

Policy 1106



Subject

WARRANTLESS ARREST PROCEDURES AND PROBABLE CAUSE STANDARD

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By Order of the Police Commissioner

POLICY

It is the policy of the Baltimore Police Department (BPD) to conduct warrantless arrests in accordance with the rights protected by the U.S. Constitution and laws of the United States and the State of Maryland. This policy explains the Probable Cause standard and establishes guidelines for BPD members to follow when arresting persons without a warrant. The principles underlying this policy, and the directives contained within, apply to all warrantless Arrests, regardless of the age or status of the suspect. Arrests of youth are subject to the same requirements. Members should exercise restraint in the use of arrest for violations that are eligible for citations. See Policy 808, *Criminal and Civil Citations*, Policy 809, *Marijuana – Uniform Civil Citations*, Policy 906, *Traffic Citations*, and Policy 1018, *Quality of Life Offenses – Core Legal Elements*.

CORE PRINCIPLES

1. **Proper Application of Probable Cause Standard.** A member must have sufficient Probable Cause prior to conducting the arrest of a person.
2. **Most Effective and Least Intrusive Response.** A fair and effective response to a violation of the law balances public safety and order in the community against the serious impact of law enforcement action (e.g., loss of liberty; humiliation and stress; loss of income, employment, or housing) on the individual believed to have committed the violation.

Where effective and consistent with law and policy, resolving a violation with low impact on public safety and community order through problem-solving such as a verbal warning is generally preferable to a citation, and a citation is generally preferable to an arrest.

Because arrest is a last resort, members should refrain from making an arrest unless doing so reasonably advances the goal of public safety or addresses significant or chronic community disorder, and the situation cannot be resolved in a less intrusive manner that is authorized by law and policy.

Proactive policing is policing that addresses crime and disorder. Importantly, addressing such problems does not necessarily require taking enforcement action. Using problem solving or verbal persuasion to deal with a situation is proactive policing, as is using a citation in lieu of arrest when that achieves legitimate public safety goals or effectively addresses community disorder.

3. **Limited Circumstances.** Except in limited circumstances, a member may not make a warrantless Arrest for a misdemeanor not committed in their presence. In no circumstance may a member make an Arrest for possession of less than 10 grams of marijuana.

NOTE: Making an arrest prohibited by law in an effort to harass or otherwise target a person will subject the arresting member to administrative and/or criminal charges.

DEFINITIONS

Arrest – The taking, seizing or detaining of a person by any act that indicates an intention to take the person into custody by a BPD member, and that subjects the person to the actual control and will of the member making the Arrest. An Arrest is effected (1) when the arrestee is physically restrained or (2) when the arrestee is told of the Arrest and submits. In addition, a person is seized within the meaning of the Fourth Amendment when, “In view of all the circumstances surrounding the incident, a reasonable person would have believed that they were not free to leave.” An Arrest requires Probable Cause that a crime was committed, or is being committed.

Probable Cause to Arrest — Where facts and circumstances taken as a whole, known to the member at the time of the arrest, would lead a reasonable member to believe that a particular person has committed or is committing a crime. Probable Cause is based upon an objective assessment of the facts and circumstances presented to the member and requires a higher level of evidence than Reasonable Articulate Suspicion (see below). For example, a member responding to a call regarding a robbery may have Reasonable Articulate Suspicion to stop someone who matches a description of the perpetrator, but would not have Probable Cause to Arrest until obtaining some evidence, such as an identification by the victim or proceeds from the robbery.

Quality of Life Violations — Minor violations of statutes or ordinances enumerated in the Baltimore City Code or the Maryland Annotated Code, which include, but are not limited to: loitering, trespassing, public urination/defecation, disorderly conduct, open container and littering.

Reasonable Articulate Suspicion (RAS) — A well founded suspicion based on specific, objective, articulable facts, taken together with the member’s training and experience, that a subject has committed, is committing, or is about to commit a crime. RAS required to justify a stop is a lower standard than for an Arrest. For example, an officer who suspects a driver is intoxicated may have RAS for a vehicle stop based on observations that the car is swerving across lanes, and would not have Probable Cause for Arrest unless the driver failed a field sobriety test.

Statement of Probable Cause (SPC) — A clearly written statement made after a warrantless arrest in support of an Application for Statement of Charges which articulates the basis for the member’s belief that a particular person has committed a crime.

