



## HARASSMENT, STALKING AND PEACE ORDERS

**Directive: 14 – 107**

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### I. PURPOSE

The purpose of this Directive is to establish enforcement and operational guidelines for investigating and handling incidents of suspected or alleged harassment, stalking and violation of Peace Orders.

### II. POLICY

DGS-MCP encourages anyone who feels they are being victimized by someone who is harassing, stalking, or posing a threat to their safety to contact the Department. It is the policy of DGS-MCP to take proactive steps to ensure the safety and security of anyone that is being stalked, harassed or threatened.. The Department will investigate all complaints of stalking, harassment and threats and take whatever action is necessary to assist the victim.

### III. DEFINITIONS

- A. Commissioner means a District Court commissioner appointed in accordance with Article IV, § 41G of the Maryland Constitution. (CJ § 3-1501)
- B. Course of conduct means a persistent pattern of conduct, composed of a series of acts over time, that shows a continuity of purpose. (CR § 3-801)
- C. Court means the District Court of Maryland.
- D. Electronic mail means the transmission of information or a communication by the use of a computer or other electronic means that is sent to a person identified by a unique address and that is received by the person. (CR § 3-805)
- E. Harassment is a misdemeanor crime that is committed when a person follows another in or about a public place or maliciously engages in a course of conduct that alarms or seriously annoys the other:
  - a. With the intent to harass, alarm, or annoy the other person;
  - b. After receiving a reasonable warning or request to stop by or on behalf of the other person; and
  - c. Without a legal purpose. (CR § 3-801)
- F. Peace order is a document that is issued by a District court commissioner or a judge.

1. A peace order is issued after a petition is filed that alleges that one or more of the following acts against the petitioner has occurred within 30 days before the filing of the petition and the respondent has done one or more of the following acts:
  - a. An act that causes serious bodily harm;
  - b. An act that places the petitioner in fear of imminent serious bodily harm;
  - c. Assault in any degree;
  - d. Rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;
  - e. False imprisonment;
  - f. Harassment under § 3-803 of the Criminal Law Article;
  - g. Stalking under § 3-802 of the Criminal Law Article;
  - h. Trespass under Title 6, Subtitle 4 of the Criminal Law Article; or
  - i. Malicious destruction of property under § 6-301 of the Criminal Law Article; and
2. A District court commissioner or judge finds that there are reasonable grounds to believe that the respondent committed, and is likely to commit in the future, one or more of the acts listed in (F)(1) against the petitioner.
3. A peace order may order the respondent comply with one or more of the following mandates:
  - a. Refrain from committing or threatening to commit an act listed in (F)(1);
  - b. Refrain from contacting, attempting to contact, or harassing the petitioner;
  - c. Refrain from entering the residence of the petitioner;
  - d. Remain away from the place of employment, school, or temporary residence of the petitioner;
  - e. Direct the respondent or petitioner to participate in professionally supervised counseling or, if the parties are amenable, mediation; or
  - f. Order either party to pay filing fees and costs of a court proceeding.
4. A petitioner may not apply for a peace order if the petitioner is a person eligible for relief, as defined in § 4-501 of the Family Law Article, or if the respondent is a juvenile.

G. Interim peace order means an order that a District court commissioner issued pending a hearing by a judge. A petition may be filed with a District court commissioner only when the Office of the District Court Clerk is not open for business.

1. The interim peace order gives notice to the respondent:
  - a. The tentative date, time, and location of the temporary peace order;
  - b. If the respondent fails to attend the temporary peace order hearing, the respondent may be served with other orders or notices by first-class mail at the respondent's last known address;
  - c. A violation of an interim peace order is a crime and a law enforcement officer shall arrest the respondent, with or without a warrant, and take the respondent into custody if the officer has probable cause to believe that the respondent has violated any provision of the interim peace order.
2. The interim peace order is only effective until the first or second day on which a District Court judge is sitting after issuance of the interim peace order, unless the court continues the hearing for good cause.

H. Temporary peace order means a peace order issued by a judge.

1. The temporary peace order is issued after the alleged victim has filed a petition, and the judge finds that there are reasonable grounds to believe that the respondent has committed, and is likely to commit in the future, an act listed in (F)(1) against the petitioner.

