

## NOTE CONCERNING GENERAL ORDER 2-32A, DOMESTIC VIOLENCE

### *For Sheriffs with Court Security/Civil Process Functions*

What follows is an abbreviated version of General Order 2-32 on domestic violence. This abbreviated version is directed to city sheriffs who perform civil process and court security functions but not law enforcement. Domestic violence can occur at any time and in any context. Domestic violence has occurred in courthouses; deputies serving civil papers or preserving the peace at evictions may witness acts of domestic violence or develop probable cause that they have occurred. Deputies must be aware of the dynamics of family violence and the legal requirements to protect victims and separate them from abusers, and to make arrests upon probable cause. Even if deputies are not expected to make arrests, they may be the key witnesses in prosecutions and need to understand the elements of appropriate crimes.

Deputies must know that abuse often begins as a threat or a shove, but escalates into repeated beatings causing serious physical injury. If effective intervention does not occur, the abuse continues and, in some cases, it may lead to homicide. *Deputies who witness family abuse incidents should know if they are dealing with chronically violent people. Danger exists not only for the people involved but also for deputies.* Based on a national study of court security incidents, the National Sheriffs' Association found that the most common ones include disorderly conduct; physical assault with a firearm; physical assault with no weapon used; hostage situation; or physical assault with weapon other than firearm (from *Court Security: A Manual of Guidelines and Procedures*, p. 7). In a recent study of courthouse security, DCJS surveyed similar studies across the country and noted that the most common reason why security upgrades have been introduced was as a consequence of violent domestic incidents, particularly homicides committed on courthouse properties.

This order and the more extensive one, General Order 2-32, promote arrest when the legal elements of the offenses are present. Among other requirements, Virginia law requires **mandatory** arrest upon probable cause for specified violent acts, and mandates law enforcement agencies to adopt written policies (to include specified components). Take particular note of the mandatory issuance of emergency protective orders, and the role of deputies in obtaining them. The law further requires agencies to specify written guidance on providing victims with information on legal and community services, and to transport victims to medical facilities or safe shelters. Note that many of the requirements placed on law enforcement for handling domestic violence incidents also apply to stalking.

The DCJS Victims Services Section has also developed a domestic violence curriculum for law enforcement which is updated periodically. This curriculum, the training staff, and other instructional resources are available through the Victims Services Section. Contact the Victims Services Section for more information. Visit the DCJS web site for further information at <<http://www.dcjs.org/>>.

SHERIFF'S OFFICE	GENERAL ORDERS
SUBJECT: Domestic Violence	NUMBER: 2-32A
EFFECTIVE DATE: March 12, 2007	REVIEW DATE: (annually)
AMENDS/SUPERSEDES:	APPROVED: _____ Sheriff
VLEPSC STANDARDS: ADM.02.02; ADM.23.01-23.04; OPR.02.01-.03; OPR.13.01	

### NOTE

This order is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial setting.

### INDEX WORDS

Arrests; in domestic disputes  
Domestic violence  
Family violence  
Firearm; purchase or transport while subject to a protective order  
Interviewing (participants of domestic disputes)  
Predominant physical aggressor  
Protective orders  
Search of premises  
Stalking/serious bodily injury  
Victims; of domestic violence

### I. POLICY

The security of the courthouse and the safe service of civil process are priorities of the sheriff. To ensure a high security awareness, deputies must understand that they may witness or receive information or reports about violent acts which occur on courthouse property, or which involve persons on whom civil papers are served. Law enforcement agencies are now required to arrest abusers in family abuse cases where probable cause exists. While deputies are not encouraged to pursue enforcement activities that are the

responsibility of local police, deputies are expected to intervene where necessary to protect life and property. This office views domestic or family violence (domestic disturbance) incidents as a high priority for intervention. Further, the nature and seriousness of crimes committed between family or household members are not mitigated because of the relationships or living arrangements of those involved. With all due consideration for their own safety, deputies intervening to stop violence due to family abuse or stalking shall (1) restore order; (2) arrest persons when probable cause exists that a crime has occurred (or hold suspects in custody until a law enforcement officer arrives); (3) provide safety and security for the crime victim(s); and, (4) help victims obtain protective orders where necessary.

