




ARLINGTON COUNTY POLICE DEPARTMENT DIRECTIVE MANUAL

Chapter: 5 Procedures	Effective Date: July 1, 2020	Amends/Supersedes: July 1, 2019 August 4, 2017 February 25, 2010 November 17, 2005	By Authority of the Chief of Police  Charles A. Penn
Accreditation Standard(s): ADM.23.02, OPR.13.01			

531.04 Domestic Violence

I. Policy

At the scene of a domestic violence incident, an officer should take appropriate action to restore and maintain peace, provide for the safety of those present, and arrest and take into custody the person whom the officer has probable cause to believe, based on the totality of the circumstances, was the predominant physical aggressor. If there are special circumstances which would dictate a course of action other than an arrest the officer shall initiate reasonable measures, such as mediation or referral to prevent a recurrence of the incident.

In order to minimize potential retaliation against the victim by the suspected abuser, the responding officer will attempt to obtain a warrant according to department procedures. The victim's reluctance to prosecute should not be a factor in the officer's decision to obtain a warrant.

An officer investigating any complaint of family abuse, including but not limited to assault and battery against a family or household member may, upon request, transport or arrange for the transportation of an abused person to a hospital, safe shelter, or magistrate.

II. Code Requirements

- A. [§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.](#)
- B. [§18.2-57.2. Assault and battery against a family or household member; penalty.](#)
- C. [§16.1-253.4. Emergency protective orders authorized in certain cases; penalty.](#)
- D. [§16.1-253.2. Violation of provisions of protective orders; penalty.](#)

III. Definitions

- A. Domestic Disturbance - Any confrontation in which the parties involved have a family relationship or are sharing, or have shared, a mutual residence.
- B. Domestic Violence - Any criminal offense involving the use of physical force by one family or household member on another.

- C. Family or Household Member - All offenses in which the victim meets the definition of family or household member as outlined in this sub-section are under the jurisdiction of the Juvenile and Domestic Relations District Court.
1. A 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 and sisters, half-brothers, 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.
 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.
 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 ([Code of Virginia § 18.2-57.2](#)).
- D. Cohabitation – A living arrangement in which two unmarried individuals, regardless of gender, live together in a long-term relationship that resembles marriage.
- E. Family Abuse - Any act involving violence, force or threat, including any forceful detention, which results in physical injury or places one in reasonable apprehension of serious bodily injury and which is committed by a person against such person's family or household member.
- F. Conditions of Release and Recognizance - A legal document issued by a magistrate advising the offender of specific conditions prior to being released.
- G. Show Cause Summons - A legal document issued by a magistrate when conditions of release and recognizance have been violated.
- H. Emergency Protective Order - A written or verbal order issued by a magistrate or any judge, when there is reasonable fear of assault by a family or household member. The order may prohibit a suspect (alleged abuser) from entering or remaining in the home and shall expire seventy-two hours after issuance. If the expiration of the seventy-two-hour period occurs at a time that the court is not in session, the emergency protective order shall be extended until 5 p.m. of the next business day that the Juvenile and Domestic Relations District Court is in session. The order can be obtained by a law enforcement officer ([Code of Virginia § 16.1-253.4](#)).

- I. Preliminary Protective Order - A written order issued by a judge of the Juvenile and Domestic Relations District Court to protect the health and safety of the victim from family abuse. The victim is responsible for petitioning the court for a preliminary protective order which is valid for up to fifteen days from issuance ([Code of Virginia § 16.1-253.1](#)).
- J. Protective Order - A written order issued by a judge of the Juvenile and Domestic Relations District Court to protect the health and safety of the petitioner and family or household members of the petitioner. A protective order, which is issued after a hearing with both parties, is valid for up to two years ([Code of Virginia § 16.1-279.1](#)).
- K. Respondent - Refers to defendant on protective orders in cases of domestic violence or family abuse.
- L. Petitioner - Refers to complainant on protective orders.
- M. Predominant Physical Aggressor - The party that poses the most serious threat. The predominant physical aggressor is not necessarily the first to engage in assaultive behavior. [Code of Virginia § 19.2-81.3](#) lists the standards for determining who is the predominant physical aggressor.

