**GENERAL ORDER 2-32, DOMESTIC VIOLENCE**

**ACKNOWLEDGEMENTS**

The Virginia Department of Criminal Justice Services (DCJS) gratefully acknowledges the assistance of:

* Investigator Kristel DiGravio-Ferguson and the Caroline County Sheriff’s Office in the development of the following revised model policy.
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The assistance of these individuals and organizations greatly enhanced the guidance DCJS provides Virginia’s law enforcement agencies on effectively responding to domestic violence and improving public safety.

**VIRGINIA CODE ON DOMESTIC VIOLENCE POLICIES FOR LAW ENFORCEMENT**

***Chapter 600 of the Code of Virginia, § 9.1-1300. Domestic violence policies and procedures for law-enforcement agencies in the Commonwealth.*** *This new chapter (Chapter 13), added in 2008, requires the Virginia Department of State Police and the police and sheriff’s departments of every political subdivision in the Commonwealth to establish an arrest policy and procedures for domestic violence and family abuse cases. Local police or sheriff's department is authorized to adopt an arrest policy that prescribes additional requirements, however, the Code of Virginia states that “any policies and procedures established under this section shall at a minimum provide guidance to law-enforcement officers on the following:*

*1.*  *The department's arrest policy;*

*2. The standards for determining who is the predominant physical aggressor pursuant to § 19.2-81.3;*

*3. The standards for completion of a required incident report to be filed with the department including the existence of any special circumstances which would dictate a course of action other than arrest;*

*4. The department's policy on providing transportation to an allegedly abused person;*

*5. The legal and community resources available to allegedly abused persons in the department's jurisdiction;*

*6. The department's policy on domestic violence incidents involving law-enforcement officers; and*

*7. The department's policy on the handling of cases involving repeat offenders of family abuse or domestic violence.”*

**GENERAL DOMESTIC VIOLENCE AND FAMILY ABUSE INFORMATION**

Domestic violence and family abuse have received widespread public attention as serious social problems affecting people in all economic, social, and ethnic groups. Many law enforcement agencies consider violence among intimate partners or family members to be the most frequent and under-reported crime in the United States. Further, law enforcement officers have found intimate partner violence to be a difficult problem for the criminal justice system to handle effectively. Some have become frustrated, apathetic, or even hostile after encountering victims who are repeatedly abused and do not press charges or who return to the battering relationship. Still others hold on to faulty beliefs that victims actually provoke the attacks or masochistically enjoy beatings.

**Domestic violence is generally defined as a pattern of abusive behaviors used by one individual to exert power and control over another individual in the context of an intimate partner or family relationship.** Domestic violence involves more than one incident of violence and typically increases in frequency and intensity over time. Abusive behaviors may include physical assaults, verbal assaults, threats, intimidation, use of weapons, destruction of property, violence towards other people or pets, sexual violence, and control over economic resources. People who use violence in a relationship **do not** lack self-control, but instead use specific and targeted techniques to try to control how their partners think, feel, and act. Stress, isolation, and family circumstances can also contribute to this violence.

Alcohol and drug abuse may also be occurring in cases reported to law enforcement agencies. It is important to note, however, that when substance abuse and domestic violence co-occur, the use of substances is not what causes people to batter.  While substance abuse can exacerbate a situation, perpetrators of domestic violence who use alcohol or drugs are abusive regardless of the use of these substances.  In other words, drinking or drug use can increase the likelihood of **someone already predisposed to use violence**, to act on the desire to be abusive and/or act on it in more violent ways.

The most effective response to domestic violence involves a focus on the perpetrator, not the victim, and seeks to hold that perpetrator accountable. If effective intervention does not occur, the abuse will most likely continue and escalate, and in some cases, may lead to homicide.

Different law enforcement approaches to addressing domestic violence appear to have varying outcomes depending on the particular suspects, communities, or other characteristics. Although the current trend supports mandatory arrest policies, law enforcement policy developers should know that research remains inconclusive. Policy guidance should be regarded as subject to change as more research is conducted.

This DCJS model policy promotes arrest when the legal elements of the offense are present. Officers are not precluded from making additional decisions concerning the victim or future incidents involving the same people. In developing policy, law enforcement administrators should consult with their local prosecutors and domestic violence program staff to develop a unified approach. Those who wish to learn more about domestic violence research or to examine other policy-related materials on the topic should contact the DCJS Division of Law Enforcement or the Division of Programs and Services.

Among other requirements, Virginia law requires **mandatory arrest upon probable cause** for specified violent acts, and mandates law enforcement agencies to adopt written policies (to include specified components). Take particular note of the mandatory issuance of emergency protective orders, and the role of officers/deputies in obtaining them. Many of the requirements placed on law enforcement for handling domestic violence incidents also apply to non-family abuse situations (e.g., acts of violence between non-family or household members, including stalking or sexual assault).

