



GENERAL ORDER OPS-75 PROTECTIVE AND PEACE ORDERS

EFFECTIVE MAY 31, 2022

This General Order contains the following sections:

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I. POLICY

It is the policy of the Howard County Department of Police (HCPD) that the Howard County Sheriff's Office (HCSO) will maintain responsibility for the processing and service of peace and protective orders.¹

II. DEFINITIONS

- A. Petitioner: The person seeking protection by filing for a peace or protective order, as appropriate.
- B. Respondent: The person alleged to have committed the prohibited acts, from whom the Petitioner is seeking protection.

III. PROTECTIVE ORDERS

- A. Protective orders are civil orders issued by a Judge or Commissioner to prevent the Respondent from committing certain acts against the Petitioner.
- B. A judge may issue a protective order to those individuals who petition the courts and can be qualified as a "person eligible for relief" as defined by Maryland Family Law § 4-501. A person eligible for relief includes:
 - 1. A current or former spouse of the Respondent;
 - 2. A cohabitant of the Respondent;
 - 3. A person related to the Respondent by blood, marriage, or adoption;
 - 4. A parent, stepparent, child, or stepchild of the Respondent, or the person eligible for relief resides with or resided with the Respondent or person eligible for relief for at least 90 days within one (1) year before filing of the petition;
 - 5. A vulnerable adult;
 - 6. An individual who has a child in common with the Respondent;
 - 7. An individual who has had a sexual relationship with the Respondent within one (1) year before the filing of the protective order petition; or
 - 8. An individual who alleges the respondent committed, within six (6) months before the filing of the petition: rape, attempted rape, or a sexual offense in any degree.
- C. Types of protective orders.

¹ CALEA 74.2.1

1. Interim Order
 - a. During the hours that the courts are closed, District Court Commissioners may issue interim protective orders which have the same applicability and enforceability as a temporary or final order.
 - b. Such orders will contain a hearing date that will generally be the second day a Judge is sitting after the issuance of an interim order.
2. Temporary Order
 - a. A protective order issued by a judge of limited duration, which generally does not exceed seven (7) days after the date of issuance. It may be extended up to six (6) months by the judge in order to locate and serve the Respondent.
 - b. The order includes notice of a hearing, typically the last day the order is in effect. During that hearing the court will determine if a final protective order is needed.
3. Final Protective Order
 - a. An order issued by a judge after a full hearing that can last up to but not exceed one (1) year.
 - b. A final protective order may be issued for up to two (2) years if it is issued against a Respondent for an act of abuse committed within one (1) year after the date that a prior final protective order was issued against the same Respondent.
 - c. A final protective order may be extended for two (2) years if, during the term of the protective order, the court finds that the Respondent named in the protective order committed a subsequent act of abuse against the person who was named in the protective order.
4. Permanent Protective Order: A victim of abuse who was the person eligible for relief in an original final protective order may request the issuance of a permanent final protective order if the original Respondent was convicted and sentenced to serve a term of imprisonment of at least five (5) years and has served at least 12 months of the sentence for attempted murder in the first or second degrees, first or second degree assault, first or second degree rape, first or second degree sexual offense, attempted rape or sexual offense in the first or second degree, or attempted to commit conspiracy or solicitation to commit murder.

IV. PEACE ORDERS

- A. The peace order is an order issued by a judge that prohibits or restricts contact between the Respondent and the Petitioner.
- B. A peace order may be obtained by a Petitioner against a Respondent who acts in a harassing manner but where the Petitioner and Respondent have no relationship that would qualify them for a protective order.
 1. This may include a partner from a dating relationship, a neighbor, a stranger, or anyone else who acts in a harassing or annoying manner.
 2. A person cannot file for a peace order if they are eligible for a protective order, e.g. married, living together, or have a child in common.
- C. The peace order enables a Petitioner, who wishes no further contact, to ask the District Court to

order the Respondent to stay away and refrain from any contact.

D. The peace order is further defined in the Annotated Code of Maryland, Courts and Judicial Proceedings Article §3-1501.

E. Elements of the Peace Order Statute:

1. A petition for a peace order may be filed in the District Court if the Petitioner has been the victim of one or more of the following acts within 30 days of the filing of the petition:
 - a. Any act that causes serious bodily harm;
 - b. Assault in any degree;
 - c. An act that places the Petitioner in fear of imminent bodily harm;
 - d. Rape or sexual offense;
 - e. False imprisonment;
 - f. Harassment;
 - g. Stalking;
 - h. Trespassing;
 - i. Malicious Destruction of Property;
 - j. Misuse of telephone facilities and equipment;
 - k. Misuse of electronic communication or interactive computer service;
 - l. Revenge porn; or
 - m. Visual surveillance.
2. The judge may grant mutual orders. The issuance of a peace order does not replace the filing of criminal charges if charges are applicable.
3. A seven (7) day temporary peace order will be granted if the District Court finds reasonable grounds to believe that the Respondent committed and is likely to commit future acts against the Petitioner based upon sworn testimony from the Petitioner.
4. A peace order hearing will be held seven (7) days after the temporary order has been issued by the District Court providing service was made by a law enforcement officer on the Respondent. If the order was not served, the Court may issue extension(s) of the order until service is made.
5. A permanent peace order is valid up to six (6) months.
6. A peace order may grant the following relief to the Petitioner:
 - a. Order the Respondent to refrain from threatening or committing certain acts.
 - b. Order the Respondent to end all contact with the Petitioner.
 - c. Order the Respondent to attend counseling.

