

	POLICY & PROCEDURE	SERIES # 503	PAGE 1 OF 11
	SUBJECT		EFFECTIVE DATE
	POLICE INVOLVEMENT IN DOMESTIC DISPUTES		02/04/2021
			OVERSIGHT Operations
DISTRIBUTION ALL MANUALS	AMENDS/SUPERSEDES/CANCELS P&P # 503 dated 12/08/16.		

I. PURPOSE:

The purpose of this policy is to establish guidelines for officers investigating complaints of domestic violence.

II. POLICY:

It is the policy of the Hampton Police Division to arrest persons responsible for crimes committed during domestic altercations when supported by probable cause, and to provide victims with information both orally and in writing regarding legal and community resources available.

III. PHILOSOPHY:

It is the philosophy of the Hampton Police Division to support victims of domestic violence by enforcing the law and by coordinating assistance with community resources.

IV. DEFINITIONS:

A. Family or household member is defined in § 16.1-228 as:

1. The person's spouse, whether or not he or she resides in the same home with the person,
2. The person's former spouse, whether or not he or she resides in the same home with the person,
3. The person's parents, stepparents, children, stepchildren, brothers/half brothers, sisters/half sisters, grandparents and grandchildren regardless of whether such persons reside in the same home with the person,
4. 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.

APPROVED:
CHIEF OF POLICE



5. 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
 6. Any individual who cohabits or who, within the previous twelve months, cohabited with the person, and any children of either of them then residing in the same home with the person. Note: Any child, adult child or juvenile child, of a cohabitant who resides with the cohabitant or has resided within the previous 12 months is considered a family or household member.
- B. Family abuse is defined in § 16.1-228 as any act involving violence, force, or threat including, but not limited to any forceful detention, which results in bodily injury or places one in reasonable apprehension of bodily injury and which is committed by a person against such person's family or household member.
- C. Predominant Physical Aggressor (See § 19.2-81.3) is the party that poses the greatest threat. The predominant 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. Officers shall identify a predominant physical aggressor based on the following characteristics:
1. Evidence that any of the parties acted in self-defense;
 2. History of violence (prior assault convictions) of the parties involved, including history of calls for service;
 3. Relative severity of injuries inflicted on all parties, plus consideration whether the injuries were offensive or defensive;
 4. Relative size, bulk, and strength of the parties involved;
 5. Evidence from persons involved in or are witnesses to the incident,
 6. Likelihood of future injury to any party;
 7. Current or previous protective orders filed against either party.
- D. Cohabit is to live together in a sexual relationship when not legally married.
- E. Stalking is defined in § 18.2-60.3 as any person who on more than one occasion engages in conduct directed at another person with the intent to place, or with the knowledge that the conduct places, that other person or the person's family or household member in reasonable fear of death, criminal sexual assault, or bodily injury.
Stalking behaviors include following a person to home, work, and other

places, parking outside home or office, threatening notes or telephone calls, threats, or computer-based, on-line threats.

V. PROCEDURE:

A. COMMUNICATIONS: The dispatcher is most likely to be the first person to receive the call and is instrumental in determining the type of response.

1. The dispatcher shall refer to P&P 1408 Dispatch Operations, Section F; Deferred Dispatch and The Seven Criteria for Dispatch and determine the following:

- a. WHERE the incident is occurring or had occurred?
- b. WHEN did the incident occur (in-progress, just occurred, late report)?
- c. WHAT happened? Are there any weapons involved? Is anyone injured? Is an ambulance needed, etc.
- d. WHO is involved? Obtain suspect name/description. Who is the victim and/or caller?
- e. HOW or other miscellaneous information. Are there any children involved? Drugs and/or alcohol?
- f. Priority of the call.
- g. Always attempt to get the caller's name and phone number for follow-up.

2. The dispatcher shall refer to P&P 1134, Multiple Unit Response, Section III, A, to determine the number of officers needed to safely handle the call.

3. After the initial dispatch, the dispatcher who received the call should attempt to gather further information such as:

- a. Is a warrant or protective order on file for the suspect?
- b. Have there been previous calls to this address?
- c. If possible, check the local warrant and protective order file.