Agencies are encouraged to contact the DCJS Division of Programs and Services for additional information and resources on domestic violence. Further, grants to support the implementation of domestic violence arrest policies are available at both the state and federal level.

*Revised September 2012*

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| **POLICE/SHERIFF’S OFFICE** | **GENERAL ORDERS** |
| **SUBJECT: Domestic Violence** | **NUMBER: 2-32** |
| **EFFECTIVE DATE: Sept. 12, 2012** | **REVIEW DATE: Annually** |
| **AMENDS/SUPERSEDES:**ALL OTHER PUBLICATIONS | **APPROVED:****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****Chief of Police/Sheriff** |
| **VLEPSC Standards:** OPR.13.01, OPR.12.01, OPR.12.02, OPR.02.01, OPR.02.03, ADM.23.01, ADM.23.02, ADM.23.03 |

**NOTE:**

This rule or regulation is for internal use only, and does not enlarge an officer/deputy’s civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department/office, and then only in a non-judicial administrative setting.

**I. POLICY:**

***[Insert name of law enforcement agency here]*** assigns domestic violence (domestic disturbance) calls a high priority. With all due consideration for their own safety, department personnel responding to a domestic disturbance call shall (1) end the conflict, (2) arrest persons when probable cause exists and a predominant aggressor can be determined, (3) provide safety and security for the crime victims(s), and (4) refer participants to appropriate agencies to help prevent future occurrences.

**II. PROCEDURES:**

A. Definitions:

1. “Domestic Violence” - A pattern of physically, sexually, and/or emotionally abusive behaviors used by one individual to assert power or maintain control over another in the context of an intimate partner or family relationship.

2. “Intimidation” - To compel or deter another person or to make fearful through the use of threats, force, and/or menacing annoyances (harassment).

1. “Assault and Battery” - See *Code of Virginia* § [18.2-57](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57). See also § [18.2-57.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57.2), Assault and Battery Against a Family or Household Member; penalty. Note that whenever a warrant for a violation of § [18.2-57.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57.2) is issued, the magistrate shall issue an emergency protective order as authorized by § [16.1-253.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-253.4), except if the defendant is a minor, an emergency protective order shall not be required.

#### “Family Abuse” - any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ [18.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61) et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

### 5. “Family or Household Member” - See Code of Virginia § [16.1-228](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-228). Family or household members include:

1. Spouses, whether or not residing together,
2. Former spouses, whether or not residing together,
3. Persons who have a child in common, whether or not residing together,
4. Parents, whether or not residing together,
5. Children, whether or not residing together,
6. Stepparents/stepchildren, whether or not residing together,
7. Siblings/half-siblings, whether or not residing together,
8. Grandparents/grandchildren, whether or not residing together,
9. Parents-in-law/children-in-law/siblings-in-law, who do reside together,
10. Persons who cohabit or who cohabited within the previous 12 months, and any children of either person who reside/resided in the same home.

See also Code of Virginia § [19.2-81.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-81.3) (Arrest without a warrant authorized in cases of assault and battery against a family or household member and stalking and for violations of protective orders; procedure, etc.) and § [18.2-57.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57.2) (Assault and battery against a family or household member; penalty.).

### 6. “Predominant Physical Aggressor” - See Code of Virginia § [19.2-81.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-81.3). Officers/deputies having probable cause to believe that a violation of § [18.2-57.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57.2) or § [16.1-253.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-253.2) has occurred shall arrest and take into custody the person he/she has probable cause to believe, based on the totality of the circumstances, was the Predominant Physical Aggressor, unless there are special circumstances which would dictate a course of action other than arrest. The standards for determining the predominant physical aggressor shall be based on the following considerations:

1. Who was the first aggressor;
2. The protection of the health and safety of family and household members;
3. Prior complaints of family abuse by the allegedly abusing person involving the family or household members;
4. The relative severity of the injuries inflicted on person involved in the incident;
5. Whether any injuries were inflicted in self defense;
6. Witness statements; and
7. Other observations (see also page 9, number 12)

Note: When determining the predominant physical aggressor, gather all relevant information. Do not assume guilt based only on visual evidence or physical injuries. Officers must make their determination based on the totality of the circumstances. The predominant physical aggressor is the person that poses the most serious threat. The predominant physical aggressor is not necessarily the first disputant to engage in assaultive behavior, but the one with the most ability and inclination to inflict physical injury.

7.“Stalking” – Any person who on more than one occasion engages in conduct directed at another person with the intent to place, or when he/she knows or reasonably should know that the conduct places, that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member (See Code of Virginia § [18.2-60.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-60.3)). Stalking behaviors may include: following a person to home, work, and other places; parking outside a person’s home or office; writing threatening notes or making threatening telephone calls; other threats, including computer-based or on-line threats.

