
 <p style="text-align: center;"><b>LEXINGTON POLICE DEPARTMENT</b></p> <p style="text-align: center;">POLICY AND PROCEDURE GENERAL ORDER</p>	Distribution <b>ALL PERSONNEL</b>	General Order Number <b>5.05</b>
	Original Issue Date 01/06/2024	Reissue/Effective Date 05/01/2025
Order Title:  <b>DOMESTIC VIOLENCE INVESTIGATIONS</b>	CALEA Accreditation Standard:  VLEPSC: OPR 13.01	Section  5
	Rescinds: OPR 13	
Section Title:  <b>PATROL FUNCTIONS</b>	  <b>Angela M. Greene, Chief of Police</b>	

*This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.*

## I. PURPOSE

The purpose of this general order is to establish uniform and appropriate response protocols for officers of the Lexington Police Department (“Department”) when responding to, investigating, or otherwise dealing with incidents involving domestic violence matters.

## II. POLICY

It is the policy of the Lexington Police Department that all reported incidents of domestic violence will be recognized and responded to as criminal activity. This policy will reaffirm the officer’s responsibility for making arrest decisions in such cases in accordance with Lexington policy and state law. It is imperative that the investigating officer(s) ensure the safety of the victim(s) and proceed with the goal of a successful prosecution, where appropriate. A decision by the victim/accuser not to cooperate with the investigation will not diminish or otherwise affect the requirement of the investigator(s) to corroborate any allegations. Consistent with state law, when probable cause exists, the arrest of the suspect is presumed to be the preferred response to domestic violence incidents. It is understood that this procedure will not cover every conceivable situation that may arise. When provisions of this policy are found to be incomplete or inapplicable to a particular set of circumstances, officers are expected to act intelligently and exercise sound judgment, attending to the spirit above the letter of the law.

## III. DEFINITIONS

Domestic violence: means family abuse as defined below.

Family Abuse: Any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury. (See Va. Code [§ 18.2-57.2](#) and [§ 16.1-228](#))

Family or Household Member: (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) 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, (v) 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 (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

Firearm: As defined by [Va. Code §18.2-308.2:2](#) (as amended), means any handgun, shotgun, or rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material.

Handgun: As defined by [Va. Code §18.2-308.2:2](#) (as amended), means any pistol or revolver or other firearm originally designed, made and intended to fire single or multiple projectiles by means of an explosion of a combustible material from one or more barrels when held in one hand.

Institutions and Services: Includes peace officers, service providers, mandated reporters of abuse, agencies, and departments that provide services to victims and families and services designed to assist victims and families.

Lethality Assessment Program: An eleven-question lethality screening tool and accompanying response and referral protocol designed to identify domestic violence victims who are at the greatest risk of being seriously injured or killed and connect them with crisis center services. The goal of the program is to prevent domestic violence homicides, serious injury and re-assault by encouraging more victims to use the shelter, counseling, advocacy and support services of domestic violence crisis centers.

Safety Plan: A plan developed between an advocate/counselor or a police officer and victim that contains specific activities for victims to be safe from an offender. Safety planning is an essential step to be completed with all adult victims of domestic violence. It provides individualized planning for violence victims that children or family may encounter regardless of any ongoing or

further relationship with the offender. Age-appropriate safety planning is also important for child survivors/witnesses of domestic violence.

Short Term Safety Plan: An immediate plan developed at the time of the report. A responding officer should remain on scene and assist the victim with this plan. Some of these steps could include but are not limited to:

- Create a plan as to what to do next
- Ensure that the victim and children have the ability to call 911
- Ensure that the victim can get to a safe location
- Calling friend, family member or advocate for support
- 24-hour Project Horizon Hotline: 540-463-2594

