



# GENERAL ORDER OPS-75 PROTECTIVE & PEACE ORDERS

EFFECTIVE MARCH 30, 2016

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This General Order contains the following sections:

- I. POLICY
- II. DEFINITIONS
- III. PROTECTIVE & PEACE ORDER PROCEDURES

## **I. POLICY**

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

## **II. DEFINITIONS**

### **A. PROTECTIVE ORDERS**

Protective Orders are civil orders issued by a Judge or Commissioner to prevent the Respondent from committing certain acts against the person who applied for the protective order (the Petitioner). 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 who resides 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; or
7. An individual who has had a sexual relationship with the Respondent within one (1) year before the filing of the protective order petition.

There are four types of protective orders:

- a. **Interim Order:** 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. 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.
- b. **Temporary Order:** A protective order issued by a judge of limited duration, which generally does not exceed seven (7) days after the date of issuance, however it may be extended up to six (6) months by the judge in order to locate and serve the Respondent. 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.

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<sup>1</sup> CALEA 74.2.1

- c. Final Protective Order: An order issued by a judge after a full hearing, which can last up to, but not exceed, one (1) year.
  - 1). 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.
  - 2). Additionally, 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.
- d. 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.

#### B. PEACE ORDER

The peace order is an order issued by a judge that prohibits or restricts contact between the Respondent and the Petitioner. 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 (this may include a partner from a dating relationship, a neighbor, a stranger, or anyone else who acts in a harassing or annoying manner). 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. The peace order is further defined in the Annotated Code of Maryland, Courts and Judicial Proceedings Article §3-1501.

NOTE: 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).

### III. PROTECTIVE & PEACE ORDER PROCEDURES<sup>2</sup>

- A. The Howard County Sherriff's Office (HCSO) has primary responsibility and is available for full time service of any un-served active Protection or Peace Orders issued by the Howard County courts. HCSO shall be requested to respond to provide service for any Respondent requiring service.

- B. Enforcement

Officers who are dispatched to protective order violations should ascertain from Communications the identity of the Respondent, whether the order was issued through Howard County or another jurisdiction and confirmation that the order was served. If a temporary order was served, the Respondent does not have to be served the final order.

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<sup>2</sup> CALEA 74.2.1

1. 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 I-LEADS 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 I-LEADS or Communications. The officer shall determine if the Respondent:
    - 1) Is in violation of specific criminal conditions. If so, the Respondent will be arrested. Potential charges include those outlined by the Family Law Article §4-509 entitled "Penalties."
    - 2) 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 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 a Respondent has violated a criminal provision of an order and the subject could not be located, the responding officer will:
    - 1) 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:

Example 1: Disputes or non-compliance with child custody or visitation agreements.

Example 2: Disputes or non-compliance with financial support agreements.

Example 3: Disputes or non-compliance over the use of shared property outlined in the order (e.g. vehicle).

Example 4: Disputes or non-compliance over the temporary possession of any pet.

## 2. Out-of-State Protective Orders

In accordance with Maryland Annotated Code, 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:

a. Has filed a copy of an authenticated (signed by a judge or commissioner) order with the District or Circuit Court of Maryland; or,

b. Displays or presents to the officer a copy of an out-of-state authenticated order.

1) Out of state orders are only criminally enforceable to the extent a similar order issued in Maryland would be enforceable.

2) 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.

a) If the Respondent is on the scene when the officers arrive, the officers will ascertain whether the Respondent is in violation of the respective order. If the subject is in violation of a criminally enforceable provision of an order, the Respondent will be arrested.

b) 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.

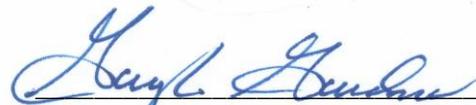
c) If probable cause exists to believe that a Respondent has violated a criminal provision of an order (pursuant to the Maryland statute) and the subject could not be located, the responding officer will:

i. File an Application for Statement of Charges, or

ii. Refer the complainant to the District Court Commissioners Office.

- d) 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.
  - c. An officer acting in accordance with the guidelines of the Maryland Annotated Code, Family Law Article §4-508.1 shall be immune from civil liability if he acts in good faith and in a reasonable manner.
- C. 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.
  - 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. A permanent peace order is valid up to six (6) months;
  - 5. 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.

AUTHORITY:



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