## B. General Responsibilities:

### 1. Department personnel shall refer victims of domestic violence to appropriate community resources, such as domestic violence shelters/programs, victim/witness assistance programs, mental health agencies, medical services, and legal assistance agencies.

2. Department personnel will likely encounter victims of domestic violence who may be incapacitated or elderly, who have mental health conditions, who have disabilities, or who have other unique needs. Department personnel are encouraged to consult with staff from local organizations who work with people with unique needs to learn more about appropriately assisting these individuals. Further, it is recommended that law enforcement agencies develop practices on contacting appropriate community agencies and services, including but not limited to local Department of Social Services Adult Protective Services units, when handling cases involving adult victims who are incapacitated or elderly, persons with mental illness, and persons with disabilities.

### 3. Following a crime, law enforcement personnel shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims. It shall also include the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law enforcement agency, and a summary of the victim's rights under § [40.1-28.7:2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+40.1-28.7C2) (See Code of Virginia § [19.2-11.01](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-11.01) for this requirement and for the definition of “victim”).

4. Department personnel shall be trained about domestic violence and its impact. Domestic disturbance calls can be dangerous to responding officers/deputies, as they may encounter unexpected additional violence. Officer/deputies are encouraged to consult with staff from local domestic violence programs and victim/witness assistance programs to learn more about the dynamics of domestic violence.

C. Communications Officer (Communication Center) Responsibilities:

1. Because the communications officer is likely to be the first person to receive a domestic disturbance call, he or she is instrumental in determining the type of response.

2. The communications officer shall dispatch an officer/deputy (though two officers/deputies are preferable) to the scene in any situation where it is believed that domestic violence is occurring. The communications officer shall send an officer/deputy to the scene, even if the victim advises that everything is now fine at the scene.

3. The communications officer shall determine the following, if possible:

#### Name of the caller,

#### Location of the incident,

#### Who is making the complaint?

#### Is the crime (incident) currently in progress?

#### Is there a weapon involved?

#### Have people at the scene been injured and is an ambulance needed?

### 4. The communications officer should attempt to maintain telephone contact until the officers/deputies arrive in order to monitor the incident and provide support to the victim. Advise the victim of the intended department response. Use crisis intervention skills, if needed, to assist the victim in remaining calm until officers/deputies arrive on scene.

### 5. The communications officer shall provide the responding officer/deputy with as much information as possible to identify potential risks at the scene. It is especially important to inform the officer/deputy if there have been previous domestic disturbance calls involving the same people.

6. The communications officer shall enter all information into the Computer-Aided Dispatch (CAD) system, including the reason for the call, weapons at the scene, mental health concerns, violent/noncompliant individuals, and any other important information. This information shall be disseminated to the patrol unit en route to the scene.

D. Patrol Officer/Deputy Responsibilities:

1. Obtain all available information from the communications officer while en route to the scene.

2. When approaching the scene:

a. When possible, it is recommended that officers/deputies arrive in pairs.

b. Avoid the use of sirens and other alarms in the vicinity of the scene. The alleged assailant may be dangerous and could become violent with arriving officers/deputies.

c. Observe the location of the dispute before contacting the complainant. Consider the surroundings. Park the marked car a short distance way.

e. When approaching a building, listen and look in nearby windows to obtain additional information about the situation (e.g., layout of the space, number of people, weapons).

f. Officers/deputies must be concerned for their own safety as well as that of the disputants. To minimize the possibilities of injury, stand to the side of the door when knocking. Be prepared for any response when the door opens.

3. Initial contact with disputants:

a. Officers/deputies should identify themselves by name, provide an explanation for their presence, and request entry into the location (when conditions permit). Ascertain identity of complainant and ask to see him or her. Even when the disputants claim that law enforcement assistance is no longer needed, officers/deputies should not leave without attempting to interview the complainant.

 b. If entry is refused:

