Firearms Related to Domestic Violence

1. Purpose

To provide guidance to law enforcement deputies handling firearms related to domestic incidents.

2. Policy

Deputies will handle firearms related to domestic violence in accordance with this directive.

3. Definitions

COHABITANT: A person who has had a sexual relationship with the suspect (primary aggressor) and resided with them in the home for a period of at least 90 days within one year of the complaint.

DOMESTIC VIOLENCE: Occurs when a person commits, or attempts to commit, an act that causes physical injury, an act that places one in fear of physical injury to self or others, a sexual assault, or a violation of a protective order, against a current spouse or a person with whom he/she has had an intimate (sexual) relationship, a person related to the respondent by blood, marriage or adoption, or cohabitants.

FIREARM: Handguns and long guns.

INTIMATE RELATIONSHIP: A relationship between partners, sexual or emotional, heterosexual or homosexual, who are married, separated, or divorced, live or have lived together, have children in common; or date or have dated, but do not live or have never lived together. Dating does not require sexual intimacy.

LETHALITY ASSESSMENT: A way of identifying and assessing the potential for being killed, of a domestic violence victim involved in an intimate relationship.

REGULATED FIREARM: A handgun or a firearm listed in MD. CODE ANN., PUB. SAFETY § 5-101(R)(2).

RESPONDENT: The person alleged to have committed abuse.
4. Seizure and Disposition of Firearms/Ammunition

A. When a deputy responds to a domestic violence incident and determines through probable cause that an act of domestic violence has occurred and the deputy observes firearms/ammunition on the premises, the deputy will remove the observed firearm(s)/ammunition from the premises.

B. For officer safety reasons, deputies will inquire if firearms are present at all domestic violence scenes.

C. The law does not authorize a search of a residence for firearms.

D. If firearms/ammunition are removed from the premises pursuant to the domestic violence law, a red folder will be completed, and the deputy will:

   Non-Arrest Situation

   1. Inform the owner that the firearms/ammunition may be released to him/her after 30 days, if there have not been any further domestic incidents during the 30 days following the original incident.

   2. Inform the person from whom the firearms/ammunition were seized that he/she must contact the Harford County Sheriff's Office Domestic Violence Unit to make arrangements for the release of the firearms/ammunition.

Arrest Situation

1. If firearms/ammunition are seized in an arrest situation, whether as evidence or not, the firearms/ammunition shall not be released until the case has been adjudicated.

2. Advise the person from whom the firearms/ammunition was seized that he/she must contact the Harford County Sheriff's Office Domestic Violence Unit after the case is adjudicated, to make arrangements for the release of the firearm(s)/ammunition.

3. When firearms/ammunition are seized, in addition to an incident report (FBR), a Property / Evidence Record (SO-258) shall be completed and forwarded with the firearms/ammunition to the Property Management Unit.

4. Deputies shall exercise due care to prevent any damage to seized firearms/ammunition and all seized firearms/ammunition shall be photographed.

E. A member of the Domestic Violence Unit will send a letter by U.S. Mail informing the firearms/ammunition owner of the conditions listed above.

5. Firearms Prohibited for Protective Order Respondents

A. The respondent of a Temporary or Final Protective Order is prohibited from possessing a regulated firearm.
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B. Possession of a non-regulated firearm by the respondent is only a violation of Maryland law if the judge specifically orders the respondent to surrender any firearm for the duration of the Order.

C. Possession of any firearm by a respondent is a violation of federal law.

5. Aggressors Who are Law Enforcement Officers

A. When a law enforcement officer is an aggressor in a domestic violence incident and any firearm (including the officer's service weapon) is observed on the scene and the deputy has probable cause to arrest the officer for domestic violence, the deputy will remove the firearm.

B. The duty officer will:
   1. Immediately notify the officer's agency; and
   2. Inform the agency of the officer's arrest; and
   3. Arrange for the agency to take possession of the service weapon, if one was seized.

Approved

JEFFREY R. GAHLER
SHERIFF

DATE 5/13/15