DIRECTIVES

Justification

Probable Cause to Arrest exists where facts and circumstances, known to the member and taken as a whole, would lead a reasonable person to believe that a person has committed or is committing a crime.

Probable Cause Standard

NOTE: When the situation involves domestic violence, refer to Policy 711, *Domestic Violence*.

1. Probable Cause to Arrest should be founded on specific and objective facts or observations about how a person behaves, what the person is seen or heard doing, and the circumstances or situation in regard to the person that is either witnessed or known by the member. Accordingly, Probable Cause to Arrest must be based on facts or observations about a particular person's actions or the particular circumstances that a member encounters. The physical characteristics of a person are never, by themselves, sufficient. Instead, those characteristics must be combined with other factors, including a specific, non-general description matching the suspect or the observed behaviors of the person. A mere hunch or suspicion is not enough.

NOTE: The information a member relies on to determine whether Probable Cause to Arrest exists does not require sufficient evidence to justify a conviction. It does require a reasonable approach by the member and an honest judgment based upon a combination of factors, any of which standing alone might not be enough to justify an arrest but which, if viewed as a whole, constitute Probable Cause to Arrest.

2. Probable Cause to Arrest may be determined by considering the various kinds of information commonly utilized by police: information obtained from informants, from victims and witnesses, from other law enforcement agencies or officers, and information acquired first-hand. Reliability of the information is the key component in determining whether Probable Cause to Arrest exists.
3. Probable Cause may be based upon reliable hearsay information alone and need not reflect the direct personal observation of the affiant (member). Probable Cause may also be based upon a combination of direct observation and hearsay information.
4. The elements of Probable Cause to Arrest must exist at the time of arrest, and later events or information acquired afterward cannot be used to justify the arrest.
5. Members shall be mindful that just because the member has Probable Cause for Arrest, warrantless arrest with transport to Central Booking is often not the member's only option. There are citation-eligible violations for which issuance of a citation may be preferable to an arrest and other violations where the member is required by law to attempt to issue a criminal citation instead of arrest. The appropriate response is the least intrusive response under the circumstances as reasonably understood by the member at the time. Therefore, depending on the circumstances surrounding the particular violation, for citation-eligible violations usually a verbal warning is preferable to a criminal/civil citation, and a criminal/civil citation is preferable to an arrest.

NOTE: See Policy 1018, *Quality of Life Offenses – Core Legal Elements*, Policy 808, *Criminal and Civil Citations*, Policy 809, *Marijuana – Uniform Civil Citations* and Policy 906, *Traffic Violations* for further guidance.

6. In some instances, it may be preferable to refrain from arresting a person in order to allow a detective to further investigate the case and have a warrant issued, if appropriate.

7. Members are prohibited from making an arrest in the following circumstances:
 - 7.1. A misdemeanor not committed in their presence, except for the specific offenses and circumstances listed in CP 2-202 (see Appendix B).
 - 7.2. A misdemeanor or citation that does not carry a term of imprisonment.
 - 7.3. Possession of marijuana under 10 grams.
8. What begins as an investigative stop likely becomes an Arrest when the scope of the detention goes beyond the basis for it. Actions that would indicate to a reasonable person that they are being arrested or indefinitely detained may convert an investigative stop into an arrest, which would require Probable Cause to Arrest or an arrest warrant. Unless justified by the RAS for the original stop, members must have additional articulable justification for further limiting a person's freedom during an investigative stop by doing any of the following:
 - 8.1. Taking a person's identification or driver's license away from the immediate vicinity;
 - 8.2. Ordering a motorist to exit a vehicle;
 - 8.3. Directing a person to stand (or remain standing), or to sit any place not of their choosing;
 - 8.4. Directing a person to lie or sit on the ground;
 - 8.5. Applying handcuffs;
 - 8.6. Transporting any distance away from the scene of the initial stop (including for the purpose of witness identification);
 - 8.7. Placing a person into a police vehicle;
 - 8.8. Pointing a firearm;
 - 8.9. Performing a Weapons Pat-Down;
 - 8.10. Or any level of force.