1. Officers/deputies should explain that they must make sure there are no injured persons inside.
2. A forced entry may be necessitated only if officers/deputies have a reasonable belief that the safety of people inside may be in jeopardy.
3. If the situation permits, officers/deputies shall call the on-call supervisor to determine whether or not to make a forced entry. In the event of an emergency, or inability to contact the supervisor, the officer/deputy shall be make the determination based on the following:
* The degree of urgency involved;
* The possibility of danger to others, including other officers/deputies;
* Whether or not the reported incident involved violence; and
* Whether officers/deputies reasonably believe that persons may have weapons.
1. Searching the premises:
2. Officers/deputies may conduct a search of the premises if consent has been given to do so. Although a consent search eliminates the need for a warrant and for probable cause, such consent must be freely and voluntarily given. If two people have joint ownership or possession of a place or thing, either one may give consent; however, if either party having joint ownership or possession of a place or thing refuses to give consent, a warrant must be obtained.
3. A spouse can consent to the search of premises used jointly by both spouses. This also applies if two people are unmarried cohabitants; however, if one of the parties exercises sole control over part of the premises, the other cannot give valid consent to search that part.
4. The officer/deputy may need to inform the parties that the rights to any disputed property can only be determined by the courts.
5. Officers/deputies may also make a warrantless entry to conduct a search if an emergency exists. Officers/deputies must have a reasonable belief that such emergency does exist. See number three (3) above for the elements to consider when making a warrantless entry.
6. Once entry is gained:
7. Inquire about the nature of the dispute;
8. Identify the disputants;
9. Be aware of potential weapons (e.g., firearms, knives, or other objects that could be used as weapons) in surroundings. If weapons are present, secure them away from the disputants if practicable. If appropriate, seize weapons for evidence.
10. Determine who else is present, such as children or other adults. Determine if any are injured. Separate these persons from the parties involved and keep out of hearing range, as they are potential witnesses.
11. Injuries:
12. If any of the disputants or others present are injured, arrange for medical assistance.

1. If the victim appears injured, yet refuses medical assistance, carefully document any observed injuries. Also document the refusal of medical treatment.

#### Ascertain whether a protective order has been violated. It is important to note that only the respondent listed on a protective order can be charged with a violation of that order. A protective order respondent is also prohibited from purchasing or transporting any firearm (See Code of Virginia § [18.2-308.1:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.1C4)).

#### In order to complete a thorough investigation, an officer/deputy must rely on observation, interviewing, victim statements, physical evidence, and independent witness statements.

### Interviewing the parties:

1. The parties may make excited utterances when the officers/deputies arrive on scene, and these statements may have evidentiary value. Record these utterances when practicable and note them in the report.
2. The officer/deputy’s manner is critical to the success of the interview. Officers/deputies must listen, show interest in the disputants and their problem, and remain aware of nonverbal communication signals.
3. If possible, separate the parties so that they can individually describe the incident without interruption. This may help relieve tension and allow the parties to speak more openly. Note that statements made after parties are separated are generally not viewed as excited utterances.
4. After the parties have given their statements, the officers/deputies should ask about details for clarification, and summarize the stated accounts (which allows the parties to point out anything that might be misrepresented).

### Interviewing the complainant victim:

1. When interviewing the victim, officers/deputies should maintain good eye contact through natural, spontaneous glances. A prepared stance, along with appropriate facial and head movements, demonstrates interest and encourages the person to continue speaking openly.
2. Ascertain the following information from the victim:

##### Details of the incident

##### Any injuries, who caused them, and what weapons or objects were used

##### Relationship to the suspect

##### Any threats made against the victim, children, or others

##### Forced sexual contact against the victim’s will

##### Any court cases pending against suspect, or current probation or parole of suspect

##### Any current protective orders

##### Any damage to property or injury to pets

1. Interviewing witnesses:
	1. Interview all witnesses to the incident, including children, other family members, neighbors, and others, as soon as possible.
	2. Remember that witnesses may be experiencing significant emotional crises that may influence the accuracy of their accounts.
	3. If witnesses provide information about prior incidents, document them to help establish a pattern.
	4. Children of disputants should be interviewed with care and kindness. Sit, kneel, or otherwise be at their level when speaking to them. Signs of trauma or abuse should be documented.
2. Determining predominant physical aggressor (see also page 4, number 6):
3. **Making a dual arrest is strongly discouraged.** The officer/deputy should attempt to determine the predominant physical aggressor in the incident. A dual arrest should only occur if there are two separate determinations of predominant physical aggressor.
4. An officer/deputy shall arrest the person that he or she has probable cause to believe was the predominant physical aggressor, based on the totality of the circumstances. An arrest shall be made unless there are special circumstances which would dictate a course of action other than arrest.
5. Elements to consider when determining predominant physical aggressor include:
6. Statements from those involved and other witnesses,
7. The likelihood of future injury to each person, and the health and safety of family and household members,
8. Whether one of the persons acted in self-defense or tried to escape,
9. Who was the first aggressor and/or the relative severity of the injuries inflicted,
10. Previous injury or damage,
11. Prior complaints of abuse against one party (offender),
12. Previous attempt(s) by one party (victim) to sever the relationship,
13. Second call for officers/deputies,
14. Valid warrants on file for other crimes,
15. Other observations at the scene.
16. Decision to arrest:
	1. Officers/deputies shall make an arrest without a warrant **if there is probable cause to believe that any act involving violence, force, *OR* threat that results in bodily injury has occurred, and a predominant physical aggressor can be determined**. Such an act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ [18.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61) et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

In determining probable cause, the officer/deputy should not consider:

##### Whether the parties are married or living together,

##### Whether or not the complainant has sought or obtained a protective order,

##### The officer/deputy’s own preference to reconcile the parties,

##### That the complainant has called for officer/deputy protection previously and has not pursued, or has withdrawn, the criminal complaint against the other party,

##### Whether or not the complainant has started divorce proceedings.

* 1. Officers/deputies shall make an arrest without a warrant when provisions of a protective order have been violated. It is important to note that only the respondent listed on a protective order can be charged with a violation of that order.