B. PROCEDURES – PATROL

1. Response

- a. Officers will respond quickly and safely to calls involving domestic disputes.
- b. Once on scene, officers will determine the potential for violence. The immediate area should be scanned for potential weapons that could be used against the officer(s) or other involved parties.
- c. Contact should be made with the involved parties and determine if medical attention is necessary. Officers shall not accept statements from any disputant or witness that the call was a mistake without investigating further. Officers shall not leave without first speaking to the complainant, or ascertaining his/her safety.
- d. Forced entry into a premise should be used only as a last resort, and only if there is reason to believe that a person is in need of immediate assistance (i.e. someone is calling for help) or there is probable cause to believe that a crime is being committed or has been committed.
- e. Officers will attempt to calm the parties by separating them to different areas if necessary.

2. Investigation

- a. Upon separating the parties, officers will obtain statements from victim(s) and witness(es) and document this in the report. Officers should also attempt to obtain a statement from the suspect. Include statements from children at the scene.
- b. Collect and preserve evidence, to include photographs of injuries by recording the evidence utilizing a Division issued Digital Camera, BWC video, or Division cell phone photos. Photograph the crime scene to show that a struggle occurred and collect any weapons used or torn clothing, etc.
- c. Provide the victim, both orally and in writing, information regarding the legal and community resources available to them.
- d. Officers will determine if a crime has been committed. If the victim is a juvenile, Child Protective Services will be notified.
- e. If the officer has probable cause to believe that a violation of § 18.2-57.2 (Assault and Battery Against a Family or Household Member) or § 16.1-253.2 (Violation of Protective Order) has

occurred, the officer shall arrest (if the suspect is on scene) and take into custody the person he 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 an arrest. If the suspect is a juvenile, the officer shall seek a petition for domestic assault at Juvenile Intake. If the offense occurs after the operational hours of the intake office, the officer will contact the on-call Intake Officer and seek petitions the next business day (Refer to Training Bulletin #2012-03).

- (1) If the suspect is not on scene, the officer should obtain the warrant(s) and request an Emergency Protective Order (EPO). Service should be attempted as soon as possible. If service cannot be made immediately, the warrant and emergency protective order should be delivered to the Warrant Section during regular business hours, and to the Information Center after hours to be entered into VCIN.
 - (2) Upon service, the Court copy of the EPO should be turned into the Warrant Section during regular business hours and to the Information Center after hours so that the VCIN entry can be updated.
- f. On a third subsequent conviction for assault and battery against a family or household member, where it is alleged in the warrant, information, or indictment on which a person is convicted, that (i) such person has been previously convicted twice of assault and battery against a family or household member, or of a similar offense under the law of any other jurisdiction, within ten years for the third or subsequent offense and (ii) each such assault and battery occurred on different dates, such person shall be guilty of a Class 6 felony. (See § 18.2-57.2 Subsection B)
- g. Regardless of whether an arrest is made, the **officer shall file a written report of any incident in which he has probable cause to believe family abuse has occurred**, including a statement in writing that there are special circumstances which would dictate a course of action other than an arrest.
- h. In every case in which an arrest is made under these sections, the officer shall petition for an EPO as authorized in § 16.1-253.4. **If the officer does not arrest but a danger of family abuse still exists, the officer shall petition for an emergency protective order.** Service should be attempted as

soon as possible. If service cannot be made immediately, the warrant and emergency protective order should be delivered to the Warrant Section during regular business hours and to the Information Center after hours to be entered into VCIN.

- i. A law enforcement officer investigating a complaint of family abuse, including but not limited to assault and battery against a family or household member **“SHALL”, upon request, transport, or arrange for the transportation of an abused person to a hospital, safe shelter, or magistrate.** This will be done upon notifying the Watch Commander.
 - j. In the event Warrants and/or the EPO are denied, every effort shall be made to contact the victim with this information. It shall be annotated within the IBR report if contact was or was not made with the victim to relay this information.
3. Housing for Abused Victims: If it is necessary for the victim to leave the residence, the officer should:
- a. Assist the victim in locating family, friends or neighbors who could house the victim safely.
 - b. If unable to locate any of the above, the officer will contact Transitions (formerly the Virginia Peninsula Council on Domestic Violence) to place the victim in contact with a counselor. After shelter personnel approve the acceptance of the victim, the officer may transport the victim to the Emergency Shelter or other location/facility designated by shelter personnel. This will be at the discretion of the Watch Commander.

