

BERLIN POLICE DEPARTMENT
BERLIN, MARYLAND

SUBJECT: DOMESTIC VIOLENCE POLICY		NO: 400 I-5
APPROVED/EFFECTIVE DATE August 9, 2004	AMENDS	RESCINDS
DISTRIBUTION A	REFERENCES: Omnibus Consolidated Act 1997; Family Law Article: subtitle 5 Criminal Law: subtitle 3, Criminal Procedure 2-202 and 2-204	

- .10 It is the policy of the BERLIN Police Department to take a proactive posture on domestic violence. This policy will recognize domestic violence as criminal activity. Arrest should be affected whenever the law authorizes. Victims shall be referred for assistance and family counseling as needed.
- .20 This General Order establishes policy and procedures for response, investigation, arrest and referral in all incidents of domestic violence and other types of family disputes.
- .30 When responding to domestic related incidents, police personnel should attempt to:
- A. Stop existing violence and prevent further violence from occurring.
 - B. Separate the parties when practical.
 - C. Maintain officer safety.
 - D. Determine whether any criminal violations alleged are verified.
 - E. Obtain all necessary information for report purposes and from all parties involved.
 - F. Arrest suspect(s) when:
 - 1. A misdemeanor crime is committed in the presence of officers;

2. There is probable cause to believe that an individual has signs of physical abuse, which occurred within the 48-hour time frame and there is likelihood of further violence;
 3. There is probable cause to believe a felony has been committed.
- G. If a warrant-less arrest cannot be made, the officer should make an application for criminal charges before a District Court Commissioner. The officer should explain the process of obtaining an Ex-Parte as issued by the court; and provide referral information to the appropriate parties. (Victim's Assistance)
- H. Document all observations and information relative to violence, collect evidence when possible.
- .40 As with any investigation, a domestic violence complaint shall be thoroughly investigated and properly completed.
- A. The officer shall notify a supervisor immediately if the assault meets the criteria of first-degree assault. The nature and seriousness of the victim's injuries may dictate the need for contacting an additional criminal investigation division to assist in the investigation.
 - B. If children are involved in a case, their names and ages should be included in the report, and a statement will be taken, if appropriate.
 - C. Officers are to be alert to other signs of problems or violence, such as child abuse, and fully document such observations and taker action when necessary as well as contacting other agencies such as social services when warranted.
 - D. Criminal arrest will be the primary means of police intervention in incidents of domestic violence. The practice of arresting both parties is discouraged and every effort will be made through investigation to identify the primary aggressor in a domestic violence investigation (arresting one subject and obtaining a criminal summons for the other is a viable option). In all cases of domestic violence, where there is probable

cause to arrest, and no arrest is made, the reason(s) for not arresting must be documented in the police report.

- E. Any officer assigned to investigate an allegation of domestic violence, neglect or exploitation between family or household will make a written police report of any allegation of Domestic Assault and the disposition of such investigation even if an arrest is not made. The report will include the victim's statements as to the frequency and severity of prior incidents of domestic violence, neglect or exploitation, as well as the number of prior police calls for domestic violence. The officer and victim will complete a Maryland Domestic Violence Report as a supplement to the officer's police report.
 - F. If the allegation is found to be unfounded or only a domestic dispute (argument) all necessary information will be placed into the computer under the complaint number.
 - G. In all cases of domestic violence the victim should be issued a Domestic Violence/Victim Information Notice.
- .50 When responding to the scene of an alleged act of domestic violence, a law enforcement officer may remove a firearm from the scene if:
- A. the law enforcement officer has probable cause to believe an act of domestic violence has occurred; and
 - B. the law enforcement officer has observed the firearm on the scene during the response.
- .60 If a firearm is removed from the scene the law enforcement officer shall:
- A. place the firearm in the property locker for safekeeping; and
 - B. provide to the owner of the firearm information for claiming possession of the firearm.
 - 1. If the owner is not involved in a court proceeding (i.e. arrest, ex parte, etc.) and has not been convicted of a crime of domestic violence involving

force or threat of force, or a crime in which the penalty carries a possible sentence of more than two years incarceration the owner may claim possession of the firearm in 48 hours; or