Required Approval for Certain Warrantless Arrests

1. For any of the following violations, a member shall seek permission from a permanent-rank supervisor prior to effectuating an arrest, unless not practicable under the circumstances, in which case the member shall notify a permanent-rank supervisor as soon as practicable after effectuating the arrest:
 - 1.1. Obstructing, hindering or resisting a BPD member;
 - 1.2. Disorderly conduct;
 - 1.3. Failure to obey a BPD member;

- 1.4. Gambling;
- 1.5. Loitering;
- 1.6. Making a false statement to a BPD member; and
- 1.7. Misdemeanor trespassing violations.

NOTE: Refer to Policy 1018, *Quality of Life Offenses – Core Legal Elements*, for further guidance regarding appropriate procedures for the above-mentioned violations.

Required Actions After Warrantless Arrests

NOTE: For further arrest protocols, see Policy 1202, *Juveniles: Consensual, Non-Custodial Contacts and Custody Procedures*, Policy 1117, *Adult Booking Procedures*, and Policy 1114, *Persons in Police Custody*.

Member

1. If a member arrests a subject but then discovers that Probable Cause to Arrest does not exist, the member shall immediately release the subject if they are in the custody or control of BPD. The member must complete an Incident Report, Form 8, detailing the Arrest and a Supplement Report, Form 7, upon the subject's release.
2. Upon making an arrest, the member shall conduct a search incident to Arrest for weapons that pose a danger to the person or others in their presence. The search shall occur at the same time as the arrest, or as soon as safe and practicable to do so.

NOTE: A search incident to arrest may include a weapons pat-down and search of the individual's pockets. It may also include a search of any articles of property found on the person, and the minor manipulation of clothing that does not expose a person's groin/genital area, buttocks, female breasts, or more than the waistband or upper portions of the undergarments.

NOTE: A search incident to arrest should not be conducted prior to the arrest, and may not serve as part of the Probable Cause in support of the arrest.

3. The areas included in this search are the person being arrested and the area in their immediate control.

NOTE: Once the arrestee has been removed from the area and has been rendered incapable of gaining "immediate control" of items in that area, a search incident to arrest may no longer be conducted of that area.

- 3.1. If an arrestee is an occupant or was recently an occupant of a vehicle, a limited search of the passenger compartment of the vehicle (including glove box, center console or containers therein) may be done, if:

3.1.1. The arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search, or

3.1.2. There is a RAS that a search of the passenger compartment will uncover evidence related to the crime for which the occupant was arrested.

4. Upon making any warrantless arrests of an adult, the arresting member must complete a Statement of Probable Cause (SPC).

4.1. The SPC must be clear and concise, yet contain sufficient information to allow a Court Commissioner to determine if there is sufficient Probable Cause to Arrest.

NOTE: The member should be able to explain the justification for arrest in their own words and shall not use boilerplate language.

4.2. If Probable Cause to Arrest relies on a source of information, named or unnamed, the member must provide sufficient information to substantiate the reliability and credibility of the source of information. This information is the same that is necessary to substantiate reliability of an unnamed source of information when completing an affidavit for a search and seizure or arrest warrant.

4.3. Members shall only rely on information known at the time of receipt to be reliable and credible. Members who knowingly utilize materially false or incorrect information in effectuating an arrest shall be subject to discipline. A member may not leave material information out of a SPC if that information would defeat a finding of Probable Cause to Arrest.

4.4. In the case of a warrantless arrest by a non-commissioned security guard, or other persons not vested with police authority, sworn members must prepare or supervise the preparation of the SPC.

NOTE: The above rules also apply to all traffic-related arrests.

5. When applicable, in the narrative section of the SPC, members shall:

5.1. For all arrests made where there is CCTV footage, write at the top of the narrative of the SPC in bold capital letters, "**INCIDENT CAPTURED ON CCTV, CC# _____,**" in adherence to Policy 1011, *Electronic Surveillance Procedures*.

5.2. For all arrests made where there is body-worn camera footage, write at the top of the narrative of the SPC in bold capital letters: "**INCIDENT CAPTURED ON BWC, C.C.# _____,**" in adherence to Policy 824, *Body-Worn Cameras*.

5.3. For all Controlled Dangerous Substance arrests, identify the involved members and their roles in the following format on the next line of the narrative.

Role of Officer	Name(s)	Sequence #(s)
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Arresting Officer: Observing Officer: Recovering Officer: Packaging Officer: Submitting Officer:		
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5.4. For all arrests where evidence was submitted, include the following information in the next line of the narrative.