## II. PURPOSE

To define domestic violence and related offenses, outline a safe procedure for handling violent incidents, and protect victims.

## III. DEFINITIONS

### A. Domestic Violence

(1) the use, or threatened use, of physical force to inflict physical harm, bodily injury or assault, (2) intimidation, or (3) forceful detention (interference with personal liberty) by one family or household member on another.

### B. Intimidation

To compel or deter another person or to make fearful through the use of threats, force, and/or menacing annoyances (harassment).

### C. Assault

See *Virginia Code* §§ 18.2-57 and 18.2-57.2 ("Assault and Battery Against a Family or Household Member," which upon a third or subsequent conviction of the same or similar offense of any jurisdiction within a twenty-year period shall be treated as a Class 6 felony). **[Note: This paragraph revised July 2004.]**

1. A related matter, § 18.2-60 states that any person who knowingly communicates, in a writing, including an electronically transmitted communication producing a visual or electronic message, whether such letter or communication be signed or anonymous, a threat to kill or do bodily injury to a person regarding that person or any member of his family, and the threat places such person in reasonable apprehension of death or bodily injury to himself or his family member, is guilty of a Class

6 felony. However, any person who violates this subsection with the intent to commit an act of terrorism as defined in § 18.2-46.4 is guilty of a Class 5 felony.

2. A magistrate issuing a warrant for violation of § 18.2-57.2 shall also issue an emergency protective order as authorized by § 16.1-253.4, except if the defendant is a minor, an emergency protective order shall not be required.

D. Domestic violence shelters/programs

Services that are provided (usually 24 hours a day) for women and their children who have been physically or emotionally abused, or who have been threatened with abuse by their spouses or partners. Services include crisis intervention, counseling, shelter, escort to court, food, clothing, and transportation.

E. Family abuse

Any act involving violence, force, or threat including, *but not limited to*, any forceful detention, which results in *bodily* injury or places one in reasonable apprehension of bodily injury and which is committed by a person against such person's family or household member. (§ 16.1-228)

F. Family or household member

Per §§ 18.2-57.2, 16.1-228, and 19.2-81.3, includes:

1. Spouses, whether or not residing in the same home;
2. Former spouses, whether or not residing in the same home;
3. Persons who have a child in common, whether or not they have ever been married or resided together at any time;
4. Parents, children, stepparents, stepchildren, grandparents, grandchildren, brothers, sisters, half-brothers and half-sisters regardless of whether they reside in the same home with the person. [**This provision revised July 2003.**]
5. Parents-in-law, children-in-law, brothers- and sisters-in-law who reside in the same home with the person.

6. Persons who cohabit or who, within the previous 12 months cohabited with the person, and any children of either who then resided in the same home as the person.

[Warrants against family/household members are heard by Juvenile and Domestic Relations Court.]

G. Predominant physical aggressor **[Note: This section was revised July 2004.]**

H. Predominant Physical Aggressor

A deputy having probable cause to believe that a violation of § 18.2-57.2 or § 16.1-253.2 has occurred shall arrest and take into custody the person he has probable cause to believe, based on the totality of the circumstances, was the *Predominant Physical Aggressor* (See §19.2-81.3), unless there are special circumstances which would dictate a course of action other than arrest. The standards for determining who the predominant physical aggressor is shall be based on the following considerations:

1. Who was the first aggressor;
2. The protection of the health and safety of family and household members;
3. Prior complaints of family abuse by the allegedly abusing person involving the family or household members;
4. The relative severity of the injuries inflicted on persons involved in the incident;
5. Whether any injuries were inflicted in self-defense;
6. Witness statements, and
7. Other observations.

