



BEL AIR POLICE DEPARTMENT

**MANUAL OF OPERATIONS
POLICIES AND PROCEDURES**

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CHAPTER 23

TITLE: DOMESTIC VIOLENCE

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PURPOSE

This policy has been created to supply officers of the Bel Air Police Department with an outline of the appropriate procedures to be utilized in the handling of domestic violence incidents, and to improve the consistency of the agency's response to these incidents that span all personnel.

23:101 - WARRANTLESS ARREST

As defined in the Maryland Criminal Procedure **Article 2-204**, a police officer without a warrant may arrest a person if the police officer has probable cause to believe that:

- a. the person battered his/her spouse or **another person** with whom the person **resides**;
- b. there is **evidence of physical injury**; and
- c. unless the person is arrested immediately, the person:
 - may not be apprehended;
 - may cause physical injury or **property damage to another**;
 - or may tamper with, dispose of, or destroy evidence; and
 - a report to the police was made within 48 hours of the alleged incident.

"Resides" means that there is a permanent living relationship, which must be articulated. An officer might articulate the fact that the assailant has clothes at the location, or he/she receives their mail at that location; or their driver's license reflects that location, or both parties state they live together.

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"Evidence of physical injury" means such signs as a black eye, a cut, swelling, redness, or any other visible injury. It can also mean a non-visible injury. The victim may have sustained internal injuries or strangulation. Evidence of an injury may also be established in one or a combination of ways: a victim's account of an injury, credible statements of the victim, the victim's physical reactions that corroborate the claimed injury, the victim's stated intention to seek medical treatment or a medical report of injury. Pushing and shoving, absent visible marks, will not normally qualify as *"evidence of physical injury"*.

"Another person" can be any type of relationship: parents and children, in-laws, boyfriends and girlfriends, siblings, same-sex relationships, even persons who are merely friends or who are residing in the same location out of convenience, such as roommates.

"Property damage of another" does not include marital property.

"Marital property" means the property, however titled, acquired by one or both parties during the marriage.

"Marital property" does not include property:

- acquired before the marriage;
- acquired by inheritance or gift from a third party;
- excluded by valid agreement; or
- directly traceable to any of these sources.

Note: The warrantless arrest portion of this statute does not apply to a person, regardless of their relationship to the alleged abuser, who DOES NOT reside with the victim.

23:102 - INVESTIGATION

Upon receiving a complaint of domestic violence, regardless of the source, the dispatcher shall dispatch police personnel to the scene. The assigned personnel will respond to the location and initiate an investigation into the incident to determine if a crime has been committed. Officers will identify, separate and interview the victim and any suspect(s), present at the location. Every effort shall be made to locate the suspect(s) if not at the location upon arrival.

If an assault has occurred, and the required criteria in the "warrantless arrest" section have been met, then an arrest should be made.

If a mutual battery has taken place and arrest is authorized under the above section, the police officer shall consider whether one of the persons acted in self-defense when determining whether to arrest the person whom the officer believes to be the primary aggressor.

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Keeping the above in mind, if the primary aggressor cannot be established, then the arrest of both persons would be authorized. In the event that a warrantless arrest could be made but the suspect has fled the scene, and all attempts to locate him / her have been exhausted, then the primary officer shall complete an Application for Statement of Charges. It will be transported to the District Court Commissioner as soon as possible.

The primary officer shall complete a written report documenting the alleged abuse. This report shall be completed prior to the end of the officer's tour of duty, and will be reviewed by a supervisor to ensure that it contains all pertinent information. This report shall include the officer's observations of the victim's visible injuries, as well as any complaints of non-visible injuries. Also included in the completed report submission should be:

- A victim interview and written statement conducted out of the presence of the suspect.
- Identification of all parties involved and their relationship to the victim(s).
- Suspect interview and statement if provided.
- Photographs of any injuries sustained by the victim(s) or suspect(s).
- Photographs of the crime scene to include any property.
- Damage to and condition of the location of the alleged assault.
- The demeanor of all participants to include the use of alcohol / drugs.
- Observations/ descriptions of the presence of, threat of use, or use of any weapons.
- Documentation of the seizure of any weapons and/or evidence associated with the incident.
- Circumstances of arrest / non-arrest disposition.
- Written documentation of the request for the 911 tape of the call, if available.

A Harford County Domestic Violence Report containing the Lethality Assessment will also be completed. This report should be initiated at the scene and the back sheet of the report completed by the victim(s), if practical. Regardless of the disposition (arrest/non-arrest), the primary officer or his/her designee shall provide the victim(s) with information on the availability of domestic violence support services and emergency shelters. In addition, if the Lethality Screening determines the need for a Protocol Referral, then the officer, when safe to do so, will initiate the call and encourage the victim to speak with the hotline representative. The victim(s) shall also be informed on the procedures for securing charging documents (non-arrest cases), filing for protective orders, and victim assistance information.

DO NOT make any promises to the victim(s) or tell them that if they file for a protective order or by them charging the suspect, that this will protect them. It may not.

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23:103 - SEIZURE AND DISPOSITION OF FIREARM

When a Bel Air Police Officer responds to a domestic violence complaint and determines through probable cause that an act of domestic violence has occurred, the officer may remove any firearm(s) he/she has observed on the scene. If a firearm is removed from the premises pursuant to Family Law Article 4-511A, the officer shall:

1. Advise the person from whom the firearm was seized that he/she must make a request in writing to the Chief of Police for the return of the firearm.
2. Complete the appropriate Evidence / Property Report form and arrange for the weapon(s) to be relinquished to the Evidence Custodian.
3. Photograph all seized firearms prior to property/evidence submission.
- 4.