2. The temporary peace order is effective for more than seven days after service of the order. However, the judge may extend the temporary peace order as needed, but not to exceed thirty days, to effectuate service of the order.
  3. The respondent will be notified of the relief being sought by the alleged victim and warned that a violation of the temporary peace order may result in criminal prosecution.
- I. Final peace order means a peace order that has been issued by a judge after an interim and/or temporary peace order has been issued and served.
1. The final peace order will be issued after the hearing, at which time the respondent shall have an opportunity to be heard on the question of whether the judge should issue a final peace order.
  2. If the judge finds by clear and convincing evidence that the respondent has committed, and is likely to commit in the future, an act listed in (F)(1) against the petitioner, or if the respondent consents to the entry of a peace order, the court may issue a final peace order to protect the petitioner. If the respondent does not attend the final peace order hearing, the court will mail a copy of the final peace order to the last known address of the respondent. Service is complete upon mailing.
- J. Person eligible for relief includes:
1. The current or former spouse of the respondent;
  2. A cohabitant of the respondent;
  3. A person related to the respondent by blood, marriage, or adoption;
  4. A parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition;
  5. A vulnerable adult; or
  6. An individual who has a child in common with the respondent.
- K. Petitioner means an individual who files a petition.
- L. Residence includes the yard, grounds, outbuildings, and common areas surrounding the residence.
- M. Stalking means a malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another in reasonable fear of serious bodily injury, rape, sexual offense (CR §§ 3-303 through 3-308), or attempted rape or sexual offense, false imprisonment, death, or that a third person will likely suffer any of these criminal acts.
1. Stalking does not include conduct that is performed to ensure compliance with a court order, performed to carry out a specific lawful commercial purpose; or is authorized, required, or protected by local, State, or federal law.
  2. A person that commits the crime of stalking is guilty of a misdemeanor.
- N. Telephone Misuse is a misdemeanor that is committed when a person uses telephone facilities or equipment to make:
1. An anonymous call that is reasonably expected to annoy, abuse, torment, harass, or embarrass another;

2. Repeated calls with the intent to annoy, abuse, torment, harass, or embarrass another; or
3. A comment, request, suggestion, or proposal that is obscene, lewd, lascivious, filthy, or indecent. (CR § 3-804)

O. Misuse of Electronic Mail is a misdemeanor that is committed when a person uses electronic mail with the intent to harass one or more persons, or by sending lewd, lascivious, or obscene material to someone. Electronic mail means the transmission of information or a communication by the use of a computer or other electronic means that is sent to a person identified by a unique address and is received by the person. It is not a crime if the electronic transmission is peaceable activity intended to express a political view or provide information to others. (CR § 3-805)

#### **IV. PROCEDURES**

##### **A. Officer's Duties and Responsibilities**

1. Whenever a DGS-MCP police officer becomes aware that someone within the jurisdictional boundaries of the DGS-MCP is in danger or believes that a dangerous situation is developing or has developed as a result of the actions or communications involving another person, the officer will immediately conduct a preliminary investigation to determine if the State laws concerning stalking or harassment, or any other laws, have been violated. If the officer has reasonable grounds to believe that someone is being stalked or harassed, the officer will attempt to obtain the following:
  - a. The name, address, complete physical description, and any other available information that would help to identify the suspect;
  - b. The history of the case to include the dates, times and details of any and all prior incidents involving the suspect;
  - c. A listing of any and all phone calls made by the suspect that are reasonably believed to have been made with the intent to annoy, abuse, torment, harass or embarrass the victim, or that contain a comment, request, suggestion, or proposal made by the suspect that is obscene, lewd, lascivious, filthy or indecent;
  - d. Copies of any electronic mail messages sent to the victim by the suspect that are lewd, lascivious or obscene and are reasonably believed to have been sent with the intent to harass the victim;
  - e. A photograph of the suspect so that the photograph and pertinent information can be disseminated to other police officers and security officers;
  - f. A copy of any peace order that may have been issued naming the suspect as the respondent;
  - g. Any criminal history information that may be available via NCIC and MILES, as well as any information concerning outstanding arrest warrants; and
  - h. A written statement from the victim and any other person(s) that have knowledge of the suspect or any incidents relevant to the case.
2. Police officers should provide information about peace orders to the victim of a stalking or harassment situation, if the victim has not already submitted a petition so that one may be issued. Officers are reminded that if the victim is a person eligible for relief under the Family Law Article, the victim cannot obtain a peace order; the victim must then file a petition for a protective order. The victim should be advised to notify the local police department of the situation and inquire as to what additional measures and assistance may be available.

