a. Visible injuries and whether they are offensive or defensive in nature;
    - b. Evidence of victim's non-visible injuries, such as a blow to the stomach causing the victim to wince and hold the affected area;
    - c. Torn clothing, disheveled appearance;
    - d. Furniture in disarray;
    - e. Need for medical attention;
    - f. Corroborating statements of witnesses who can verify violence or the threat of violence;
    - g. Threats and the presence of weapons;
    - h. Visibly upset children;
    - i. Demeanor of the suspect;
    - j. History of violence or repeat calls for service;
    - k. Existence of a Civil Protection Order;
    - l. Refusal of suspect to allow the victim to be interviewed out of the suspect's presence, and the victim complies;
    - m. Demeanor of the complainant; and,
    - n. History of complaints at a location-do not take frequent complaints lightly or dismiss them due to unsuccessful earlier intervention.
  6. Factors to disregard in determining probable cause:
    - a. Marital status;
    - b. Race or ethnic background;
    - c. Sexual orientation;
    - d. Location;

- e. Verbal assurances that the violence will stop;
  - f. Financial consequences of arrest to the suspect and/or victim;
  - g. Refusal of victim to prosecute;
  - h. Complainant's statement that they did not want the suspect arrested;
  - i. Denial from either party that abuse occurred, despite evidence to the contrary;
  - j. Claims by the suspect that the complainant provoked the abuse;
  - k. Suspect is a police officer, public official or person of stature in the community; and/or,
  - l. Evidence that the suspect or victim is under the influence of drugs or alcohol.
7. In all cases of domestic violence where probable cause existed to support an arrest and an on-scene arrest was not affected, the investigating officer will document their reason(s) in the written report and will include the actions taken to ensure the safety of the victim.
8. If the suspect is arrested, officers will attempt to obtain a written statement from the defendant in reference to the incident, post-Miranda.
9. If the suspect is arrested, the officer will advise the victim of the Victim Information and Notification Everyday (VINE) program. **A STATE OF MARYLAND/CHARLES COUNTY CRIME VICTIM AND WITNESS HANDBOOK WILL BE LEFT WITH EVERY VICTIM/WITNESS OF**

**DOMESTIC VIOLENCE BY THE RESPONDING OFFICER.**

- B. Dual Arrests:** Dual arrests in a domestic context usually refers to the arrest of both parties for mutual assault upon another. In some cases dual arrests are appropriate.
- 1. The policy in cases of Mutual Assault:
    - a. Officers should avoid dual arrests whenever investigation reveals that one party acted in self defense.
    - b. The primary aggressor should be arrested.
    - c. If both parties committed domestic assaults, and neither was acting in self defense, both parties should be arrested.
    - d. In recognition of the dynamics of domestic violence and the State's intent of holding the primary aggressor accountable, cases of mutual arrest should be infrequent.
  - 2. Consideration of Self Defense: Maryland Law requires officers to consider whether one of the parties acted in self defense. In Maryland, a person may act in self-defense when:
    - a. The person actually believed that they were in immediate and imminent danger of bodily harm; and,
    - b. The person's belief was reasonable; and,
    - c. The person used no more force than was reasonably necessary to defend themselves in light of the threat of actual harm.
  - 3. Determination of primary aggressor. Does one of the parties:

- a. Have a history of committing violent crimes;
  - b. Is or has been a respondent of a Temporary Ex-Parte or Protective Order; and/or,
  - c. Has carried out his/her threats.
- C.** Where probable cause exists, but an on-scene arrest cannot be made, officers shall obtain an arrest warrant prior to the end of his/her tour-of-duty.

**06 SERVICE OF EX-PARTE AND PROTECTIVE ORDERS:**

**A.** Generally, the Charles County Sheriff's Office (CCSO) will pick up all Ex-Parte and Protective Orders issued by the Courts of Charles County. It is the responsibility of CCSO to serve Ex-Parte and Protective Orders.

**B.** However, on occasion it may be necessary for a La Plata officer to serve an Ex-Parte or Protective Order. Officers will follow the following procedures when serving a respondent.

- 1. Have the Charles County Communications Specialist contact the CCSO on a taped line to authenticate the Ex-Parte or Protective Order.
- 2. Obtain the complainant's copy of the Ex-Parte or Protective Order and serve the respondent.
- 3. Have the Charles County Communications Specialist notify the CCSO of the Ex-Parte or Protective Order service.
- 4. Request that the CCSO send the complainant a new copy of the Ex-Parte or Protective Order.