Property Listing with Property Number(s):	
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6. If a person is arrested for a citation-eligible violation, any associated Incident Report and SPC must then include detailed information describing which of the eligibility requirements (as listed in Policy 808, *Criminal and Civil Citations*) the person did not meet.
7. Members shall complete arrest reports, including properly documenting the Probable Cause for each arrest, by the end of the member's shift during which the arrest occurred.
8. The primary member shall summons all involved members to court, in adherence to Policy 1811, *Court Procedures*.
9. The primary member shall contact appropriate departmental and/or district court supervisory personnel and Assistant State's Attorneys for assistance as soon as practicable when legal or procedural guidance is needed in unique, complex, unfamiliar or challenging cases.
10. Members shall include in the SPC the name of the supervisor, if any, who reviewed the completed SPC.

Supervisor

1. Approve or disapprove the member's request to make an arrest for any of the violations listed under "Required Approval for Certain Warrantless Arrests," above. The supervisor will ensure that any arrest is based on the existence of Probable Cause to Arrest and that the member adhered to Policy 1018, *Quality of Life Offenses – Core Legal Elements*, when determining when to verbally warn and counsel, issue citations, or arrest persons for Quality of Life Violations.
2. Whenever a suspect has been injured or complains of injury, refer to Policy 1114, *Persons in Police Custody*. If force was involved or claimed, refer to Policy 1115, *Use of Force* and Policy 725, *Use of Force Reporting, Review and Assessment*. When a suspect complains of misconduct, refer to Policy 306, *Complaint Intake and Classification Process* and Policy 302, *Rules and Regulations*.
3. The arresting member's supervisor will review the SPC to ensure each statement accurately reflects the reasons for the arrest and includes sufficient evidence to show Probable Cause to Arrest for the alleged violations as described above in the "Probable Cause Standard" section.
4. Whenever a subordinate arrests a person and charges them with a citation-eligible violation, review the resulting Incident Report and SPC in order to verify that:

- 4.1. The person did not meet the eligibility requirements outlined in Policy 808, *Criminal and Civil Citations*; and
- 4.2. Both the Incident Report and the SPC contain sufficiently detailed information explaining or describing why:
 - 4.2.1. A citation would not have abated the problem; or
 - 4.2.2. Why the person was not eligible for a citation.
5. Supervisors shall review each arrest report of members under their supervision for completeness and adherence to law and policy. Supervisors shall memorialize their review in writing, indicating any need for corrective action, within 72 hours of when the arrest occurs, absent exceptional circumstances.
 - 5.1. If exceptional circumstances do exist, the supervisor shall document what the exceptional circumstances are.
 - 5.2. If the supervisor identifies deficiencies through the review, additional investigation or corrective action may require more than 72 hours to complete the review.
6. Supervisors shall review reports and forms for deficiencies including:
 - 6.1. “Boilerplate” language, inconsistent information, lack of articulation of the legal basis for the action, language that comes to a conclusion without providing supporting detail, or other indications that the reports or forms may contain information that was not accurate at the time it was reported.
 - 6.2. Arrests following stops where the stop was based solely on information or evidence discovered after the stop was initiated or the fact that the person was ultimately arrested.
 - 6.3. Arrests that are unsupported by Probable Cause to Arrest or are otherwise in violation of the law or BPD policy.
7. Supervisors must take appropriate action to address all apparent violations or deficiencies in arrests and arrest requests, including deficiencies in reporting. Such action shall be documented by the permanent-rank supervisor. Appropriate action may include:
 - 7.1. Releasing the subject,
 - 7.2. Recommending non-disciplinary corrective action for the involved member,
 - 7.3. Training, and/or
 - 7.4. Referring the incident to the Public Integrity Bureau (PIB) for administrative or criminal investigation.

NOTE: An arrest that is prohibited by law, such as a misdemeanor not committed in view of the member, shall be reviewed for possible harassment or other inappropriate intent, and, if appropriate, referred to PIB.

8. For each subordinate, the supervisor shall track each violation or deficiency and the corrective action taken, if any, to identify members needing repeated corrective action. Each violation or deficiency shall be noted in BlueTeam.