## **IV. PROCEDURES**

### **A. Officer Responsibilities**

1. Initial response: Officers dispatched to domestic violence incidents will investigate any complaint(s) of domestic violence in a safe and expeditious manner.
  - a) All such incidents should be regarded as potentially “high risk” calls and approach any domestic violence situation with caution.
  - b) Two officers will be dispatched and respond to incidents of domestic violence, whenever practical.
  - c) When it is practical and can safely be done, officers should briefly listen at the door and/or observe involved parties through a window prior to entry. This may help determine the existence of probable cause for arrest.
2. Forced entry: Forced entry is defined as any non-consensual entry. Officers may force entry into a premises when:
  - a) The officer reasonably believes an occupant needs immediate medical attention, or
  - b) The officer reasonably believes an occupant is in imminent danger of suffering serious physical harm.
  - c) Unless exigent circumstances require forced entry, such as the necessity to stop what officers believe to be an ongoing physical assault or a felony, the officers

should seek to have one of the parties admit them to the residence. In the absence of exigent circumstances, the officer has no right to enter but shall make reasonable efforts to ascertain the well-being of those present.

3. Officer's Demeanor:

The responding officer(s) should maintain a professional and calm attitude upon initial contact.

a) Officers should state their reason for being present.

- Officers should not neglect children when explaining officers' presence, particularly if an arrest is being made, however, arrests should not be made in front of children when feasible.
- Officers should tell the child(ren) that what happened prior to the officers' arrival is not their fault.
- If a child called 911, tell the child that he/she did the right thing and the officers are there to help the family.
- Officers will note in their reports the presence of children in the home as they may be key witnesses that need to be scheduled for a forensic interview—even if the parent(s) claim the child(ren) don't know what is going on. Officers will NOT interview children unless there is a life-threatening circumstance that only the child has information about. The crimes against children detective will be notified and a Child Advocacy Center (CAC) forensic interview will be scheduled at the earliest available time.

b) If the family does not speak English, officers will NOT use the children as interpreters. This could prove dangerous to the child and the adult victim. Also, the child may not provide accurate information as the child is bonded with loved ones and may be looking to protect them.

c) Officers should strive to be considerate and attentive toward all parties and their concerns. Officers shall maintain a professional and objective demeanor throughout their investigation.

d) Upon entering, Officers shall prevent the physical movement of the parties as much as possible and control their access to any potential weapons.

- e) Persons who are under the influence of drugs or alcohol, or who suffer from mental illness, might pose a safety risk to themselves or others at the scene. Special precautions may need to be taken in these circumstances.

4. On-Scene Investigation:

- a) If an officer has reasonable grounds to believe that an assault and battery against a family or household member has occurred, the officer shall take the following actions:

- (1) Secure the scene and render medical aid as necessary;
- (2) Confirm a crime has been committed and attempt to identify the suspect(s);
- (3) Identify and interview all witnesses and obtain their names, addresses, and telephone numbers. This includes neighbors who may be able to provide a history of abuse;
- (4) Officers will document the children's information and will schedule a CAC interview through the crimes against children detective;
- (5) Collect and preserve all evidence, which may include:
  - (a) Photographs;
  - (b) Broken fingernails;
  - (c) Hair;
  - (d) Blood evidence;
  - (e) Torn clothing;
  - (f) Broken jewelry (e.g., a necklace pulled from the neck);
  - (g) Weapons used;
  - (h) Screen captures or recordings from the victim's cell phone;
  - (i) Video footage from security cameras.
- (6) Conduct the Lethality Assessment Protocol (LAP) and follow the instructions regarding outreach to community partners and resources.

- b) In all stalking situations, the officer shall confirm that the offender's actions constitute stalking under applicable law and attempt to identify the suspect. Additionally, the officer shall:

- (1) Identify and interview all witnesses and obtain names, addresses, and telephone

numbers;

(2) Collect and preserve all evidence, which may include:

- (a) Photographs;
- (b) Documents; and
- (c) Video footage (in any format).

(3) In stalking or domestic violence situations, the officer shall also:

- (a) Complete all reports as required in this policy;
- (b) Provide Victim Support Resources (follow the Lethality Assessment Protocol). Give the complainant available applicable information from Project Horizon;
- (c) Upon request and with a supervisor's approval, transport the abused person to a hospital, Project Horizon or a magistrate; and
- (d) If children are in the household and no parents or guardians are present at the conclusion of the response, contact CPS.