C. PROTECTIVE ORDERS:

1. Emergency Protective Order – (§ 16.1-253.4) can be obtained from a judge or magistrate at the request of the officer or victim. Emergency Protective Orders can prohibit the abuser from contacting the victim, entering or occupying the residence of the victim (to include jointly owned or rented property), and/or committing further acts of abuse. This includes juveniles as well as adults.
 - a. (§ 19.2-81.3) requires that officer’s petition for an EPO when reasonable grounds exist that family abuse has occurred or a danger of additional family abuse exists.
 - b. The Emergency Protective Order is valid upon personal service on the suspect (respondent). They expire at 5:00 p.m. the next

day that the Juvenile and Domestic Relations Court is in session or after 72 hours (whichever is longer). The expiration time is calculated from the time of issuance.

- c. Officers should advise the victim that the Emergency Protective Order is a temporary order that allows them time to respond to the Court Services Unit (Intake) and file a petition for a Protective Order, if needed.
 - d. The Emergency Protective Order will be maintained in the Information Center and will be entered into VCIN upon receipt. The Emergency Protective Order expires and is invalid after 72 hours and will be purged from the system (even if the EPO has not been served).
 - e. A violation of an Emergency Protective Order is a Class 1 misdemeanor.
 - f. An arrest is required on probable cause that a violation of a Protective Order has occurred unless circumstances dictate another course of action.
2. Preliminary Protective Order – (§ 16.1-253.1) A Preliminary Protective Order may be issued ex parte when the suspect/respondent has not been served to be in court for the Protective Order hearing. It can prohibit the abuser from contacting the victim, entering or occupying the residence of the victim (to include jointly owned or rented property) and/or committing further acts of abuse.
- a. The Preliminary Protective Order is valid for up to 15 days.
 - b. The Preliminary Protective Order is valid only after personal service has been made on the allegedly abusing person (suspect/respondent).
 - c. A violation of the Preliminary Protective Order for Family Abuse is a Class 1 misdemeanor.
 - d. Before taking enforcement action, officers should verify the existence of a Preliminary Protective Order, the conditions of the order, the expiration and confirm that personal service was made on the suspect/respondent.
3. Protective Order (§ 16.1-279.1) can prohibit the abuser from contacting the victim, entering or occupying the residence of the victim (to include jointly owned or rented property) and/or committing further acts of abuse. It can require the abuser to receive counseling, provide

alternative housing and medical treatment for the victim. The court can address issues concerning possession of the family vehicle, visitation and custody of minor children. The victim, with his/her consent, may also be ordered to receive counseling.

- a. The Protective Order can be issued ex parte if the suspect/respondent received personal service to attend the Protective Order hearing and chose not to attend. The Protective Order is valid without personal service on the suspect/respondent because the suspect/respondent was personally served with the Protective Order petition and was, therefore, on notice of the Protective Order proceeding.
 - b. The Protective Order can remain in effect for up to 2 years.
 - c. A violation of a Protective Order is a Class 1 misdemeanor.
 - d. Before taking enforcement action, officers should verify the existence of the Protective Order, the conditions of the order, and the expiration of the order.
 - e. If probable cause exists that a violation of a Protective Order (16.1-253.2) has occurred, the officer shall arrest the violator and take him/her into custody (§19.2-81.3).
4. All protective order information must be entered into VCIN upon receipt. Law Enforcement Agencies will no longer be able to enter the protective order information “as soon as practical”.
 5. No Law Enforcement Agency, Commonwealth Attorney, Court, Clerks Office, nor any employee of these may disclose except among themselves, the residential address, telephone number, or place of employment for the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law enforcement purposes, or (iii) permitted by the court for good cause.
 6. Full faith and credit (See § 16.1-279.1 subsection E) – Officers **shall** enforce **all** protective orders from other states or possessions of the United States as if they were issued in Virginia. Enforcement of out-of-state protective orders **does not** require that they be registered in Virginia. If officers are unable to verify an outstanding protective order, they must nevertheless honor it. Officers cannot arrest for violation of the order, however, if the violator has not been served with it.