TRAINING

Education & Training Division, Director

1. Ensure that the procedures of this policy are consistent with entrance level and in-service training curricula.
2. Provide ongoing roll call training on the contents and subject of this policy.

AUDITS

Performance Standards Section

1. Regular audits shall be conducted of supervisory reviews of warrantless arrests to evaluate the supervisor's review and conclusions within seven days of the completion of the review.
 - 1.1. If misconduct is identified, a commanding officer will evaluate the supervisor's assessment and recommendations and ensure that all appropriate corrective action is taken, including referring the incident to PIB for investigation.
 - 1.2. Appropriate corrective or disciplinary action will be taken against supervisors who fail to conduct complete, thorough, and accurate reviews of members' warrantless arrests.
 - 1.3. Quality and completeness of supervisory and commander reviews of member warrantless arrests will be taken into account for supervisory and commander performance evaluation.
2. BPD will identify all arrests for which the District Court Commissioner provides data showing one of the following actions: (1) Released Without Charge (RWOC); (2) Released based on identity issue; (3) Declined to charge; and (4) Lack of probable cause finding.
3. In the District Court Commissioner data, the BPD will review the Probable Cause determinations for: (1) all arrests that resulted in a disposition of "lack of Probable Cause"; and (2) all arrests that resulted in a disposition of "released without charge" or "declined to charge" where the basis of the disposition was a lack of Probable Cause. This review will not be performed by a supervisor who previously reviewed the Probable Cause determination.

4. Following this review, BPD will take any appropriate action, which may include recommending training or other non-disciplinary corrective action for the involved member(s) and/or referring incident(s) for administrative or criminal investigation.
5. Where a review finds that an arrest was not supported by Probable Cause, the auditor will document in writing what actions were taken in response to the review or the reasons that no actions were taken.
6. On a quarterly basis, this data shall be reviewed to assess patterns in arrest practices by member, shift, unit, or district. This review will be designed to help evaluate BPD's enforcement priorities and identify patterns of member, shift or district behavior that may warrant corrective or disciplinary action.
7. As part of regular audits evaluate quarterly the percentage of investigative stops that uncover evidence of criminal activity, including warnings, citations, and arrests, and the nature of the criminal activity uncovered (e.g., the rate at which stops result in evidence of felonies).

APPENDICES

- A. Examples of Probable Cause Statements
- B. Maryland Law Governing When a Member May and May Not Make a Warrantless Arrest

ASSOCIATED POLICIES

Policy 302, *Rules and Regulations*
Policy 306, *Complaint Intake and Classification Process*
Policy 711, *Domestic Violence*
Policy 725, *Use of Force Reporting, Review, and Assessment*
Policy 808, *Criminal and Civil Citations*
Policy 809, *Marijuana – Uniform Civil Citation*
Policy 824, *Body-Worn Cameras*
Policy 906, *Traffic Citations*
Policy 1011, *Electronic Surveillance Procedures*
Policy 1018, *Quality of Life Offenses – Core Legal Elements*
Policy 1112, *Field Interviews, Investigative Stops/Detentions, Weapons Pat-Downs & Searches*
Policy 1114, *Persons in Police Custody*
Policy 1115, *Use of Force*
Policy 1117, *Adult Booking Procedures*
Policy 1202, *Juveniles: Consensual, Non-Custodial Contacts and Custody Procedures*
Policy 1811, *Court Procedures*

RESCISSION

Remove and destroy/recycle Policy 1106, *Warrantless Arrest Procedures and Probable Cause Standard*, dated 1 July 2016.

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.

APPENDIX A**EXAMPLES OF PROBABLE CAUSE STATEMENTS**

Upon my execution of a Search and Seizure Warrant for powder cocaine and related drug trafficking paraphernalia at 1304 Marywood Place, second floor apartment, I found the above named defendant who resides at that address seated at the dining room table with red top vials filled with white powder, suspected cocaine, on the table in front of him. I observed the above-named defendant measuring white powder on a mirror and placing it into an open vial. The defendant was the only person on the premises at the time of the execution of the warrant.