5. Dealing with children at the scene:

It is important for officers to understand that children are often present and ignored by police at the scene of a domestic violence incident. In addition to their potential value as a witness, the welfare of a child may be adversely affected when exposure to domestic violence incidents is ignored and untreated by appropriate professionals.

- a) Officers will determine if children are present at the scene and ensure that they are safe and unhurt.
- b) If child abuse is suspected, officers shall follow the Child Abuse Investigation procedures in General Order 6.10 and make a report to Child Protective Services (CPS) by phone at 1-800-552-7096 and complete any appropriate forms.
- c) Officers will NOT interview children unless an exigent circumstance exists that requires the officer to obtain immediate information of which the child is the only witness. The crimes against children detective will be notified and a CAC forensic interview will be set up for the earliest available time.

- d) If there is not a suitable adult available to care for any children present, CPS will be notified.
- e) Officers shall notify an on-call clinician when children are present at the scene and have been exposed to violence; or obtain a referral to services.

B. Arrest and Reporting of Domestic Violence:

1. The responding officer shall make every attempt to determine who the predominant aggressor is, based on the totality of the circumstances. The first disputant to use violence may be considered in this regard; however, this should not be the only factor and may not always indicate the predominant aggressor. Officers should also take into consideration:
  - a) Historical data;
  - b) Elements of the “Power and Control Wheel;”
  - c) The party posing the most serious threat;
  - d) The party possessing the most ability and inclination to inflict physical injury;
  - e) The party having the greatest need for protection and/or safety;
  - f) The severity of the injuries inflicted and if some or all are self-inflicted (e.g. defensive wounds to the victim’s neck during strangulation);
  - g) Whether one or more of the disputants is under the influence of any substance(s);
  - h) The probability that further violence or injury will occur;
  - i) The input of any witnesses to the altercation;
  - j) Whether any injuries were inflicted in self-defense; and
  - k) Prior complaints of family abuse by one of the parties.
2. In most instances, a predominant aggressor can be established. Dual assault charges shall be avoided to keep from charging the victim.
3. Officers shall arrest those persons who have been identified as committing acts of violence against a family or household member when the arrest can be supported by the complaint of the victim and/or other circumstances or evidence that an act of violence has occurred.
4. If the aggressor has left the scene, the investigating officer shall obtain the warrant(s) and arrange for them to be served as soon as possible.

5. Types of offenses for which an officer shall arrest/obtain warrants include, but are not limited to:
  - a) Any felony;
  - b) A weapon is used to injure, threaten or intimidate the victim;
  - c) A violation of a valid protective order;
  - d) Any offense that is committed in the officer's presence; or
  - e) Any assault that leaves marks on the victim (e.g. cut, bruise, swelling or abrasion) or that results in internal injuries.
  
6. The officer will include in the IBR how they identified the suspect as the predominant physical aggressor. This may include:
  - a) The severity of the injuries inflicted on all parties and whether the injuries were offensive or defensive;
  - b) A history of violence, calls for service and/or assault convictions;
  - c) Evidence that any of the parties acted in self-defense;
  - d) Evidence of power and control causing fear in the victim;
  - e) Evidence from persons involved in or witnessing the incident;
  - f) The relative size, bulk and strength of the parties;
  - g) Current or previous protective orders filed against any of the parties;
  - h) The likelihood of future injury to any of the parties.
  
7. If probable cause for arrest exists but an arrest is not made nor is a warrant obtained, the investigating officer must include the reasons and circumstances leading to another course of action in the IBR. Va. Code § 19.2-81.3(D).
  
8. When making an arrest for assault and battery against a family or household member, the responding officer shall check for prior convictions of assault against the offender.
  - a) If the domestic assault does not involve a felony, the aggressor shall be charged with assault and battery against a family or household member (Class 1 misdemeanor).
  
  - b) If the aggressor has been convicted of assault and battery against a family or household member twice within the past twenty years, and the assaults occurred on different dates, the aggressor shall be charged with a Class 6 felony unless the offense warrants a Class 5 or higher felony charge (such as maiming).