**C.** Out-of-State Protective Orders:

- 1. Officers may arrest, without a warrant, a person whom the officer has probable cause to believe is in violation of a civil protective order

that was issued by a court of another state or an Indian tribe, and is in effect at the time of the violation, if the person seeking assistance of the officer:

- a. Has filed a copy of an authenticated order with the District or Circuit Court of Maryland; or,
- b. Displays or presents to the officer a copy of an out-of-state authenticated order.
  - i. Out-of-State orders are only criminally enforceable to the extent a similar order issued in Maryland would be enforceable.
  - ii. Responding officers will have the Charles County Communications Specialist conduct a MILES/NCIC query on the respondent's name to verify whether an Order is outstanding, has been served, and if served, identify the conditions of the Order.
  - iii. If the respondent is on the scene when the officers arrive, the officers will ascertain whether the respondent is in violation of the respective order. If the subject is in violation of a criminally enforceable provision of an Order they will be placed under arrest.
  - iv. If the respondent is no longer on the scene when officers arrive and probable cause exists to believe they were in violation of a criminal enforceable provision of an Order, a lookout will be broadcast and a reasonable effort will be made to

locate them. If the subject is located they will be placed under arrest.

- v. If probable cause exists to believe that a respondent has violated a criminal provision of an Order (pursuant to the Maryland statute) and the subject could not be located, the responding officer will:

- (1) File an application for a Statement of Charges, or
- (2) Refer the complainant to the District Court Commissioners Office,

NOTE: If the respondent has violated a non-criminal provision of an Order the officer will refer the petitioner to private counsel or to the issuing court for further relief.

- D.** Ex-Parte and Protective Orders and Law Enforcement Officers: La Plata Police Officers who are listed as respondents in Ex-Parte or Protective Orders will notify the Operations Commander immediately. The officer's police powers will be suspended pending an immediate internal review.

**07 DOMESTIC VIOLENCE INCIDENTS INVOLVING MEMBERS OF THE LA PLATA POLICE DEPARTMENT:**

- A.** Domestic violence incidents involving police officers will be investigated the same as other domestic incidents, being mindful that a weapon may be involved.
- B.** Arrests will be affected when the law permits.

**C. Response to domestic violence incidents involving La Plata Police Officers (in jurisdiction):**

- 1. The Shift Supervisor shall respond to the scene and assume the role of the investigating officer.
- 2. The Shift Supervisor will complete and submit a detailed report prior to the end of his/her shift.
- 3. The investigating officer will make immediate notification to Operations Commander.
- 4. The investigating officer will forward a copy of the initial report to the Chief of Police.
- 5. In the event probable cause exists to support the arrest of an officer, or when an officer is arrested, the involved officer's police powers will be immediately suspended by the investigating officer.
- 6. The investigating officer will seize the involved officer's badge, police credentials and duty weapon.

**08 DOMESTIC VIOLENCE INCIDENTS INVOLVING POLICE OFFICERS FROM ALLIED JURISDICTIONS:**

- A.** The Shift Supervisor will respond to the scene to supervise the investigation.
- B.** The investigating officer will complete and submit a detailed initial report, prior to the end of his/her shift.
- C.** The investigating officer will be responsible for forwarding a copy of the completed report to the Chief of Police.
- D.** In the event probable cause exists to support an arrest (whether an arrest was effected or not), the Shift Supervisor will cause a commander of the respective allied agency to be notified within four (4) hours and apprise him/her of the incident.

- E. If an Ex-Parte or Protective Order has been served or needs to be served on an officer from another jurisdiction, the Shift Supervisor will make notification to a commander of the respective allied agency within four (4) hours.
- F. If the criminal provisions of an Ex-Parte or Protective Order need to be enforced against an officer from another jurisdiction, the Shift Supervisor will cause the notification to a commander of the respective agency within four (4) hours of the incident.

**09 OTHER POLICE SERVICES:**

- A. Non-violent disputes between household members are primarily civil matters and the courts have specific proceedings and personnel to resolve them. Generally, in these types of incidents, officers will provide appropriate referral information.
- B. Officers are required to accompany individuals, alleged victims (or potential victims) of domestic abuse, to the family home to remove personal effects required for immediate needs of themselves and any children in their custody. Officers have an obligation to protect the individual from harm during such stand-bys.
- C. Guidelines for disputes over property or access to the household:
  - 1. Officers will not act as arbitrators. If a party seeks possession of personal property and is the owner or tenant of the household, not subject to a Court Order to vacate, it will be presumed that they have a right to enter the premises.
  - 2. Where clear title to a vehicle cannot be determined, property disputes between household members shall be referred to the District Court Commissioner's Office or private counsel.
  - 3. All other property disputes should be referred to the District Court

Commissioner's Office or private counsel.

- D. In disputes over child custody, all parties should be instructed to consult private counsel for relief.
  - 1. Officers should be alert to factors that pose potential health and safety hazards to children.
  - 2. Whenever a non-custodial relative or any non-relative takes a child from a legal parent or guardian, a child abduction investigation will be initiated. See Order 803-Child Abductions.

**10 TRAINING:** The Criminal Investigations Commander will ensure that all officers are provided with updates on laws relating to the issues contained herein, as well as updates on referral services that are available.