*[Note: This sample directive strongly discourages deputies from making dual arrests. Agencies are reminded that they may need special procedures for handling small children where the primary caregiver has been arrested or injured. An agency's policy should address the custody and care of children.]*

I. Protective order **[Note: This section corrected November 2004.]**

A court order of protection on behalf of an abused family/household member that restrains the abuser from further acts of violence, may order the abuser to refrain

from further contact, vacate the residence, relinquish custody of a vehicle, provide temporary child support, plus other measures (see § 16.1-279.1). A protective order may be valid up to two years. Types of protective orders:

1. Emergency protective order/EPO:
  - a. for domestic violence
  - b. for stalking or violent crimes resulting in serious bodily injury
2. Preliminary protective order/PPO:
  - a. for domestic violence
  - b. for stalking or violent crimes resulting in serious bodily injury
3. Order of Protection/OOP
  - a. for domestic violence
  - b. for stalking or violent crimes resulting in serious bodily injury

Statutes relevant to protective orders include §§ 16.1-251, -253.1, -253.2, -253.4, -279.1, 18.2-60.4, 19.2-81.3, 152.8 through -152.10). For further discussion of protective orders, see section VI.

Neither a law-enforcement agency, the attorney for the Commonwealth, a court nor the clerk's office, nor any employee of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the person protected by the order or that of the family of such person, except to the extent that disclosure is (i) required by law or the Rules of the Supreme Court, (ii) necessary for law-enforcement purposes, or (iii) permitted by the court for good cause.

**J. Stalking [Note: This section revised July 2003.]**

Any person, except a law-enforcement officer, as defined in § 9.1-101, and acting in the performance of his official duties, and a registered private investigator, as defined in 9.1-138, who is regulated in accordance with 9.1-139 and acting in the course of his legitimate business, who on more than one occasion engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member is guilty of a Class 1 misdemeanor.

1. Stalking behaviors include following a person to home, work, and other places, parking outside home or office, threatening notes or telephone

calls, threats, or computer-based, on-line threats.

2. A person who violates any provision of a protective order related to stalking is guilty of a Class 1 misdemeanor (§ 18.2-60.4).
3. A third or subsequent conviction occurring within five years of a conviction for an offense under this section or for a similar offense under the law of any other jurisdiction shall be a Class 6 felony. Note that penalties apply regardless of jurisdiction where the previous offenses occur. Further, upon a conviction, the court shall impose an order prohibiting contact between the offender and the victim or victim's family or household member. (Definition § 16.1-228) **[Note: This paragraph corrected November 2004.]**

#### IV. PROCEDURES - General responsibilities

- A. Deputies shall refer victims of domestic violence, stalking, or serious bodily injury crimes to appropriate community resources (mental health agencies, medical doctors, legal assistance agencies, victim/witness assistance programs, and domestic violence shelters/programs), and shall provide victims with the name, address and phone number of the Commonwealth's Attorney and the investigating law enforcement agency. See Section VII.E.4 of this order. Where possible, deputies shall help victims directly access referral agencies. Referrals help prevent future disturbances. **[Note: This paragraph corrected November 2004.]**
- B. Following a crime, law-enforcement personnel shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims. All law enforcement personnel are required to keep a ready supply of these forms in their vehicles to give to victims/witnesses of crimes. See § 19.2-11.01. For purposes of this code, "victim" means (i) a person who has suffered physical, psychological or economic harm as a direct result of the commission of a felony or of assault and battery in violation of § 18.2-57 or § 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, maiming or driving while intoxicated in violation of § 18.2-51.4 or § 18.2-266, (ii) a spouse or child of such a person, (iii) a parent or legal guardian of such a person who is a minor, or (iv) a spouse, parent or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i) of this subsection.

- C. Department personnel shall be trained about domestic violence, stalking, and their impact. Personnel must be well trained to confront unexpected violence.

## V. PROCEDURES - Intervention techniques

### A. Confronting a violent scene

1. When possible, deputies should obtain back-up help, discuss a strategy, and approach the dispute scene in pairs.
2. Avoid the use of sirens and other alarms in the vicinity of the scene. The suspect might be dangerous and could turn a weapon upon deputies.
3. If serving civil papers at a residence and deputies observe a violent episode, they must be concerned for their own safety as well as the disputants'. To minimize the possibility of injury, stand to the side of the door and not in front of windows when knocking. The unexpected may occur when the door opens.
4. Initial contact with occupant(s).
  - a. Deputies shall not accept statements from any disputant or witness that a violent episode has not occurred when they have some evidence that it has. Deputies shall not leave without ascertaining the safety and condition of all disputants.
  - b. If entry is refused into a residence where violence may be occurring, deputies must explain that they must make sure there are no injured persons inside. If no one responds to knocking, deputies shall try to establish voice contact by shouting for an answer. Deputies should stand by and observe pending the arrival of the police.