### C. Domestic Violence Reporting Requirements

1. The investigating officer shall prepare an IBR for every domestic-related call, whether violence was a factor or not.
2. The LAP will be electronically attached to the case file in RMS.
3. If photographs or witness statements are obtained in addition to the IBBR, they should be electronically attached to the case file. The investigating officer shall advise the victim to contact him if the victim has follow-up photographs available.
4. The completed LAP screen will be sent to the domestic violence detective and Project Horizon Legal Advocate at [lap@rockbridge.net](mailto:lap@rockbridge.net) prior to end of duty.

### D. Lethality Assessment Protocol (LAP)

1. Officers are to initiate LAP when an intimate relationship is involved in a domestic incident.
2. LAP screening
  - a) LAP shall be facilitated away from the offender to minimize victim intimidation and retaliation by the offender.
  - b) LAP will also not be administered in front of children. Only the victim should be present with the officer.
  - c) LAP shall only be facilitated on the victim on intimate partner violence. Advise the victim they will be asked a series of questions to determine the immediate potential for danger to them.
  - d) When screening the victim for the LAP, the officer should take the following steps:
    - (1) Ask all the questions in the order in which they are listed;
      - (a) The LAP screening form responses help determine the risk level of the victim and the potential for danger.
    - (2) Complete the form and email it to the domestic violence detective and the

Project Horizon Legal Advocate at [lap@rockbridge.net](mailto:lap@rockbridge.net).

- (3) If the victim does not answer the screening questions, the officer will:
  - (a) Advise the victim that domestic violence is dangerous and sometimes fatal.
  - (b) Inform the victim to watch for the signs listed in the screening assessment, which may indicate an increased level of danger.
  - (c) Provide a Project Horizon pamphlet and encourage the victim to contact them at any time.
- e) After completing the LAP, regardless of whether the victim ranks high-risk, the officer will call the Project Horizon hotline on their department-issued cell phone. Once connected with the hotline, the officer will provide his/her name and that (s)he is from the Lexington Police Department. The officer will provide the question numbers the victim answered “yes” to, clarify anything the hotline advocate needs, and then encourage the victim to speak with the advocate.
- f) If a high-danger assessment is made, the officer will advise the victim:
  - (1) That the situation has shown there is an increased level of danger and that people in the victim’s situation have been killed or seriously injured; and
  - (2) The officer will contact the hotline and provide the information prompted by the operator.
  - (3) If the victim declines to speak with the advocate, the officer will tell the victim:
    - (a) The officer would like the victim to reconsider speaking with the hotline advocate;
    - (b) After the officer concludes the conversation with the advocate, the officer will ask the victim if they have reconsidered and would now like to speak with the advocate.
    - (c) The advocate will guide the officer if any additional assistance is needed.
- g) The officer will document that the LAP was completed in the narrative. They will also attach an electronic copy of the completed form in RMS.

#### E. Stalking Arrest and Reporting Requirements

## 1. Arrest Procedures

- a) Officers shall arrest those persons identified as committing acts of stalking against another when the arrest can be supported by the victim's complaint and the circumstances or evidence. An arrest report and an incident report will be completed after the arrest.

**NOTE:** This policy's guidelines do not apply to law enforcement officers or private investigators as defined in Va. Code §§ 9.2-1101; 9.1-138; and 9.1-139 while performing official duties or conducting legitimate business.

- b) When the offender is not present but can be identified, the investigating officer shall obtain the warrant(s) and arrange to have the warrant(s) served as quickly as possible.
- c) When making an arrest for stalking, the officer shall check the offender for prior stalking convictions. The offender will be charged as follows:
  - (1) Stalking; [Va. Code § 18.2-60.3](#), Class 1 misdemeanor.
  - (2) In cases where the offender has previous stalking convictions (as set out in Va. Code § 18.2-60.3 or a substantially similar offense under the law of any other jurisdiction), the offender shall be charged with a Class 6 felony.
- d) Examples of related offenses for which the officer shall arrest the suspect or obtain warrants may include:
  - (1) Any felony associated with stalking;
  - (2) The victim alleges previous events by the same offender;
  - (3) Use or implied use of a weapon to injure, threaten or intimidate the victim;
  - (4) A high degree of probability that violence, criminal sexual assault, death, or injury will occur;
  - (5) Violation of a valid protective order;
  - (6) Any offense committed in the officer's presence; or
  - (7) Any assault resulting from the act of stalking that leaves physical marks on the victim (i.e. cuts, bruising, swelling, or abrasions) or results in internal injuries