- d. Order the Respondent to attend mediation.
- e. Order the Respondent to pay costs and filing fees.

V. EXTREME RISK PROTECTIVE ORDERS

- A. An Extreme Risk Protective Order (ERPO) is a civil Interim, Temporary, or Final Protective Order prohibiting the Respondent from possessing and purchasing a firearm and ammunition and ordering the Respondent to surrender to law enforcement any firearm and ammunition in the Respondent's possession for the duration of the Order.
- B. Refer to General Order OPS-74, Extreme Risk Protective Orders, for complete information on ERPOs.

VI. PROCEDURES²

- A. The Howard County Sheriff's Office (HCSO):
 - 1. Has responsibility and is available for full time service of any unserved active Protective or Peace Order issued by the Howard County courts.
 - 2. Shall be requested to respond to provide service for any Respondent requiring service.
- B. Enforcement
 - 1. Calls for Service:
 - a. Officers who are dispatched to protective order violations shall verify through Communications the identity of the Respondent; whether the order was issued through Howard County or another jurisdiction; and confirm that the order was served. If a temporary order was served, the Respondent does not have to be served the final order.
 - b. Officers shall contact Petitioners and advise them of any calls for service involving the Respondent that violate the order if the Petitioner is not present at the time of the violation, i.e. the Respondent is at the Petitioner's place of employment when the Petitioner is not there and the Respondent has been ordered to stay away. This contact shall be documented in the incident report.
 - 2. Protective Orders issued within the State of Maryland:
 - a. Officers have a duty to enforce protective orders regardless of the jurisdiction in which they are issued.
 - b. The responding officer will contact Communications to determine if there is an active order in the Records Management System (RMS) and the HCSO to determine if there is an unserved order.
 - c. Officers shall not detain a Respondent specifically for the purpose of serving a protective order.
 - d. If the Respondent is on the scene when the officer arrives, the officer will determine the specific conditions of the order through J-Portal, or Communications. The officer shall determine if the Respondent:
 - i. Is in violation of specific criminal conditions. If so, the Respondent will be

² CALEA 74.2.1

arrested. Potential charges include those outlined by the Family Law Article §4-509 entitled "Penalties."

- ii. Is in violation of those conditions of an Interim, Temporary, or Final Peace Order that order the Respondent to obey the following, and if in violation the Respondent shall be arrested:
 - a) Refrain from committing or threatening to commit any of the nine (9) specified acts (Section III.C.1 of this order);
 - b) Refrain from contacting or harassing the Petitioner;
 - c) Refrain from entering the residence of the Petitioner; and
 - d) Remain away from the place of employment, school or temporary residence of the Petitioner.
 - e. If the Respondent is no longer on the scene when officers arrive and probable cause exists to believe there was a violation of a criminal provision of an order, a lookout will be broadcast and a reasonable effort will be made to locate and arrest the Respondent.
 - f. If probable cause exists to believe that the Respondent has violated a criminal provision of an order and the subject could not be located, the responding officer will file an Application for a Statement of Charges with the District Court. During any circumstance when a Statement of Charges cannot be completed, justification for the reason shall be documented in the incident report by the reporting officer and the complainant shall be referred to the District Court Commissioner's Office.
 - g. If the Respondent violated a provision that is not subject to criminal sanctions, the officer should refer the Petitioner to private counsel or to the issuing Court for relief or reconsideration. Examples include, but are not limited to:
 - i. Disputes or non-compliance with child custody or visitation agreements.
 - ii. Disputes or non-compliance with financial support agreements.
 - iii. Disputes or non-compliance over the use of shared property outlined in the order, e.g. a vehicle.
 - iv. Disputes or non-compliance over the temporary possession of any pet.
3. Out-of-State Protective Orders
- a. In accordance with Annotated Code of Maryland, Family Law Article §4-508.1, 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 a Native American tribe and is in effect at the time of the violation if the person seeking assistance of the officer:
 - i. Has filed a copy of an authenticated (signed by a judge or commissioner) order with the District or Circuit Court of Maryland; or
 - ii. Displays or presents to the officer a copy of an out-of-state authenticated order.
 - b. Out-of-state orders are only criminally enforceable to the extent a similar order

issued in Maryland would be enforceable.

- c. Responding officers will have Communications conduct a METERS/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.
 - i. If the Respondent is on the scene when the officers arrive, the officers will ascertain whether the Respondent is in violation of the order. If the subject is in violation of a criminally enforceable provision of an order, the Respondent will be arrested.
 - ii. If the Respondent is no longer on the scene when officers arrive and probable cause exists to believe the Respondent was in violation of a criminally enforceable provision of an order, a lookout will be broadcast and a reasonable effort will be made to locate and arrest the Respondent.
 - iii. 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:
 - a) File an Application for Statement of Charges; or
 - b) Refer the complainant to the District Court Commissioners Office.
 - iv. 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. An officer acting in accordance with the guidelines of the Annotated Code of Maryland, Family Law Article §4-508.1, shall be immune from civil liability if he acts in good faith and in a reasonable manner.

VII. CANCELLATION

This order cancels and replaces General Order OPS-75, Protective and Peace Orders, issued March 30, 2016.

AUTHORITY:



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Chief of Police

05/13/2012