*[Note: Local procedures may require deputies to call the police for back-up assistance. Refer to an interagency agreement if one exists.]*

- c. Refusal of entry or no response to a knock at the door may require a forced entrance **only** if deputies have a reasonable suspicion that the safety of people inside may be in jeopardy.

*[Note: Deputies in some jurisdictions may be under absolute orders not to enter a residence if entry has been refused. Give appropriate policy guidance for your jurisdiction.]*

- d. Deputies may conduct a search of the premises to ensure the safety of all parties if consent has been given to do so. Although a consent search eliminates the need for a warrant and for probable cause, such consent must be freely and voluntarily given. If two people have joint ownership or possession of a place or thing, **either one** may give a valid consent.
- e. Deputies may also make a warrantless entry to conduct a search if an emergency exists. Deputies must have a reasonable belief that such an emergency does exist (example: deputies believe that someone, perhaps children, is in need of emergency assistance).

*[Note: If deputies are permitted to make a warrantless entry to ensure the safety of persons at a domestic dispute, provide guidance on how to make the decision to conduct a warrantless entry.]*

- f. Deputies are reminded that they have a lawful right to investigate any situation which they reasonably believe to be an emergency.
- g. Protect the victim from further abuse. Separate the victim from the suspect and arrange for medical attention if victim is hurt. If the victim appears injured and yet refuses medical assistance, carefully document any observed injuries, as well as the refusal of medical treatment. Convey information about the victim's injuries to the investigating police officer.
- h. Ascertain whether a protective order has been violated. (See section VI.)
- i. If weapons (whether firearms, knives, or any other object which could be used as a weapon) are present, secure them away from the disputants, if practicable, while the disputants are being interviewed. If appropriate, seize weapons for evidence. Be aware that § 18.2-308.1:4 prohibits persons under protective orders from purchasing or transporting firearms. **[Note: This paragraph corrected November 2004.]**

- B. If possible, transport family/household members to the hospital, safe shelter, or

magistrate. Escort the victim to the magistrate if the magistrate's office is in the courthouse. See § 16.1-253.2 and GO 2-28 (concerning transportation services for victims). If transportation by a deputy is not possible, deputies shall arrange transportation to a hospital, safe shelter, or magistrate.

1. Deputies **shall** ensure that victims are transported to a safe location as they wish or as the circumstances require. (See §§ 19.2-81.3, -81.4.)

***[Note: Sheriffs may not be able to have deputies transport victims. At a minimum, deputies should ask local law enforcement officers for assistance in this regard.]***

2. At a residence where deputies are present regarding a civil issue, if a complainant seeks deputies' help in entering his or her residence to obtain personal property, deputies must determine that the complainant has lawful authority to do so; must advise all parties that they are accompanying the complainant to obtain items for immediate personal (or children's) use; that the deputies' function is to maintain order; that any dispute over property is a matter for the courts to decide.
3. If possible, separate the parties so that the situation does not worsen. Although the disputants may be separated, deputies shall remain within sight and hearing of each other.
4. Be aware that parties may make excited utterances which may have evidentiary value. Record these utterances when practicable and note them in your report.

***[Note: At this point, the sheriff may relinquish further investigation to local police. If the sheriff desires deputies to conduct an investigation and prepare reports, the following instruction applies.]***

C. Interviewing the victim

Ascertain the following information from the victim:

1. What happened.
2. Any injuries, who caused them, and what weapons or objects were used.
3. Relationship to suspect.
4. Any threats made against victim or others.

5. Forced sexual contact against victim's will.
6. Any court cases pending against suspect or any protective orders in effect.
7. Is suspect on probation or parole.
8. Did suspect threaten others, particularly children, damage property, or hurt pets.

D. Interviewing witnesses

1. Interview any witnesses to the incident--children, other family members, neighbors--as soon as possible. See "Gathering Evidence" under section VII.F.8 (Witness statements). **[This provision revised July 2003.]**
2. Remember that witnesses may be experiencing significant emotional crises that might influence the accuracy of their accounts.
3. If witnesses provide information about prior assaults, document them to help establish a pattern.
4. Children of disputants should be interviewed with care and kindness. Sit, kneel, or otherwise be at their level when speaking to them. Signs of trauma or abuse should be noted.