Officer James Smith and I were working as a two officer patrol unit when we received a call, via police radio, from an anonymous citizen, to respond to the 2800 block of Wayside Avenue for an armed subject on the street with a gun. Subject was described as wearing a white knit hat, black silk t-shirt and red pants. Upon our arrival, we observed the above named defendant wearing clothing matching the description given over the police radio. A brown wooden butt handle was sticking out of his right rear pocket. Upon this observation, Officer Smith covered the subject and I conducted a weapons pat-down. I recovered from the subject a .38 caliber Smith and Wesson blue steel snub-nosed revolver, serial #123456 and five live rounds of ammunition. The subject did not possess a MD Handgun Carry Permit and was subsequently arrested.

On the above date and time, I was standing in _____, when I observed the above named defendant remove from its place of display one wristwatch and quickly place it in his right pants pocket without notifying the employee at the counter. The defendant then exited the store, making no attempt to pay for the merchandise. The property belongs to (name of store) located at 123 Main Street and was later determined to be valued at \$77.50 by the store manager, Ms. Suzan Sullivan.

I observed the above named defendant carrying a fifth bottle, labeled, "Jack Daniels Bourbon" in the 600 block of Chipperton Street. The defendant was staggering and swaying and appeared to be under the influence of alcohol. The defendant was screaming curses and obscenities as he was standing in the middle of the street and interfering with the free flow of vehicular traffic. The actions of the defendant caused a crowd of approximately 15 persons to come out of their homes and gather at the scene. I repeatedly asked the defendant to put away the bottle, leave the street and refrain from screaming. The defendant refused to cooperate and I subsequently placed him under arrest.

NOTE: Statements such as, "The defendant robbed Mary Smith" or "The defendant assaulted John Brown," are conclusions of law and not acceptable in probable cause statements.

APPENDIX B

Maryland Law Governing When a Member May and May Not Make a Warrantless Arrest

1. An officer may make a warrantless arrest for a felony or attempted felony, regardless of whether it is committed in his/her presence. [CP 2-202\(c\)](#)
2. An officer may make a warrantless arrest for a misdemeanor with probable cause it is being committed in his/her presence. [CP 2-202\(b\)](#)
3. An officer may not generally make a warrantless arrest for a misdemeanor not committed in his/her presence
 - a. Exceptions – Some exceptions to this general requirement are as follows:
 - i. [SPECIFIC MISDEMEANORS](#) - An officer may make a warrantless arrest for a misdemeanor not committed in his/her presence if ALL of the following conditions are met:
 1. The officer has probable cause to believe that unless an arrest is made immediately:
 - a. The suspect may not be apprehended
 - b. OR the suspect may cause physical injury or property damage to another
 - c. OR the suspect may tamper with or destroy evidence
 2. AND the crime is one of the following misdemeanors:
 - a. Manslaughter by vehicle or vessel ([CR 2-209](#))
 - b. Malicious burning or attempted malicious burning ([CR 6-105](#))
 - c. Malicious destruction or attempted malicious destruction ([CR 6-301](#))
 - d. A theft crime where the value of the property or services stolen is less than \$1,000 or attempted theft ([CR 7-104](#))
Note: While the legislature has changed the misdemeanor theft crime values, the arrest statute only specifies theft where the value is "less than \$1,000"
 - e. False alarm of fire ([CR 9-604](#))
 - f. Indecent Exposure ([CR 11-107](#))
 - g. A crime that relates to controlled dangerous substances under [Title 5 of the Criminal Law Article](#) or an attempt to commit one of these crimes
Note: This includes misdemeanor CDS possession and fraudulent attempts to obtain CDS under [CR 5-601](#)

- h. Wearing, carrying, or transporting of a Handgun ([CR 4-203](#), [CR 4-204](#))
Note: This includes on a person as well as in a vehicle
 - i. Carrying or wearing a Concealed Weapon ([CR 4-101](#))
 - j. Prostitution and related crimes under [Title 11, Subtitle 3 of the Criminal Law Article](#)
Note: This includes: prostitution, pandering, receiving earnings of a prostitute, house of prostitution.
 - k. Violation of Release Condition for a Sex-Crime involving a Minor- Violation of a condition of pretrial or posttrial release under [CP 5-213.1](#)
Note: This applies where a person charged with committing a sex crime against a victim who is a minor violates a condition of pretrial or posttrial release prohibiting the person from contacting, harassing, or abusing the minor or going in or near the minor's residence or place of employment.
([CP 2-203](#))
- ii. DOMESTIC VIOLENCE – 2ND DEGREE ASSAULT
- 1. An officer may make a warrantless arrest for misdemeanor (2nd degree) assault committed outside his/her presence where there is probable cause to believe that:
 - a. the suspect battered his/her spouse or another person with whom the suspect resides;
 - b. there is evidence of physical injury; and
 - c. AND unless the suspect is arrested immediately, the suspect:
 - i. may not be apprehended;
 - ii. may cause physical injury or property damage to another; or
 - iii. may tamper with, dispose of, or destroy evidence;