Note: *If a firearm is seized, whether as evidence or not, the firearm shall not be released until the case has been adjudicated. This can take more than a year, depending on the circumstances of the case. However, refer to chapter 24 (Extreme Risk Protective Orders) when seizing firearms under these circumstances*

23:104 - PROTECTIVE ORDERS

Interim / Temporary/ Final Protective Orders - Judges will issue Temporary Protective Orders and Final Protective Orders during times when the courts are open. District Court Commissioners are empowered to issue interim Protective Orders and Interim Peace Orders during weekends, holidays, and after 1630 hours on weekdays. The Sheriff's Office maintains records of all Interim Orders issued by the Commissioner.

ENFORCEMENT

An officer of the Bel Air Police Department **shall** arrest with or without a warrant and take into custody an individual whom the officer has probable cause to believe is in violation of an Interim, Temporary, or Final Protective Order in effect at the time of the violation. Arrestable violations of an order for protection can be any of the following acts:

- Abusing or threatening the petitioner
- Contacting or harassing the petitioner
- Entering the petitioner's residence
- Failure to vacate the residence
- Failure to stay away from the petitioner's or other family member's place of employment, school, or temporary residence, and
- Failure to surrender firearms (when ordered).

Note: *The above conditions must be noted on the order to be arrestable.*

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23:105 - OUT-OF-STATE PROTECTIVE ORDERS

As defined in Family Law **Article**

4-508.1 (a), "Orders for protection" do not include a support or custody order.

1. An order for protection issued by a court of another state or Native American tribe shall be accorded full faith and credit by the State of Maryland.
2. An out-of-state protective order shall be enforced as follows:
 - In the case of an out-of-state temporary order, only to the extent that relief is permitted under Family Law Article 4-505.(7 days)
 - In the case of a final out-of-state order for protection, not including a temporary order, only to the extent that relief is permitted under Family Law Article 4-506 (d).

REQUIREMENTS FOR ENFORCING OUT-OF-STATE ORDERS FOR PROTECTION

Law enforcement officers are charged with enforcing out-of-state orders for protection if the petitioner:

- Has filed the out of state order in district or circuit court, or
- Displays or presents to the officer a copy of the order that appears valid on its face.

To determine whether an order "appears valid on its face" the officer should look for the following information in the order:

- Names of the parties;
- Date of issuance of the order;
- That the date of expiration has not passed (if the order has one).
- Terms and conditions against the abuser;
- Name of the issuing court;
- Signature of a judicial officer.

Note: Some states have non-expiring orders for protection, so the order may not have an expiration date. Read the out-of-state order for protection to determine if the order is of indefinite duration.

Family Law Article 4-508.1 (out-of-state orders for protection) A law enforcement officer who acts in accordance with the provisions of Family Law Article 4-508.1 "shall be immune from civil liability if the law enforcement officer acts in good faith and in a reasonable manner".

ENFORCEMENT

If the condition violated would be arrestable, if it were a Maryland protective order, an officer of the Bel Air Police Department would arrest the person found to be in violation of the order.

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23:106 - PEACE ORDERS

The peace order is a form of civil relief for anyone who is not eligible for a protective order and who alleges the commission of certain specified acts within 30 days of filing for a peace order. The peace order process closely parallels the protective order process, although only the district court has jurisdiction concerning peace orders.

The commission of **certain specified acts** includes:

- An act that causes serious bodily harm
- An act that places the petitioner in fear of imminent serious bodily harm
- Assault in any degree
- Rape or sexual offenses, or their attempts
- False imprisonment
- Harassment
- Stalking
- Trespass, or
- Malicious destruction of property

ENFORCEMENT

A Bel Air Police Officer **shall** arrest, with or without a warrant, and take into custody an individual whom the officer has probable cause to believe is in violation of an interim, temporary, or final peace order in effect at the time of the violation, and that the condition violated is any one of the following:

- Contacting or harassing the petitioner,
- Entering the residence of the petitioner, and
- Failing to remain away from the place of employment, school, or temporary residence of the petitioner.

Note: The above conditions must be noted on the order to be arrestable.

23:107 - DOMESTIC ESCORTS

Any person who alleges to have been a victim of abuse and who believes there is a danger of serious and immediate personal harm may request the help of a local law enforcement unit.

A Bel Air Police Officer who responds to the request for help shall:

1. protect the person from harm when responding to such requests; and
2. accompany the person to the family home so that the person may remove the following items, regardless of who paid for the items:
 - a. the personal clothing of the person and of any child in the care of the person; and
 - b. the **personal effects**, including medicine or medical devices, of the person and of any child in the care of the person that the child needs immediately.

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"*Personal effects*" include such tangible property as a person might carry, or items having a more or less intimate relation to the person. Because the law is not entirely specific as to what constitutes personal effects, and what a person's immediate needs might be, officers of the Bel Air Police Department should carefully consider each situation they encounter and use good judgment in determining a person's personal effects and immediate needs.

23:108 - DOMESTIC VIOLENCE INVOLVING POLICE PERSONNEL

Domestic incidents involving police personnel of any law enforcement agency are to be handled with the same diligence as incidents involving the general public. In the event that a member of the Bel Air Police Department responds to a domestic situation involving a member of another law enforcement agency, whether an arrest is made or not, it shall be incumbent upon the shift supervisor to contact a supervisor in the jurisdiction where the member is employed. This contact should be made as soon as practical.

In the event that a member of the Bel Air Police Department responds to a domestic situation involving a member of the Bel Air Police Department, the on-duty supervisor will be contacted immediately. The notified supervisor will then proceed as follows:

1. Contact the on-call administrator
2. Provide detailed information relative to the incident.
3. Proceed as directed by the on-call administrator.