**NOTE:** All allegations of criminal sexual assault will be directed to the sexual assault detective for investigation.

## 2. Stalking Reporting Requirements

The investigating officer shall prepare an IBR which documents the following:

- a) Any history of the parties involved, including prior calls for service;
- b) Evidence of either party's involvement, including the existence of witnesses to the incident(s);
- c) Physical evidence from either party's involvement;
- d) The likelihood of future injury to any of the parties involved.

3. Seizure of Weapons following arrest:

- a) If firearms, weapons, or electronic defense weapons are seized, officers shall promptly notify the Commonwealth's Attorney so that appropriate court orders regarding custody of the firearms, weapons, or electronic defense weapons can be requested and issued.
- b) The seizing officer shall document and inventory all firearms, ammunition and other deadly weapons utilizing the property and evidence procedures outlined in General Order 6.05: Evidence & Property.
- c) The Records Manager will ensure that all firearms, ammunition and other deadly weapons secured by the agency are properly stored and the items may not be released without a court order.

4. Reporting and Processing Requirements:

- a) Lexington police officers who respond to a domestic violence incident shall document the nature of the incident in the CAD if an arrest does not occur.
- b) When an officer feels that a recorded 911 call or any recorded call for police response will enhance an investigation, s/he should request, pursuant to department policy, that the recorded call be preserved.
- c) All officers at the scene shall complete an info only report or a supplement report before their tour of duty ends.
- d) Officers shall document any visible injuries and any verbal statement by either victim(s) or offender.

- e) Officers shall report suspected abuse, neglect, exploitation, or abandonment of any elderly person by telephone to Rockbridge Adult Protective Services (540-463-7143) or Virginia Adult Protective Services Hotline (1-888-832-3858), in accordance with Va. Code § 63.2-1606.

5. Identifying the Predominant Physical Aggressor

- a) No Lexington police officer investigating a domestic violence complaint shall threaten, suggest, or otherwise indicate the arrest of all parties for the purpose of discouraging requests for law enforcement assistance.
- b) When an officer has probable cause to believe that the persons are committing or have committed abuse against each other, the officer should arrest the person whom the officer believes to be the predominant physical aggressor and should not arrest both persons.
- c) The Predominant Physical Aggressor is the most significant, but not necessarily the first, aggressor in violence. Officers are encouraged not to file mutual assault charges if unable to determine the predominant physical aggressor. The standards for determining who is the predominant physical aggressor shall be based on the following considerations, in accordance with Virginia Code: (i) who was the first aggressor, (ii) the protection of the health and safety of family and household members, (iii) prior complaints of family abuse by the allegedly abusing person involving the family or household members, (iv) the relative severity of the injuries inflicted on persons involved in the incident, (v) whether any injuries were inflicted in self-defense, (vi) witness statements, and (vii) other observations.
- d) Officers who develop probable cause that a person was the predominant physical aggressor, in violation of Virginia Code §18.2-57.2 (Assault and Battery against a family or household member) or Virginia Code §16.1-253.2 (Violation of Protective Order) will arrest and take him/her, into custody. (Note: Predominant physical aggressors who are juveniles are considered a special category and do not come under the provisions of Virginia Code §18.2-57.2).

6. Emergency Protective Orders

- a) Officers making an arrest under Virginia Code §19.2-81.3 will petition for an emergency protective order. If the officer does not arrest, but a danger of family abuse still exists, the officer will petition for an emergency protective order under the authority of Virginia Code §16.1-253.4.