IV. Procedure

A. General Guidelines

1. Officer Responsibilities - Officers responding to domestic situations will take the following actions, as appropriate:
 - a. Make an arrest when probable cause exists.
 - b. If an arrest is made or will likely be made in the future after follow-up, take a photograph of the victim even if no injuries are present.
 - c. Take photographs of destroyed property and other evidence as needed.
 - d. Investigate each case for any child abuse or neglect. If child abuse is suspected, notify a supervisor, and make contact with Child Protective Services. List all children's names in the report and indicate if they are present and/or witnessed the incident.
 - e. Inform victims of Protective Orders.
 - f. Determine if an emergency protective order and/or an Emergency Substantial Risk Order is appropriate.
 - g. Officers will interview the suspect and document all responses.
 - h. Officers will inquire about the relationship of the victim to the suspect, and the victim's name.
 - i. Officers will attempt to have the suspect state the relationship between the two (for court).
 - j. Check all parties involved for warrants.

- k. Ascertain whether or not there are firearms in the residence and if so, seek permission to temporarily take possession of them for safekeeping.
 - l. If the suspect is arrested and held by the magistrate, any other important information that could influence the bond hearing and that is contained in the report (e.g. "the suspect became abusive and threatening in the booking room, etc.") must be brought to the attention of the Office of the Commonwealth's Attorney.
2. Investigation of Domestic Related Cases - The following steps should be included in an officer's investigation and subsequent report:
- a. Interview the victim, suspect and witnesses separately. Attempt to prevent communication between victim/suspect/witnesses.
 - b. Determine the suspect and victim's activity. (Distinguish predominant physical aggressor from victim, especially if both are injured).
 - c. Note and document victim's condition and demeanor.
 - d. Note evidence of injury.
 - e. Note condition of crime scene.
 - f. Photograph or turn in weapons.
 - g. Record alibi statements.
 - h. Advise suspect of rights and obtain statements.
 - i. Obtain the paramedics names if transported, obtain the treating doctor's name.
3. Determine the Predominant Physical Aggressor
- a. History of calls for service at the home - dispatch/CAD/LERMS databases.
 - b. History of domestic violence at the home or between the parties.
 - c. Prior assault convictions of either party.
 - d. Height/weight of parties.
 - e. Proportional nature of injuries inflicted on each person.
 - f. Injuries-offensive or defensive.
 - g. Evidence that one party acted in self-defense.
 - h. Do injuries fit the stories told by both parties?
 - i. Presence of fear in one party.
 - j. Presence of other normal responses to trauma (e.g., crying, hysteria, distractedness, anger).
 - k. Presence of calm or controlling behavior in one party.
 - l. Potential for future injury.
 - m. Officer information.
 - n. Disputant information (including excited utterances).

- o. Witness information (other family members, neighbors, etc.).
 - p. Prior assault convictions of either party.
 - q. Current or previous orders of protection filed against either party.
 - r. Scratches on one person's body.
 - s. Bite marks on arm or chest of one party.
 - t. Use of a "weapon", such as a frying pan, etc. by one party at the scene.
 - u. Need for protection.
 - v. Potential for future injury.
- B. On-scene investigation - Officers shall conduct a thorough investigation of domestic disturbance and violence calls making every effort to identify the predominant physical aggressor, which is not necessarily the person who initiated the incident or struck first. Officers should interview the parties as fully as circumstances allow. If a potential criminal violation has occurred, the victim's safety and privacy should be ensured by interviewing the victim in an area apart from the suspect, witnesses, and bystanders. The officer should ask the victim about previous domestic incidents, their frequency and severity. If witnesses provide information about prior incidents, the officer should document such incidents to establish a pattern. The officer should not tell the victim what decision has been made concerning arrest until all available information has been collected.

Once an officer has developed probable cause to believe that an assault has occurred, involving family or household members, the officer shall arrest and take into custody the person that officer 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.

Signs of trauma and any apparent healing of abuse wounds on any children present should be noted by the officer. If signs of abuse or neglect are found, or a child is a witness to, involved in, or the victim of the domestic violence incident, Child Protective Services should be notified, and written documentation of all observations included in the preliminary report.

- C. Arrest Process - All persons arrested for domestic assault and battery must be brought before the magistrate. Provisions in the Code of Virginia do not provide for release on a summons in these cases. The arresting officer will be carried as the complainant on the warrant.

The magistrate can establish conditions of release for a suspect. If the suspect violates the conditions of release, such as contacting the victim or complainant when the conditions of release stated that there is to be no contact, an officer shall contact the magistrate by telephone, or through the ECC, to determine whether a show cause summons or capias will be issued directing the officer to take the suspect into custody. The Conditions of Release and Recognizance Form are valid until the suspect appears for the first time in court.

- D. Evidence - If a criminal violation has occurred, the officer(s) shall collect and preserve all physical evidence reasonably necessary to support prosecution, including evidence sustaining the victim's injuries (photographs, medical evaluation if possible, etc.), evidentiary articles that substantiate the attack (weapons, torn clothing, etc.) and evidence recording the crime scene (overall photographs).