3. If a DGS-MCP police officer confirms that a peace order has been issued but has not been served on the respondent, and the respondent can be located within the jurisdiction of the Department of General Services Police Department, the order will be served on the respondent provided the officer obtains a copy. After serving the peace order, the officer will make a return of service to the commissioner's office or, if the District Court Clerk is open for business, to the clerk.
4. Upon verifying that a peace order has been issued and served on the respondent, a police officer that has probable cause to believe that the respondent is in violation of the order may arrest the respondent and charge him with the violation. If the existence of the peace order and the service of the order cannot be verified by the DGS-MCP police officer, no arrest will be made for a violation of the unconfirmed order.
5. If the victim is receiving unwanted telephone calls or emails from the suspect, the victim should be advised to note the date, time and substance of any phone calls that are received, and make copies of any emails that are received by the victim or sent to the suspect. It is important that the victim does not engage in conversation with the suspect when the unwanted calls are received; rather, the victim should briefly and firmly ask the suspect not to call again. In the case of unwanted emails, the victim should send a brief email to the suspect, requesting that no future emails be sent. If the victim is receiving the phone calls at home, the victim should be advised to contact the telephone company and request that a tracer be placed on the telephone so that the origin of the illegal phone calls may be ascertained. The victim should also notify the local police so that an investigation can be initiated and a crime report submitted to the local law enforcement agency for telephone misuse.
6. If the victim is being harassed by the suspect, as defined in this general order and CR § 803, the suspect must be warned to stop following the victim and/or maliciously engaging in the course of conduct that alarms or seriously annoys the victim. If the victim is fearful or hesitant, the police officer or some other person may warn the suspect to stop. The officer should document such warning on the original report or on a supplemental report. The law requires that a warning be given, and then the conduct continues after the warning, in order for a crime to have occurred and the case prosecuted.
7. The police officer must complete and submit a crime report in which the details and circumstances of the case are thoroughly and accurately explained. If the victim contacts the officer and reports continuing harassment or stalking, a supplemental report must be completed and submitted detailing the conduct.
8. If the suspect has been warned to stop the harassment, and the conduct continues, a DGS-MCP police officer may arrest the suspect if the illegal conduct is done in the presence or within the view of the officer. If the illegal conduct continues and is not within the view or in the presence of the officer, the police officer should obtain a written statement from the victim and/or other witnesses detailing the conduct that has occurred after the warning was given. If probable cause exists to believe that the harassment continued after the warning

was given, the police officer may apply for a warrant for the suspect's arrest for harassment. (CR § 3-803)

9. If a police officer has probable cause to believe that the crime of telephone misuse or the misuse of electronic mail has occurred, the officer may apply for a warrant for the suspect's arrest. It should be noted that the location of the suspect when the illegal call was made or the email was sent does not preclude a DGS-MCP police officer from applying for a warrant for the suspect's arrest, provided that the call or email was received within the jurisdiction of the DGS-MCP Police Department. (CR §§ 3-804, 3-805)

#### B. Warrantless Arrest for Violation of Peace Order

1. An interim peace order, temporary peace order, and final peace order that is issued will state that a violation of the order may result in criminal prosecution and the penalty may be imprisonment, a fine, or both imprisonment and a fine. (Courts and Judicial Proceedings Article, § 3-1507)
2. An individual who fails to comply with the relief granted in an interim peace order, temporary peace order, or a final peace order is guilty of a misdemeanor and on conviction is subject, for each offense, to a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both. (Courts and Judicial Proceedings Article, § 3-1508)
3. "A law enforcement officer shall arrest with or without a warrant and take into custody an individual who the officer has probable cause to believe is in violation of an interim peace order, temporary peace order, or final peace order in effect at the time of the violation." (Courts and Judicial Proceedings Article, § 3-1508)

#### C. Warrantless Arrest for Stalking

1. State law does not require that a stalking suspect be warned or requested to stop engaging in behaviors that constitute stalking before being arrested and charged. In the event that a stalking suspect can be located within the jurisdiction of DGS-MCP, and the requirements of CR § 2-205 have been met, the officer may arrest the suspect without a warrant and file charges.
2. A police officer without a warrant may arrest a person if:
  - a. The police officer has probable cause to believe the person engaged in stalking;
  - b. There is credible evidence other than the statements of the alleged victim to support the probable cause that the suspect engaged in stalking; and
  - c. The police officer has reason to believe that the alleged stalking victim or another person is in danger of imminent bodily harm or death. (Criminal Procedure Article, § 2-205)