- (1) An emergency protective order can be obtained by an officer from any magistrate, in person or over the phone. The emergency protective order describes the probable cause used to obtain the order and may be obtained by the officer/victim for the following reasons:
  - (a) protection of the health and safety of the victim;
  - (b) to grant the victim relief from the abuser by ordering the abuser out of the family residence pending a hearing in court.
- b) Emergency protective orders expire at 11:59 p.m. on the third business day that the Juvenile and Domestic Relations Court is in session. The officer must serve a copy on the respondent and give a copy to the abused family / household member. The officer must also forward the original to Juvenile and Domestic Relations Court.
- c) Emergency Protective orders may impose the following conditions:
  - (1) Prohibiting acts of family abuse;
  - (2) Prohibiting such contacts by the respondent with family or household members of the respondent as the judge or magistrate deems necessary to protect the safety of such persons;
  - (3) Granting the family or household member possession of the premises occupied by the parties to the exclusion of the respondent;

## 7. Preliminary Protective Orders

- a) A preliminary protective order (Virginia Code §16.1-279.1) in cases of family abuse is a court order issued on behalf of an abused family / household member. The order may do one or more of the following:
  - (1) Prohibit acts of family violence;
  - (2) Prohibit such other contacts between the parties or family or household members as the court deems necessary to protect the safety of such persons;
  - (3) Grant the petitioner possession of the premises occupied by the parties to the exclusion of the allegedly abusing person;
  - (4) Grant the petitioner temporary possession or use of a motor vehicle jointly owned by the parties to the exclusion of the allegedly abusing person;
  - (5) Requiring that the allegedly abusing person provide suitable alternative housing for the petitioner and any other family or household member, where appropriate;
  - (6) Ordering the allegedly abusing person to participate in treatment, counseling or other programs as the court deems appropriate;
  - (7) Any other relief necessary for the protection of the petitioner, family or

household member, including temporary custody or visitation of a minor child.

- b) Protective Orders will have a hearing date on them and will be in effect for no more than 15 days, which is the full time limit for the hearing to be held from the issuance of the preliminary order.
- c) In cases where the conditions of a Virginia protective order has been violated, officers will review the victim's copy of the order, if available, checking its validity. If the victim cannot produce a copy, search VCIN files or contact the jurisdiction which issued the order to confirm its existence.
- d) If a protective order exists and its terms are violated, then the officer will arrest the violator when probable cause exists, under Virginia Code § 16.1-253.1. Officers cannot enforce the order if the violator has not been served a copy. (Due Process)
- e) **NOTE:** Virginia Code § 18.2-308.1:4 (Firearm Possession) - It will be unlawful for any person who is subject to the following court orders to purchase or transport any firearm while the order is in effect. A violation of this subsection will be punishable as a Class 1 Misdemeanor.
  - (1) Virginia Code §16.1-253 (Preliminary Protective Order to protect a child's life, health or normal development)
    - (a) You may only arrest “ if the violation involves an act or acts of commission or omission that endanger the child’s life or health or result in bodily injury to the child.”
  - (2) Virginia Code §16.1-253.1 (Preliminary Protective Order in cases of Family Abuse)
  - (3) Virginia Code §16.1-253.4 (Emergency Protective Orders in Cases of Family Abuse)
  - (4) Virginia Code §16.1-279.1 (Protective order in cases of Family Abuse)
  - (5) Subsection B of 20-103 (Court order involving divorce, custody, visitation)
  - (6) Subsection D of 18.2-60.3 (Person found guilty of Stalking)

Any firearm purchased or transported in violation of this section will be forfeited to the Commonwealth and disposed of as provided in 18.2-310

8. Out of State Protective Orders (Virginia Code §16.1-279.1(E))

- a) Protective Orders from any state, commonwealth, territory, possession, tribal court or the district of Columbia of the United States will be afforded full faith and credit and enforced as if it were an order of the Commonwealth provided reasonable

notice and opportunity to be heard were given by the issuing jurisdiction to the person against whom the order is sought to be enforced sufficient to protect such person's due process rights.

- b) Officers should encourage the person entitled to protection to file the order with the clerk of the Juvenile and Domestic Relations Court in the jurisdiction he/she is now living in.
- c) If the victim seeks officers' help in entering their residence to obtain personal property, the officer must:
  - (1) Determine that the complainant has lawful authority to do so;
  - (2) Advise all parties that they are accompanying the complainant to obtain items for immediate personal (or children's) use, and that their function is to maintain order; and
  - (3) Inform all parties that any dispute over property is a matter for the courts to decide.