**VI. PROCEDURES - Issuing an emergency protective order**  
**[Note: Section VI corrected November 2004.]**

A. Emergency protective orders (EPO) (domestic violence)

1. The EPO aims to protect the health or safety of **any person**. **Regardless of the decision to arrest**, if a deputy has at least a reasonable belief that family abuse has occurred and there exists probable danger of further abuse, the deputy **shall** petition a judge or magistrate to issue an EPO. (See § 16.1-253.4.)
  - a. If circumstances make it impossible or inappropriate for an officer to obtain the EPO, the officer shall advise the victim that he or she can request an EPO directly from a magistrate or the Juvenile and Domestic Relations Court.
  - b. The victim does not need to press charges or swear a warrant. The

presence of the victim or suspect is immaterial to obtaining an EPO.

- c. An EPO may order a stop to abusive behavior, prohibit contact between parties, order the abuser out of a shared home, and provide other relief.
2. A deputy can petition for an EPO by telephone or in person.
3. The EPO expires 72 hours after issuance. If the expiration would occur when court is not in session, then the EPO expiration is delayed until 5 p.m. of the next business day. Note that a law enforcement officer may request an extension of an EPO if the person in need of protection is mentally or physically incapable of doing so. The victim can petition for a preliminary protective order before the expiration of an EPO.
4. The deputy shall complete form DC-626 and serve a copy to the respondent as soon as possible. **The order cannot be enforced until the abuser has been served.** The clerk/dispatcher shall enter the relevant information into VCIN upon receipt and update the entry upon service of the order.
5. The deputy shall submit the original order to the issuing judge or magistrate, provide a copy to the victim, and attach a copy to the incident report.

B. Emergency protective order (EPO) (stalking/serious bodily injury)

1. The victim of stalking or a violence crime resulting in serious bodily injury may obtain an EPO once he or she has sworn an arrest warrant for the offense under § 18.2-60.3 (see also § 19.2-152.9-.10). The perpetrator can be anyone, not necessarily a family or household member. **The EPO cannot be issued until an arrest warrant has been obtained.**
  - a. An EPO for stalking or serious bodily injury crimes may order the respondent to stop the threatening behavior, prohibit the respondent from contacting the victim in any way, and provide other relief.
2. An officer can request a warrant and an EPO by telephone or in person under a reasonable belief that stalking or violent crime resulting in serious bodily injury has occurred and will occur in the future. Further, the victim can request an EPO in person at the office of a magistrate or the General District Court Clerk's Office.

3. Provisions A.3-5 above apply.

C. Preliminary protective order (PPO) (domestic violence)

1. An abused/family household member may petition the Juvenile and Domestic Relations Court for a PPO (see § 16.1-253.1). After an *ex parte* hearing and based on immediate and present danger of family abuse or evidence sufficient to establish probable cause that family abuse has recently occurred, the court may issue a PPO (protecting the petitioner **or** his or her family, or both). At the hearing where the PPO is issued, a hearing date for a permanent or full protective order shall be set. The PPO is valid for up to 15 days.

a. The PPO may order the suspect to stop the abusive behavior, prohibit contact between parties, order the abuser out of a shared home, grant exclusive possession over a home or car, and award temporary custody of children.

b. A victim does not have to have an EPO in order to obtain a PPO.

c. **The victim** must petition the Juvenile and Domestic Relations Court for a PPO.

2. The police/sheriff's records clerk shall enter the order into VCIN upon receipt, which record shall be updated upon service of the order.

*[Note: A law enforcement agency shall serve the PPO on the abuser as soon as possible.]*

D. Preliminary protective order (PPO) (stalking/serious bodily injury)

1. Generally, the provisions of C above apply in stalking or serious bodily injury cases. The victim must go to the General District Court of the jurisdiction where the stalking or serious bodily injury crime occurred to petition for the PPO.

2. A PPO may order the respondent to stop stalking or violent behavior, prohibit contact between parties, and provide other relief as necessary.