CP 2-204

Note: To make a warrantless arrest for misdemeanor assault under these circumstances, a report to the police must have been made within 48 hours of the alleged incident.

Note: Evidence of physical injury does not need to be visible for an officer to be able to make an arrest; there only needs to be probable cause to believe that there has been a physical injury.
- iii. STALKING:
- 1. An officer may make a warrantless arrest for misdemeanor stalking committed outside his/her presence where ALL of the following conditions are met:
 - a. The member has probable cause to believe that the suspect has committed the crime of Stalking ([CR 3-802](#))
 - b. there is some credible evidence supporting the probable cause beyond the victim's statements
 - c. AND there is reason to believe the alleged victim or another person is in danger of imminent bodily harm or death.
([CP 2-205](#))
- iv. VIOLATION OF A PROTECTIVE ORDER:
- 1. An officer MUST make an arrest for violation of a protective or peace order, regardless of whether it happened in the officer's presence, where:
 - a. There is probable cause that the suspect is in violation of a valid interim, temporary, or final Protective Order or Peace Order ([CJP 3-1508](#)) in effect at the time of the violation.

- b. This includes violations of provisions, if included in the order, requiring that the suspect:
 - c. Refrain from further abuse of, or threats of abuse, directed toward a particular person;
 - d. Refrain from contacting, attempting to contact, or harassing a particular person;
 - e. Refrain from entering the residence of a particular person;
 - f. Vacate a residence shared with a particular person;
 - g. Stay away from the place of employment, school, or temporary residence of a particular person;
 - h. Or stay away from the residence of a family member of a particular person
 - i. (Protective Orders- FL 4-509, Foreign Orders- CP 2-204.1, Peace Orders- CJP 3-1508(c))
2. Note: This applies as well to orders for protection issued by a court of another state or a Native American tribe (FL 4-508.1) where:
 3. A copy of the order:
 - a. Was filed in the District Court of Maryland for Baltimore City or Circuit Court for Baltimore City
 - b. OR the victim displays or presents to the law enforcement officer a copy of the order that appears valid on its face
 4. Note: An order for protection by an out-of-state court is one issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person. It does not include a support or child custody order.
- v. TRAFFIC VIOLATIONS- An officer may make a warrantless arrest for a misdemeanor not committed in his/her presence where there is probable cause that the suspect:
1. Committed any traffic violation that caused or contributed to an accident resulting in bodily injury to or death of any person;
 2. Violated one of the following laws:
 - a. Driving or attempting to drive while under the influence of alcohol, while impaired by alcohol, or in violation of an alcohol restriction;
 - b. Driving or attempting to drive while impaired by any drug, any combination of drugs, or any combination of one or more drugs and alcohol or while impaired by any controlled dangerous substance;
 - c. Failure to stop, give information, or render reasonable assistance in the event of an accident resulting in bodily injury to or death of any person ([TR 20-102](#), [TR 20-104](#));
 - d. Driving or attempting to drive a motor vehicle while the driver's license or privilege to drive is suspended or revoked;
 - e. Failure to stop or give information in the event of an accident resulting in damage to a vehicle or other property ([TR 20-103](#), [TR 20-104](#), [TR 20-105](#));
 - f. Fleeing or attempting to elude a police officer;
 - g. Driving or attempting to drive a vehicle without a license ([TR 16-101](#));
 - h. Falsifying tag or MVA document or possessing same with fraudulent intent ([TR 14-110](#) (b), (c), (d), or (e)); or
 - i. Unauthorized driving in race or speed contest that results in serious bodily injury to another person ([TR 21-1116\(a\)](#))
 3. Is a non-resident and the violation contributed to an accident
 4. Committed a violation and refused to acknowledge receipt by signature ([TR 26-203](#)) ([TR 26-202](#))

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