#### 9. Handling Repeat Offenders

- a) Upon making an arrest for domestic assault, officers shall request a criminal history be provided to the magistrate on duty. Prior offenses may be used by the magistrate to determine probable cause for the issuance of a warrant for the 3rd or subsequent offense under Virginia Code § 18.2-57.2(B), a Class 6 Felony. The magistrate may also use the arrestee's criminal history to determine issuance of bail in accordance with Virginia Code §19.2-120(B).
- b) All information about calls for family abuse, domestic violence, and/or stalking will be entered into the CAD system to track the number of calls for service for these crimes.
- c) The domestic violence detective will maintain a tracking sheet for all reported cases of domestic violence. At minimum, the information maintained must include:
  - (1) Name of the victim and date of birth, and
  - (2) The name of the perpetrator and date of birth
- d) The tracking sheet information should provide readily-available historical repeat offender data to improve handling of these calls.

10. Victim assistance:

- a) Officers shall remain at the scene for a reasonable time until, in the reasonable judgment of the officer, the likelihood of further imminent violence has been eliminated.
- b) Prior to clearing the scene officers will ensure the following:
  - (1) Officers will notify the victim(s) of their right to file an affidavit or a warrant for an arrest;
  - (2) Officers will advise the victim(s) of available legal and community resources by conducting a lethality assessment protocol (LAP) and connecting victims with Project Horizon;
  - (3) Officers will, upon request, transport, or arrange for the transportation of any victim(s) to a:
    - (a) Hospital,
    - (b) Project Horizon, or
    - (c) Magistrate
  - (4) Most victims are unfamiliar with court procedures relative to domestic violence incidents, therefore, officers will explain the process to them including, but not limited to processes related to arrest, arraignment and bond including the following:
    - (a) The offender might NOT be held overnight, and may be released within hours of the arrest (in the event the offender is released, the officer shall make attempts to notify the victim);
    - (b) The offender will be arraigned the following days. Prior to arraignment, the victim can meet with or call Project Horizon to be connected with a domestic violence victim advocate whose phone number is listed on the pamphlet the officer will leave with the victim;
    - (c) The advocate will provide the victim with accurate information regarding the court process. The advocate will provide information and referrals regarding available community services, and will help the victim develop a long-term safety plan;

- (d) Officers shall give the victim(s) a domestic violence pamphlet containing information about victims' rights and phone numbers for services.
- (e) Officers will provide the victim(s) with their name, contact information and case number in case the victim has any questions.
- (f) Officers shall assist the victim regardless of the victim's race, age, gender, religious beliefs, immigration status, ethnicity, disability, sexual orientation, gender identity, or gender expression.

#### 11. Supervisor Responsibilities

- a) It is imperative that domestic violence incidents are properly investigated and processed to ensure the safety of the victim(s). Whenever possible, the on-duty supervisor will respond to all domestic violence calls to ensure that policies and procedures are properly followed. Supervisors will:
  - (1) Conduct a probable cause review at the scene or in booking;
  - (2) Ensure that all reports are properly completed.
  - (3) Ensure that follow-up investigative responsibilities are coordinated to allow shift changes and/or referrals to specialized units;
  - (4) Review any firearm, weapon, or electronic defense weapon issues, including seizures, to ensure compliance with departmental policies, state and federal laws. Where appropriate, assure that the Commonwealth Attorney's office is notified where weapons are seized so that appropriate court orders can be sought.;
  - (5) Review all arrests and self defense issues;
  - (6) Expedite warrant processing;
- b) The domestic violence detective will expeditiously review and oversee the Police Response to Crimes of Domestic violence Model Policies, Procedures, and Guidelines and assure this directive is in accordance with the model policy and to enhance such agency's response to victims, community, and court personnel with respect to domestic violence.

#### 12. Officer Responsibilities

- a) Arrest documents: When an arrest has been made, the completed case will be forwarded to: Commonwealth Attorney's Office at 20 S. Randolph St. Suite 301 Lexington, VA 24450.