2. The owner may retrieve the firearm at the conclusion of a court proceeding related to the alleged act of domestic violence, unless the owner is ordered by the court to surrender the firearm or is convicted of one of the crimes described above.
- .70 An officer having prior knowledge of an involved individual's conviction relating to domestic violence shall seize any firearms observed on the scene.
- .80 If an officer responding to an alleged call for domestic violence has no prior knowledge of an individual's conviction for a crime of domestic violence, (i.e. - assault, reckless endangerment, rape) and believes the individual may possess a firearm; the officer shall initiate an immediate investigation.
- A. The officer's investigation should include:
 1. a criminal history request, and
 2. gun permit request, and
 3. a follow-up investigation within 48 hours.
 - B. If the officer's investigation indicates a prior conviction for a crime of domestic violence involving force or attempted force, (i.e. - assault, reckless endangerment, rape) and the officer has probable cause to believe the individual involved now is in possession of a firearm, the officer shall contact the local ATF office in Baltimore at (410) 962-0897.
- .90 Any person who alleges to have been a victim of abuse and who believes there is a danger of serious and immediate injury to him/herself may request assistance of an officer. The officer responding to the request for assistance shall:
- A. Protect the complainant from harm when responding to the request, and

- B. Accompany the complainant so that/he she may remove his/her personal clothing and the clothing of any child in the care of the complainant. **The property removed shall be only that required for immediate needs.**
 - C. An officer responding to a request for assistance under this Order shall be immune from civil liability in responding, as long as the **officer acts in good faith and in a reasonable manner.**
- .100 Any officer responding to the victim's request for assistance shall give the victim a copy of written notice detailing assistance available to him/her.
- A. The notice must state that the victim may request:
 - 1. a. District Court Commissioner files a charging document against the alleged abuser;
 - 2. the State's Attorney files a criminal charging document against the alleged abuser if the court commissioner declined to charge the alleged abuser;
 - 3. a petition for relief from abuse in the District or Circuit Court.
 - B. The notice must also state:
 - 1. the telephone numbers of any local domestic violence program which receives funding from the Department of Human Resources;
 - 2. an officer may not be held liable in any civil action arising from the officer's failure to provide the notice required.
- .110 When an officer responds to the scene of a domestic dispute or any allegation of criminal misconduct, and the aggressor or suspect is a law enforcement officer, the investigating officer shall promptly report this activity to his/her supervisor. Officers also shall promptly report to their supervisor's cases where the officers are called upon to serve or to enhance the terms of a temporary Ex-Parte Order or a Protective Order and the respondent is a law enforcement

officer. Upon receiving this information, it becomes the supervisor's responsibility to report the information to the respondent/suspect's agency within four (4) hours of the incident.

.120 Officers will be aware of the need to assist and refer victims for services.

A. Officers will offer victims immediate and adequate information (the Domestic Violence form) written in a language appropriate for the victim, which shall include a summary of the procedures and relief available to victims of domestic violence.

B. If the victim requests assistance in leaving the premises, the officer will stand by for a reasonable amount of time to allow the victim to gather some necessary personal belongings and possessions.

C. Officers should provide the victim with a referral to a Family Shelter if needed.

E. Officers should advise the victim about seeking medical attention and preserving evidence (specifically including photographs of injury or damage and damaged clothing or other property).

F. Officers should provide or arrange for transportation of the victim and, at the victim's request, any minors or dependents in the victim's care, to a medical facility for treatment of injuries or to a nearby place of shelter or safety.

.130 An Order of Protection is a court order available to family or household members prohibiting the abuser from certain activities or ordering the abuser to take certain actions.

A. The officer should ask the victim if an Order of Protection has been issued.

B. The officer should verify the existence of a valid Order of Protection, and its provisions by referring to the victim's copy and the MILES/NCIC computer. Officers should closely

read the Order of Protection for restrictions. Offenders will be arrested for any violation of a valid Order of Protection.

- C. An Order of Protection can only be issued, extended, modified or revoked by the court. The victims cannot "change their minds" and allow a violation of the order of protection.
- D. Out of state Orders of Protection are enforceable in this State.