E. Order of Protection (OOP) (domestic violence and stalking/serious bodily injury)

1. Domestic violence: In addition to the restrictions and prohibitions placed

in a PPO, the full protective order may require an abuser to pay for the victim and children to live elsewhere, and for the abuser to receive treatment or counseling.

- a. The victim must attend a protective order hearing at the Juvenile and Domestic Relations Court. The abuser must have notice and opportunity to attend the hearing.
  - b. The full order is valid for up to two years.
2. Stalking or Serious Bodily Injury: The full protective order observes the same general restrictions and prohibitions of a protective order for domestic violence.
- a. The victim must attend a protective order hearing at the General District Court. The abuser must have notice and opportunity to attend the hearing.
  - b. The full order is valid for up to two years.

F. Full faith and credit

Deputies shall enforce protective orders from other states or possessions of the United States as if they were issued in Virginia. This applies to all orders in which the respondent has received notice and opportunity to attend the protective order hearing. Enforcement of out-of-state protective orders **does not** require that they be registered in Virginia. If deputies are unable to verify an outstanding protective order, they must nevertheless honor it. Deputies cannot arrest for violation of the order, however, if the violator has not been served with it.

*[Note: Some agencies allow officers an extra measure if they cannot validate a foreign protective order. If they are not satisfied that the order is valid, then they may ask victims to sign a statement specifying what court, jurisdiction, conditions, and expiration apply.]*

G. Purchase or transportation of a firearm by a person subject to protective orders

§ 18.2-308.1:4 prohibits any person subject to a protective order for domestic violence or stalking/serious bodily injury (as defined in the statutes cited in this order) from purchasing or transporting a firearm while the order is in effect, punishable as a Class 1 misdemeanor. Firearms transported or purchased in violation of this law shall be confiscated and subject to forfeiture.

## VII. PROCEDURES - Arrests

- A. Deputies may make an arrest without a warrant if they have probable cause to believe that a felony has been committed in or out of his or her presence (§ 19.2-81, -81.3). Deputies are reminded that they cannot release the abuser on a summons, but must take the abuser before a magistrate. See GO 2-1 for a discussion of probable cause to arrest and GO 2-4 for guidelines on arrests.
- B. Deputies who develop probable cause that a person was the *predominant physical aggressor* in a violation of § 18.2-57.2 (assault/battery against a family/household member), § 16.1-253.2 (violation of a protective order), shall arrest and take him or her into custody (§ 19.2-81.3). Deputies who develop probable cause that a person has violated a stalking/serious bodily injury protective order (§ 18.2-60.4) may arrest and take him or her into custody. (If the "no contact," "no trespass," or "no further abuse" provision of a protective order is violated, then it is treated as its own Class 1 misdemeanor offense.) **[Note: This paragraph corrected November 2004.]**
1. Knowing that the safety of the complainant or victim probably will be compromised by an arrest, and recognizing that circumstances may preclude physical arrest, the deputy must decide, within his or her discretion, whether to arrest. Deputies shall not instruct victims to obtain warrants for applicable offenses; deputies themselves shall obtain the warrants if circumstances so require. If circumstances nevertheless dictate no arrests, see VII.E below.
    - a. If an arrest is made, advise the victim that the case **may** be prosecuted even if the victim later declines to testify.
    - b. If deputies cannot identify a predominant physical aggressor and do not make an arrest, they shall nevertheless thoroughly document the incident. Further, deputies shall not threaten to arrest all parties involved for the purpose of discouraging future requests for law enforcement intervention. **[Note: Paragraph revised July 2004.]**
  2. In cases where the conditions of a protective order have been violated (§ 18.2-119, or protective order § 19.2-152.8), deputies shall review the victim's copy of the order, checking it for validity. If a protective order exists and its terms ("no contact," "no trespass," or "no further abuse") are violated then the deputy shall arrest the violator if probable cause exists. Note: when the respondent is convicted of a protective order violation, the court is required to issue a new protective order. **[Note: This paragraph**

**corrected November 2004.]**

3. Deputies making arrests under § 19.2-81.3 (and § 18.2-60.3,) shall petition for an emergency protective order (§ 16.1-253.4, and § 19.2-152.8 for stalking/serious bodily injury). If the deputy does not arrest but a danger of family abuse, stalking or serious bodily injury still exists, the deputy shall petition for an emergency protective order. **[Note: This paragraph corrected November 2004.]**
  - a. If children are involved in the incident, deputies shall contact the on-call Child Protective Services worker **if** a child is abused **or** neither parent can reasonably look after the child's safety and well-being (neglect is a separate, reportable offense).