- b) Protective orders are received, stored, and entered into the RMS by the Records Manager. Protective orders are kept in the records office if one or both individuals are known to live in the City of Lexington. Officers are responsible for making a copy of the protective order for their case file. The officer will send his/her case file including the warrant (if issued) and protective order to the Commonwealth Attorney's Office if an arrest is made.

### 13. Violence Against Women Act (VAWA)

#### a) Referrals

- (1) The Federal Violence Against Women Act (VAWA) makes criminal certain actions in family domestic violence situations. Several provisions of that Act which may arise during the investigation of domestic violence situations by Virginia police officers are described below.
- (2) If an officer believes that a person may have violated a provision of VAWA, he/she should forward copies of the case report and all supplemental reports to one of the United States Attorney's Office (see below) for review by an Assistant United States Attorney who will determine whether the situation warrants prosecution on federal charges.
- (3) All officers shall be sufficiently trained to recognize the possibility of a federal VAWA violations and to make referrals for these violations.
- (4) The offices of the United States Attorney for the State of Virginia are located at 310 1<sup>st</sup> Street. S.W. Roanoke, VA 24011 (540-857-2250).

#### b) Summary of Applicable VAWA Sections

- (1) Disposal, Receipt or Possession of a Firearm: Title 18 USC §922(d) and (g)
  - (a) Section 922(d)(8) prohibits the knowing transfer of a firearm to a person who is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child.
  - (b) Section 922(g)(8) prohibits the possession of a firearm by persons subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

(c) Section 922(g)(9) prohibits the possession of a firearm or ammunition by any person who has been convicted in any court of a domestic violence crime (a domestic violence crime that has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon).

(2) Interstate Domestic Violence: Title 18 USC § 2261(a)(1)

(a) Prohibits the travel across state lines or the leaving or entering of Indian territory with the intent (at the time of the crossing) to injure, harass, or intimidate a spouse or intimate partner. This provision is violated when a person, after the crossing, then intentionally commits a violent crime or causes a bodily injury

(3) Fraud: Title 18 USC § 2261(a)(2)

(a) Violation of this provision occurs when the defendant by force, coercion, duress or fraud, causes a spouse or intimate partner to cross state lines (or leave or enter Indian territory) and in the course or as a result of that conduct, intentionally commits a crime of violence. Bodily injury to the victim is also required.

(4) Interstate Stalking: Title 18 USC §2261A

(a) Prohibits travel across a state line or within the special maritime and territorial jurisdiction of the United States with the intent to injure or harass another person, when in the course of, or as a result of, such travel, the person is placed in reasonable fear of the death of, or serious bodily injury to, that person or a member of that person's family.

(5) Interstate Violation of a Protective Order: Title 18 USC §2262

(a) This provision is violated when a person travels across state lines or leaves or enters Indian territory with the intent to engage in conduct that (A)(i) violates the portion of a PO that protects against credible threats of violence, repeated harassment, or bodily injury; or (ii) would violate subparagraph (A) if the conduct occurred in the jurisdiction in which the PO was issued; and (B) subsequently engages in such conduct.

(6) Full Faith and Credit: Title 18 USC §2265 and §2266

- (a) Requires states and Indian tribes to enforce orders of protection issued by foreign states and Indian tribes as if the orders had been issued by the non-issuing, enforcing state or Indian tribe.
- (b) A valid order of protection is defined as an order of protection that was issued by a court with jurisdiction over the parties and matter under the laws of such state or Indian tribe and in circumstances where the defendant was given reasonable notice and the opportunity to be heard sufficient to protect the defendant's due process rights.
- (c) The provision applies to any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final protection orders issued by civil and criminal courts (other than support or child custody orders). In other words, it extends to temporary and final, civil and criminal orders of protection.
- (d) The provision states that officers should enforce out-of-state orders of protection that are presented to them if the order appears valid on its face, i.e., it contains both parties' names and has not yet expired. The provision further states that even if the out-of-state order is uncertified, it should be enforced if it meets the requirements of facial validity.