Photographs should be taken of any obvious injuries sustained by a victim of domestic violence. The nature and extent of the injury, with a statement that photographs were taken, should be documented in the police case report. The memory card containing the photographs must be placed in an envelope and forwarded to the Forensic Identification Unit. Victims should be advised by the officer to contact the Criminal Investigations Section should signs of bruising appear later so that the assigned detective can make arrangements to meet with the victim.

- E. Protective Orders - In every case in which a law enforcement officer makes an arrest under this section, he shall petition for an Emergency Protective Order (EPO) as authorized in [§ 16.1-253.4](#), except if the person arrested is a minor (a person less than 18 years of age).

The Code of Virginia [§ 19.2-81.3.D](#) provides that regardless of whether an arrest is made, if the officer has probable cause to believe that a danger of acts of family abuse exists, the law enforcement officer shall seek an EPO under [§ 16.1-253.4](#). The availability of an EPO shall not be affected by the fact that the family or household member left the premises to avoid the danger of family abuse by the respondent. The issuance of an EPO shall not be considered evidence of any wrong doing by the suspect.

An EPO may be requested either in person or by telephone and may be issued by a magistrate or any judge. Issuance of a EPO by telephone is appropriate when the officer is still at the incident scene and there is a potential opportunity for quick or immediate service of the EPO. Whether obtained in person or by telephone, officers shall complete applications for EPO's on the requisite state form, in accordance with the [Code of Virginia § 16.1-253.4 \(D\)](#). If the EPO was obtained by telephone from the incident scene, the officer shall report to the issuing judge or magistrate, and shall complete all required paperwork ([Form DC-626](#)) as the judge or magistrate may direct, immediately upon leaving the scene.

A copy of the issued EPO shall be served upon the respondent as soon as possible. One copy of the orders shall be given to the allegedly abused person when issued and one copy shall be filed with the case report. The original copy shall be verified by the judge or magistrate who issued the order. The judge or magistrate who issued the order will file the original copy with the clerk of the Juvenile and Domestic Relations District Court within five business days of the issuance of the order.

It is important that EPO's be entered into VCIN as soon after issuance as possible because they are only valid for a short period of time and also because persons subject to protective orders are prohibited from purchasing

or transporting firearms ([Code of Va. §18.2-308.1:4](#)). In order to ensure the most expeditious entry of EPO's into VCIN, the police department will assume responsibility for initiating the VCIN entry of a magistrate issued EPO. The procedure, applicable to Emergency Protective Orders issued for stalking as well as family abuse, will be as follows:

1. The requesting or reporting officer will take a photocopy of both sides of the court copy of the EPO to ECC as soon after issuance as practicable.
2. The case report number is to be written under the line for Court Case No. located in the top right-hand corner of the EPO.
3. The date and time of expiration of the order should be noted at the very bottom of the front side of the form to minimize VCIN entry errors. If uncertain about expiration date and time, verify with the magistrate.
4. If an Emergency Protective Order is served after its initial entry into VCIN, ECC must be notified of the date and time of service.
5. All un-served EPO's are to be placed in the warrant box at the Customer Service Counter.
6. Warrant Unit personnel will return expired EPO's to the clerk of the appropriate court.

If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested, forwarded and entered into the system as described above. Upon request, the clerk shall provide the victim with information regarding the date and time of service.

In addition to any other penalty provided by law, any person who violates any provision of a protective order issued pursuant to [§§ 16.1-253, 16.1-253.1](#), (Preliminary Protective Orders) [16.1-253.4](#), (Emergency Protective Orders) [16.1-278.14, 16.1-279.1](#) (Protective Orders) or subsection B of [§ 20-103](#), (Restraining Orders) which prohibits such person from going or remaining upon land, buildings or premises or from further acts of family abuse, or which prohibits contacts between the suspect and the suspect's family or household member as the court deems appropriate shall be guilty of a Class 1 misdemeanor.

Any person subject to a protective order who commits an assault and battery resulting in serious bodily injury or who violates the protective order by furtively entering the home of any protected party while the party is present or entering and remaining in the home of the protected party until the protected party arrives is guilty of a Class 6 felony. An officer may arrest without a warrant for violation of one of the above orders, regardless of whether such violation was committed in the officer's presence, if such arrest is based on probable cause, upon personal observations, the reasonable complaint of a person who observed the offense, or upon personal investigation.

The Office of the Sheriff will continue to be responsible for the entry of Preliminary Protective Orders and other orders of protection issued by the courts, and for the entry of out of state protective orders. The service of these classes of protective orders will be handled by the Office of the Sheriff.