*[Note: If a child has not been abused but neither parent can reasonably look after the child's safety (possible neglect), Child Protective Services may be the best contact. If neither abuse nor neglect seem evident but a child is present at the scene of a domestic disturbance, document the child's presence in the report. Devise a protocol appropriate to the resources in your jurisdiction.]*
  - b. If the abuser is not present, deputies shall try to serve the protective order as soon as possible and shall so advise the victim once service has been made (and deputies shall arrange to have the order entered into VCIN upon receipt).
4. In determining probable cause, the deputy **shall not** consider:
  - a. Whether the parties are married or living together, or their race, sex, ethnicity, social class, or sexual orientation.
  - b. Whether the complainant has not sought or obtained a protective order.
  - c. The deputy's own preference to reconcile the parties despite the complainant's insistence that an arrest be made.
  - d. That the complainant has called for law enforcement protection previously and has not pursued or has withdrawn the criminal complaint against the abuser.
  - e. That the complainant has not begun divorce proceedings.
  - f. Assurances of either disputant that violence will stop.

- g. The lack of visible bruises or injuries.
  - h. Denial by either disputant that violence occurred.
5. Deputies shall be alert to the elements of a stalking/serious bodily injury arrest. Ask victims:
- a. Is the suspect following you or did he or she follow you?
  - b. Is the suspect harassing you or did he or she harass you?
  - c. Is the suspect threatening you or did he or she threaten you?
  - d. Are you fearful as a result of the suspect's conduct?
  - e. Are you fearful of death, sexual assault or bodily injury as a result of the suspect's conduct?

**[Note: Above section corrected November 2004.]**

6. The possibility of other offenses shall not be overlooked. Other related offenses include:
- a. Marital sexual assault (§ 18.2-67.2:1).
  - b. Violation of a stalking/serious bodily injury protective order (§§ 18.2-60.4, 19.2-152.8, -152.9, 152.10). **[Note: This provision corrected November 2004.]**

C. Making the arrest

- 1. Arrest the suspect if he or she is present, apply handcuffs, inform him or her that the decision to arrest is a law enforcement one, and transport securely to the jail/magistrate.
- 2. If the suspect is absent or has been arrested, transport (or arrange transportation for) the victim to a safe shelter or other appropriate place. Circulate a "be-on-the-lookout" message describing the suspect and arrange for an arrest warrant.
- 3. If an arrest must be made because a protective order has been violated, verify its validity by:

- a. Examining the victim's copy, if available.
- b. Having communications search VCIN or contact the jurisdiction that issued the order to confirm its currency.

*[Note: If officers cannot validate a foreign protective order, then they may ask victims to sign a statement specifying what court, jurisdiction, conditions, and expiration apply.]*

D. Gathering evidence:

- 1. Physical evidence takes three forms in domestic violence cases: the injuries of the victim, evidentiary articles that substantiate an attack, and the crime scene itself.
- 2. The victim's account of injuries sustained should be corroborated by a physician.
- 3. When feasible, take photographs of injuries.
- 4. Photograph the crime scene to show that a struggle occurred; if photography is not possible, write a description of it.
- 5. Collect evidence according to the same principles as applied to any crime scene (see the appendix to GO 2-14).
- 6. If the suspect is under a domestic violence or stalking/serious bodily injury protective order and appears to have purchased or transported a firearm, confiscate it as evidence of § 18.2-308.1:4.
- 7. Seize any weapons that the predominant physical aggressor used or threatened to use in the commission of any crime. **[Note: This provision revised July 2004.]**
- 8. Obtain statements from all witnesses, particularly noting any excited utterances that bear on the incident.

E. Documenting the incident

- 1. All incident reports on domestic violence and stalking/serious bodily injury shall follow general reporting procedures with special attention to the victims services crime report procedure in GO 2-28.