In cases where the trespassing conditions of a protective order have been violated, officers/deputies shall review the petitioner’s copy of the order, checking it for validity and ensuring that the order grants the complainant sole access to the property. If a copy of the protective order is not available, officers/deputies may still enforce the order and its conditions, upon a credible statement that an order has been granted and served. When relying on such a statement, it is recommended that the officer/deputy have the complainant victim write and sign the statement.

1. Emergency protective orders (EPO):
2. Regardless of whether an arrest is made, if the officer/deputy has probable cause to believe that a danger of **acts of family abuse** exists, the officer/deputy shall seek an EPO on behalf of the victim. Family abuse includes any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ [18.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61) et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.
3. If an arrest for **assault and battery against a family or household member** is made, the officer/deputy shall seek an EPO on behalf of the victim, when the person arrested and taken into custody is brought before the magistrate.
4. In cases of abuse committed against an intimate partner who does not meet the definition of family or household member, officers/deputies are strongly encouraged to seek an EPO on behalf of the victim.
5. If no arrest is made at the time of the incident, the officer/deputy should:
6. Complete an incident report.
7. Advise the complainant of the importance of preserving evidence.
8. Explain to the complainant about protective orders and how to obtain and/or extend one. A family abuse protective order is obtained or extended at the juvenile and domestic relations district court, and a non-family abuse protective order is obtained or extended at general district court.
9. If the complainant wants to leave the premises for safety, remain at the scene while the person packs essential items (e.g., change of clothing, toiletries, medications, important documents).
10. Provide the complainant with telephone numbers of the law enforcement agency and the local domestic violence program: ***[Insert names and numbers of local programs here]***.
11. Assure the complainant that ***[Insert name of law enforcement agency here]*** will assist in the future if needed, but encourage him/her to develop a safety plan. Advise the complainant that the local domestic violence program can assist with developing a safety plan.
12. Whether or not an arrest was made, officers/deputies shall provide the following:
13. Upon request, transport or arrange transportation of the complainant to a hospital, safe shelter, or magistrate (§ [19.2-81.3](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-81.3)).
14. Provide information to the complainant of local legal and community resources available: ***[Insert names and numbers of local domestic violence program and local legal aid office here]***.
15. Gathering evidence:
16. In domestic violence cases, physical evidence takes the following three forms:

##### Injuries to the victim,

##### Evidentiary articles that substantiate an attack, and

##### The crime scene itself.

1. Documenting the incident:

##### The victim’s account of injuries sustained should be corroborated by medical personnel. When feasible, take photographs of visible injuries.

##### Photograph the crime scene, or write a detailed description of the scene if photography is not possible.

##### Collect evidence according to the same principles as applied to any crime scene.

##### All incident reports on domestic violence shall follow general reporting procedures, and shall include the following:

##### Facts and circumstances of domestic violence,

##### Victim’s statements as to the frequency and severity of prior incidents of abuse by the same person,

##### Victim’s statements as to the number of prior calls for law enforcement assistance

##### Whether or not a protective order was obtained,

##### Legal and community resources provided to the victim,

##### Name of victim advocate contacted, if any,

##### Whether or not transportation was provided to the victim to hospital, safe shelter, or magistrate.

##### If an arrest is not made, the incident must still be documented. In addition to the above required elements of an incident report, officers/deputies shall also note:

##### Special circumstances dictating another course of action other than arrest,

##### Reasons why no arrest was made and/or why a warrant was not issued.

##### Officers/deputies shall provide a copy of the incident report to the victim, upon request.

**III. PROTECTIVE ORDERS:**

A. Three Categories of Protective Orders:

1. Child Protective Orders

### 2. Family Abuse Protective Orders

### 3. General or Non-Family/Household Member Protective Orders

### As this policy is specific to domestic violence, guidance is provided regarding two of these categories: family abuse and non-family/household member protective orders.