- F. Suspect Firearms - In domestic violence cases where the suspect owns, possesses, or has access to a firearm, and the investigating patrol officer has probable cause to believe that the suspect poses a substantial risk of personal injury to himself or others in the near future by their possession or acquisition of a firearm that officer shall attempt to obtain an Emergency Substantial Risk Order in accordance with Manual section 538.08 *Emergency Substantial Risk Orders*, and make a reasonable effort to secure all firearms through the voluntary cooperation of the suspect.

In all cases permission for the police to temporarily retain a firearm for safekeeping shall be sought from the suspect or other person having legal access to, or control over, the firearm - this may include the victim in some instances. If permission for temporary safekeeping of a firearm by the police is not granted, the investigating patrol officer shall seek guidance from the CID Special Victims Unit or shall inquire at the Office of the Commonwealth Attorney to determine whether seizure of the firearm can be accomplished through a court order or other procedural means.

In addition, the investigating patrol officer shall make a telephone notification to the Special Victims Unit in any domestic violence case where:

- Any weapon was successfully seized or recovered.
- The suspect has continued access to a firearm.
- The suspect is known to possess a firearm permit from any state.

The provisions of this sub-section notwithstanding, any weapon carried by a suspect at the time of his or her arrest may be seized under the principle of search incidental to arrest, and any weapon believed to have been used during the commission of a domestic assault may be seized in accordance with normal evidence collection procedures. Finally, nothing in this sub-section shall prevent an officer from immediately seizing or controlling any weapon that appears to pose an imminent danger to any person.

- G. Domestic Violence Involving a Law Enforcement Officer - In cases where a domestic violence suspect is an active law enforcement officer, the suspect's agency shall be contacted for guidance regarding the suspect's service weapon. A supervisor or Internal Affairs official from the suspect's agency may instruct the ACPD to seize the suspect's weapon for safekeeping. In all other respects, offenders who are law enforcement officers shall be treated in the same fashion as non-law enforcement offenders.

- H. Case Report - Any incident in which family abuse is apparent or suspected shall be documented by a police case report. A Domestic Violence Supplement form will be completed and attached to all domestic violence case reports.

Regardless of whether an arrest is made, the responding officer shall file a case report with the department, of any incident in which there is probable cause to believe family abuse has occurred, including, where required, a statement in writing that there are special circumstances which would dictate a course of action other than an arrest.

Original case reports involving domestic violence will be forwarded to the Records Management Unit. Copies of case reports will be made for dissemination to the Victim/Witness Program in the Office of the Commonwealth's Attorney. As the Code of Virginia stipulates, summaries of these reports are to be made available to victims of family abuse, upon request through the Records Management Unit. The Records Management Unit will keep a record of summaries disseminated and collect any departmental fees associated with this service.

- I. Doorways for Women and Families - The Department of Human Services maintains a contract with Doorways for Women and Families to provide crisis intervention services to families experiencing domestic violence. The Doorways domestic violence hotline is available 24 hours a day, seven days a week, to assist officers with arranging and securing support services (e.g., hospital accompaniment, temporary housing, transportation, etc.) for victims of domestic violence. Officers may contact the Doorways hotline directly at (703) 237-0881 or request assistance by way of the ECC.
- J. Referral - Child Protective Services, a state mandated agency whose predominant mission is the protection of children, has the responsibility for the investigation and disposition of any incident involving child abuse or neglect. The services of CPS are available for any incident in which a child is a witness to, directly involved in, or victim of any act of domestic violence.

Temporary shelter for a battered spouse may be made available through services or the Department of Human Services. The immediate assistance of these agencies should be sought whenever circumstances warrant, and referrals should be made in other cases when appropriate. There may be instances where the officer may need to assist or provide safe transport of the victim and/or family to a safe housing alternative.

The [Code of Virginia § 19.2-81.3\(C\)](#) requires that an officer provide the allegedly abused person, both orally and in writing, information regarding the legal and community resources available to the allegedly abused person.

- K. Follow-up Investigation - Investigative follow up will be in accordance with the provisions of Manual directive *530.01 Preliminary & Follow-up Investigations*. Assault and battery cases will be coordinated by the Criminal Investigations Section.
- L. Domestic Standby Related to a Protective Order – Officers will only conduct a domestic standby or assist the subject of an Protective Order in collecting clothing or other personal items from their residence when specifically authorized by the Protective Order. In such a case, the primary role of the officers is to maintain the peace and safety of those present at the scene while remaining neutral and not assisting in the retrieval or becoming involved in the disposition of property belonging to any involved party. Copies of Protective Orders are maintained by the ECC until they expire.