2. Include in all reports of domestic violence:
  - a. Facts and circumstances of domestic violence including a description of why one disputant was deemed the predominant physical aggressor. **[Note: This paragraph revised July 2004.]**
  - b. Victim's statements concerning prior violent.
3. In any case involving domestic violence, stalking, serious bodily injury or related crimes, thoroughly document probable cause to arrest. **[Note: Provision corrected November 2004.]**
4. If an arrest is not made for domestic violence or stalking, or serious bodily injury the incident must still be documented, where either no probable cause existed, or circumstances dictated another course of action. In such cases, in addition to the above considerations, deputies shall note:
  - a. What referral information was given
  - b. The name of any counselor contacted
  - c. Why no arrest was made, nor any warrant issued **[Note: First paragraph corrected November 2004.]**
5. If children were present, make a report of abuse or neglect, if appropriate, and forward it to Child Protective Services. See Section IV.A to this order.
6. Regardless of whether an arrest is made, the deputy shall provide appropriate information to the victim, **both** orally and in writing, about Legal and community resources available including the name, address and Telephone number of the Commonwealth's Attorney and the investigating Law enforcement agency. **[Note: This paragraph corrected November 2004.]**

*[Note: Describe your local victims advocacy program here.]*

F. Arrests of law enforcement personnel

1. If the deputy is notified that a sworn or non-sworn employee has been arrested for stalking or a domestic violence offense, the employee receiving this information shall notify his or her supervisor immediately.

The supervisor shall in turn notify his or her chain of command to the sheriff.

2. Any deputy who has been arrested for stalking or a domestic violence offense or who has been subject to a protective order for these offenses shall be disarmed or removed from access to sheriff's office weapons. The possibility exists that the employee's issued weapon may be evidence of an offense.
3. The sheriff shall direct an internal criminal or administrative investigation, as appropriate.
  - a. If the sheriff learns that probable cause to arrest a deputy exists, the sheriff shall either direct an arrest of the deputy and gather evidence (including taking photographs) consistent with this general order, or collaborate fully with another investigating agency.
  - b. The sheriff shall assign an investigator to assist the investigating agency to ensure that the victim receives medical attention, if necessary, is transported to a hospital or safe shelter, and that all reports are completed, evidence gathered, and photographs taken. The sheriff's investigator, if appropriate, shall assist in obtaining an emergency protective order.
  - c. The investigator shall speedily present the case to the commonwealth's attorney, if the case is not handled by another agency.
4. The sheriff may suspend the employee pending the outcome of the investigation.
  - a. Suspended employees shall immediately turn in all agency-issued weapons, vehicles, badges, and identification to the property officer.
  - b. If the internal administrative investigation supports a violation of sheriff's policy, the sheriff shall take appropriate action consistent with personnel rules. Further, if the investigation confirms that domestic violence occurred, the sheriff may require counseling, psychological evaluation, demotion, or termination of employment.

- c. Federal law states that any person (including a law enforcement officer) convicted under any state or federal law for a misdemeanor involving the use, attempted use of physical force, or the threatened use of a deadly weapon when committed by a current or former spouse, parent or guardian of the victim, a person sharing a child in common, or a cohabitant of the victim (past or present), is prohibited from shipping, transporting, possessing, or receiving firearms or ammunition. The offense may have occurred at any time. Law enforcement officers convicted of offenses involving weapons or threats of force may therefore be unable to maintain their certification.
  - (1) Note that deputies who are the subject of a protective order shall not carry firearms. Deputies who are the subject of a protective order shall turn in all agency-issued weapons.
- 5. The sheriff shall ensure that any court orders or injunctions are served on the employee at the agency. The sheriff shall ensure that legal papers are served in a private setting so that supervisory personnel can coordinate process service with counseling or psychological services.
  - a. The employee's supervisor shall monitor the employee's behavior. Upon service of any court papers, the supervisor shall be present to review any affidavits supporting such papers. The supervisor shall stay alert to behavior that may be unseemly or indicative of problems requiring professional intervention.
- 6. **Employees are reminded that the sheriff requires notification of any civil or criminal action pending against them.**