### B. Family Abuse Protective Orders (Juvenile and Domestic Relations District Court):

1. Definitions:

* 1. Family abuse means “any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ [18.2-61](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61) et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.” (Code of Virginia § [16.1-228](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-228))
	2. Family or household member means “(i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.” (Code of Virginia § [16.1-228](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-228))

##### 2. Emergency Protective Order (§ [16.1-253.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-253.4))

##### a. An emergency protective order (EPO) is issued by a judge or magistrate, upon request of a law enforcement officer or an alleged victim of family abuse. Law enforcement may request an EPO either by telephone or in person. An alleged victim must appear in person before a judge or magistrate to request an EPO.

##### b. An EPO can:

##### Prohibit acts of family abuse or criminal offenses that result in injury to person or property,

##### Prohibit contacts by the respondent with the allegedly abused person or family or household members of the allegedly abused person, and

##### Grant the family or household member possession of the premises occupied by the parties to the exclusion of the respondent (this does not affect the title to any real or personal property).

* 1. If an **arrest for assault and battery against a family or household member is made**, the officer/deputy shall seek an EPO on behalf of the victim.
	2. Regardless of whether an arrest is made, if the officer/deputy **has probable cause to believe that a danger of acts of family abuse exists** (as defined above), the officer/deputy shall seek an EPO on behalf of the victim.
	3. An EPO expires at 11:59 p.m. on the third day following issuance. If the expiration occurs on a day that the court is not in session, the EPO shall be extended until 11:59 p.m. on the next day that the juvenile and domestic relations district court is in session.
	4. Law enforcement should advise the victim that he/she may request a preliminary protective order, within a reasonable period of time following the incident, through the juvenile and domestic relations district court (§ [16.1-253.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-253.1)).
	5. Law enforcement officers may petition for an extension of an EPO on behalf of the victim, if the person protected by the order is mentally or physically incapacitated (not to exceed three days after expiration of the original order).

3. Preliminary Protective Order (§ [16.1-253.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-253.1))

##### a. A preliminary protective order (PPO) is issued by a judge, upon request of an alleged victim of family abuse. An alleged victim must appear before a judge in person to request a PPO.

##### b. A PPO can:

##### Prohibit acts of family abuse or criminal offenses that result in injury to person or property,

##### Prohibit contacts by the respondent with the petitioner or family or household members of the petitioner,

##### Grant the petitioner possession of the premises occupied by the parties to the exclusion of the respondent (this does not affect the title to any real or personal property),

##### Prevent the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of, or order the respondent to restore utility services to the premises,

##### Grant the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone, or jointly owned by the parties, to the exclusion of the respondent (this does not affect the title to the vehicle),

##### Require that the respondent provide suitable alternative housing for the petitioner and any other family or household member, and

##### Provide any other relief necessary for the protection of the petitioner and family or household members of the petitioner.

c. A PPO is valid for 15 days, or until the date of the next hearing scheduled at the time of issuance of the preliminary protective order.

4. Protective Order (§ [16.1-279.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-279.1))

##### a. A protective order (PO) is issued by a judge, following a hearing at which both the petitioner and respondent are present.

##### b. A PO can:

##### Prohibit acts of family abuse or criminal offenses that result in injury to person or property,

##### Prohibit contacts by the respondent with the petitioner or family or household members of the petitioner,

##### Grant the petitioner possession of the premises occupied by the parties to the exclusion of the respondent (this does not affect the title to any real or personal property),

##### Prevent the respondent from terminating any necessary utility service to a premises that the petitioner has been granted possession of, or order the respondent to restore utility services to the premises,

##### Grant the petitioner temporary possession or use of a motor vehicle owned by the petitioner alone, or jointly owned by the parties, to the exclusion of the respondent (this does not affect the title to the vehicle),

##### Require that the respondent provide suitable alternative housing for the petitioner and any other family or household member,

##### Order the respondent to participate in treatment, counseling, or other programs the court deems appropriate,

##### Include provisions for temporary custody and visitation of a minor child and for temporary child support, and

##### Provide any other relief necessary for the protection of the petitioner and family or household members of the petitioner.

c. A PO is valid for any period of time up to a maximum of two years.

1. Violations of Family Abuse Protective Orders (§ [16.1-253.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-253.2))

a. Only the respondent listed on a protective order can be charged with a violation of that order.

b. Officers/deputies cannot arrest for a violation of a protective order if the respondent has not been served with the order. In this case, the officer/deputy shall serve the order immediately.

c. If a copy of the protective order is not available, officers/deputies may still enforce the order and its conditions, upon a credible statement that an order has been granted and served. When relying on such a statement, it is recommended that the officer/deputy have the complainant victim write and sign the statement.

d. Any person who violates any provision of a protective order, when such violation involves a provision of the protective order that prohibits such person from (i) going or remaining upon land, buildings, or premises; (ii) further acts of family abuse; or (iii) committing a criminal offense, or which prohibits contacts by the respondent with the petitioner or family or household members of the petitioner, is guilty of a Class 1 misdemeanor.

e. The punishments for certain violations and for second and third convictions increase to include mandatory minimum terms of confinement and more severe penalties.

f. Upon conviction for any protective order violation, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended. Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order pursuant to § [16.1-279.1](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-279.1) for a specified period not exceeding two years from the date of conviction.