D. STALKING or ACTS OF VIOLENCE RESULTING IN SERIOUS BODILY INJURY:

1. Stalking Protective Orders are not limited to family or a household member. Arrest without a warrant is authorized for violations of protective orders pursuant to § 19.2-152.8-10 (Stalking Protective Order). State Code 18.2-60.4 makes the violation of these orders a Class 1 misdemeanor and arrest without a warrant is authorized by § 19.2-81.3.
2. Emergency Protective Order (Stalking) - The victim of the stalking may obtain an EPO once he or she has sworn to an arrest warrant for the offense under § 18.260.3 (also see § 19.2-152.9-10). The abuser can be anyone, not necessarily a family or household member. **The EPO cannot be issued until an arrest warrant has been obtained.**
3. Preliminary Protective Order (Stalking) – Same provision of preliminary protective order (domestic violence).
4. Protective Order (Stalking) – The full protective order observes the same general restriction and prohibitions of a protective order for domestic violence.

E. LAW ENFORCEMENT PERSONNEL INVOLVED:

1. The responding officer shall immediately notify his/her supervisor if a member of this Division, a family of a Division employee, or a law enforcement officer of another jurisdiction is involved in a domestic altercation.
2. Upon notification, the supervisor shall immediately respond to the scene. If a Division member is under arrest, or is likely to be placed under arrest, the supervisor shall notify the appropriate Shift Commander.
3. If an arrest is made, the Shift Commander will notify the Chief of Police and The Office of Professional Standards.
4. If a law enforcement officer from another jurisdiction is arrested, the Shift Commander will notify the Chief of Police and the employing jurisdiction.

F. LETHALITY ASSESSMENT PROTOCOL (LAP)

1. Officers are to initiate the Lethality Assessment when an intimate relationship is involved and the officer believes the situation could lead to serious injury or death to one of the parties involved. The officer should make this determination while evaluating the totality of the

circumstances. Factors to consider include but are not limited to:

- a. The potential for serious injury/death is high
- b. An assault has occurred resulting in serious injury
- c. Names of parties or location are repeat names or locations
- d. Serious threats have been made to the victim and/or their children
- e. Victim displays noticeable fear
- f. The call is to a household where a protective order that is still in effect has been violated
- g. The officer believes one should be conducted based on experience, training and instinct

2. Domestic Violence Lethality Screening Questions

- a. Advise the victim they will be asked a series of questions to help the officer determine the immediate potential for danger to the victim.
- b. Ask the questions in the order they are listed on the questionnaire.
- c. Ask all the questions when assessing the victim. The more questions the victim responds to positively, the clearer and more immediate the potential danger is to the victim.
- d. Officers will complete the LAP questionnaire form and submit the form to the Division's Domestic Violence Coordinator by email.
- e. Statistical information associated with submitted LAP questionnaire forms will be available through the Division's Domestic Violence Coordinator.

3. Referrals

a. Not Triggered

If the referral is not triggered or the victim does not answer the screening questions, the officer will:

- 1) Advise the victim that domestic violence is dangerous and sometimes fatal.
- 2) Inform the victim to watch for the signs listed in the assessment because they may convey to them that they are at an increased level of danger.

- 3) Provide Domestic Violence Referral Information to the victim and encourage them, male or female, to contact the Transitions Hotline.

b. Triggered

If a high danger assessment is made or the officer believes it is appropriate, the referral will be implemented as follows:

- 1) Advise the victim that their situation has shown that they are at an increased level of danger and that people in the victim's situation have been killed or seriously injured.
 - 2) Advise the victim that the officer would like to call the Transitions Hotline number and have the victim speak with a counselor.
 - 3) If the victim initially declines to speak with the counselor the officer will:
 - a) Tell the victim that the officer will contact the Transitions Hotline to receive guidance on how to proceed with the situation.
 - b) Tell the victim that the officer would like them to reconsider speaking with the hotline counselor.
 - c) After the officer concludes the conversation with the counselor, the officer will ask the victim if they have reconsidered and would now like to speak with the counselor.
 - 4) The officer will then be guided by the call taker if any additional assistance is needed from the officer.
4. It will be noted in the narrative of the incident report that the LAP Questionnaire was completed and submitted to the Domestic Violence Coordinator.
 5. Officers may use their Division issued Cell phone to call the Transitions Hotline.