C. General or Non-Family/Household Member Protective Orders (General District Court):

##### 1. When two parties do not meet the definition of family or household member, protective order relief may still available to alleged victims through Code of Virginia §[19.2-152.8](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-152.8), § [19.2-152.9](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-152.9), and § [19.2-152.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-152.10).

##### 2. Emergency Protective Order (§[19.2-152.8](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-152.8))

##### a. An emergency protective order (EPO) is issued by a judge or magistrate, upon request of a law enforcement officer or an alleged victim. To obtain this EPO, the alleged victim must have been subjected to an act of violence, force, or threat, and the judge or magistrate finds that (i) there is probable danger of a further such act being committed by the respondent against the alleged victim or (ii) a petition or warrant for the arrest of the respondent has been issued for a criminal offense resulting from the commission of an act of violence, force, or threat. Law enforcement may request an EPO either by telephone or in person. An alleged victim must appear in person before a judge or magistrate to request an EPO.

##### b. An EPO can:

##### Prohibit acts of violence, force, or threat or criminal offenses resulting in injury to person or property,

##### Prohibit contacts by the respondent with the petitioner or the petitioner's family or household members, and

##### Grant other conditions that the judge or magistrate deems necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses resulting in injury to person or property, or (iii) communication or other contact of any kind by the respondent.

1. An EPO expires at 11:59 p.m. on the third day following issuance. If the expiration occurs on a day that court is not in session, the EPO shall be extended until 11:59 p.m. on the next day that the court that issued the order is in session.
2. Law enforcement should advise the victim that he/she may request a preliminary protective order, within a reasonable period of time following the incident, through the general district court (§[19.2-152.9](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-152.9)).
3. Law enforcement officers may petition for an extension of an EPO on behalf of the victim, if the person protected by the order is mentally or physically incapacitated (not to exceed three days after expiration of the original order).

3. Preliminary Protective Order (§[19.2-152.9](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-152.9))

##### a. A preliminary protective order (PPO) is issued by a judge, upon request of an alleged victim. To obtain a PPO, the alleged victim must have been subjected to an act of violence, force, or threat, or a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission of an act of violence, force, or threat. An alleged victim must appear before a judge in person to request a PPO.

##### b. A PPO can:

##### Prohibit acts of violence, force, or threat or criminal offenses that may result in injury to person or property,

##### Prohibit contacts by the respondent with the petitioner or the petitioner's family or household members, and

##### Grant other conditions that the court deems necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses resulting in injury to person or property, or (iii) communication or other contact of any kind by the respondent.

c. A PPO is valid for 15 days, or until the date of the next hearing scheduled at the time of issuance of the preliminary protective order.

4. Protective Order (§ [19.2-152.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-152.10))

##### a. A protective order (PO) is issued by a judge, following a hearing at which both the petitioner and respondent are present.

##### b. A PO can:

##### Prohibit acts of violence, force, or threat or criminal offenses that may result in injury to person or property,

##### Prohibit contacts by the respondent with the petitioner or the petitioner's family or household members, and

##### Grant other conditions that the court deems necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses resulting in injury to person or property, or (iii) communication or other contact of any kind by the respondent.

c. A PO is valid for any period of time up to a maximum of two years.

1. Violations of Non-Family/Household Member Protective Orders (§ [18.2-60.4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-60.4))

a. Only the respondent listed on a protective order can be charged with a violation of that order.

b. Officers/deputies cannot arrest for a violation of a protective order if the respondent has not been served with the order. In this case, the officer/deputy shall serve the order immediately.

c. If a copy of the protective order is not available, officers/deputies may still enforce the order and its conditions, upon a credible statement that an order has been granted and served. When relying on such a statement, it is recommended that the officer/deputy have the complainant victim write and sign the statement.

d. Any person who violates any provision of a protective order issued pursuant to § [19.2-152.8](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-152.8), [19.2-152.9](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-152.9) or [19.2-152.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-152.10) is guilty of a Class 1 misdemeanor.

e. The punishments for certain violations and for second and third convictions increase to include mandatory minimum terms of confinement and more severe penalties.

f. Upon conviction for any protective order violation, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended. Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order pursuant to § [19.2-152.10](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-152.10) for a specified period not exceeding two years from the date of conviction.

## D. Full Faith and Credit for Protective Orders:

##### 1. Officers/deputies shall enforce protective orders from other states or possessions of the United States as if they were issued in the Commonwealth of Virginia. Officers/deputies shall enforce these orders, even if they are unable to verify them.

##### E. Firearms and Protective Orders (§ [18.2-308.1:4](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.1C4)):

##### 1. Purchasing and/or transporting a firearm is prohibited by any person who is the respondent of a protective order, while the order is in effect.

2. A protective order respondent with a concealed handgun permit is prohibited from carrying any concealed firearms. The respondent must also surrender the concealed handgun permit to the court for the duration of the protective order.

**IV. DOMESTIC VIOLENCE INCIDENTS INVOLVING LAW ENFORCEMENT OFFICERS**

##### A. Arrest of Law Enforcement Personnel:

1. When the predominant physical aggressor or alleged perpetrator in an incident of domestic violence is an **employee of another law enforcement agency**:

a. The responding officer/deputy shall notify the supervisor on duty.

b. The supervisor shall notify the alleged perpetrator’s law enforcement agency of any domestic violence, stalking, serious bodily injury, or sexual assault offenses, and/or the issuance of any protective orders. The supervisor should request to speak with the on-duty supervisor of that agency and relay all pertinent information.

c. The alleged perpetrator shall be disarmed and/or removed from access to weapons. It is possible that the person’s agency-issued weapon may be evidence in the offense.

2. When the predominant physical aggressor or alleged perpetrator in an incident of domestic violence is an **employee of this law enforcement agency**:

a. The responding officer/deputy shall contact his/her supervisor on duty. The supervisor shall then notify his or her chain of command: ***[Insert agency chain of command here].***

b. The employee shall be disarmed and/or removed from access to weapons. It is possible that the employee’s agency-issued weapon may be evidence in the offense.

c. If probable cause to arrest the employee exists, the Chief/Sheriff or designee (per the chain of command) shall arrest.

d. The Chief/Sheriff or designee shall complete all reports, gather all evidence, and take all photographs, consistent with this policy.

3. The scene shall be secured and medical attention summoned, if needed.

B. Assisting the Victim:

1. Ensure that the victim receives medical attention, if needed.

2. Upon request, transport or arrange transportation of the victim to a hospital, safe shelter, or magistrate.

3. Provide information to the victim of local legal and community resources available: ***[Insert names and numbers of local domestic violence program and local legal aid office here]***.

4. Obtain an emergency protective order on behalf of the victim.

C. Subsequent Actions (when an employee of this agency):

1. The Chief/Sheriff or designee shall speedily present the case to the commonwealth’s attorney.

2. Upon termination of the criminal investigation, the Chief/Sheriff or designee may complete an internal administrative investigation of the incident. The Chief/Sheriff may suspend the employee pending the outcome of the investigation. Suspended employees shall immediately turn in all agency-issued weapons, vehicles, badges, and other items to the Chief/Sheriff or designee.

3. If the internal administrative investigation supports a violation of agency policy, the Chief/Sheriff shall take appropriate action consistent with personnel policies. If the investigation confirms that domestic violence occurred, the Chief/Sheriff may require counseling, psychological evaluation, demotion, or termination of employment.

4. Federal law states that any person (including a law enforcement officer) convicted under any state or federal law for a misdemeanor involving the use of (or attempted use of) physical force, or the threatened use of a deadly weapon, when committed by a current or former spouse, parent, or guardian of the victim, a person sharing a child in common, or a cohabitant of the victim (past or present), is prohibited from shipping, transporting, possessing, or receiving firearms or ammunition. As a result, law enforcement officers convicted of these offenses may be unable to maintain their certification.

5. Officers/deputies who are respondents of a protective order shall not purchase and/or transport firearms. Officers/deputies who are respondents of a protective order shall turn in all agency-issued weapons.

1. Officers/deputies are reminded that they are required to notify the Chief/Sheriff of any pending civil or criminal action against them.

**V. TRACKING DOMESTIC VIOLENCE: HANDLING REPEAT OFFENDERS**

### A. Computer Aided Dispatch (CAD) System:

### 1. All information about calls for family abuse, domestic violence, and/or stalking shall be entered into the CAD system to track the number of calls for service for these crimes.

B. Domestic Violence Tracking Sheet:

### 1. The officers and/or investigators who handle domestic violence calls shall maintain a tracking sheet for all reported cases. At a minimum, the information maintained must include:

a. Name of the victim

b. Address and telephone number of victim

c. Name of the perpetrator

d. Address and telephone number of perpetrator

### 2. Investigators should use this tracking sheet to observe and document repeated calls for service, even when no arrest is made. This will aid investigators in contacting victims to educate about domestic violence and provide resources and referrals.

### 3. The tracking sheet information should provide readily-available historical repeat offender data to improve handling of these calls for service.