

Minimum Standards for Mandatory Policy on Response to Domestic Abuse

SUMMARY: This chapter establishes the minimum standards for a mandatory law enforcement agency written policy on Response to Domestic Abuse required by 25 M.R.S. § 2803-B(1)(D).

SECTION 1: PURPOSE

The purpose of this chapter is to establish the minimum standards for a mandatory written law enforcement agency policy on Response to Domestic Abuse required by 25 M.R.S. § 2803-B(1)(D).

SECTION 2: DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings:

- (1) Law enforcement agency. “Law enforcement agency” means any state, county, municipality, or other political unit within the territory belonging to the State or any department, agency, or subdivision of any of the foregoing, any tribal government, or any corporation, agricultural society, or other association carrying out the functions of government that employs law enforcement officers.
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SECTION 3: MINIMUM POLICY STANDARDS

A law enforcement agency shall adopt a written policy regarding response to domestic abuse, which at a minimum includes provisions for the following:

1. A policy statement that recognizes domestic abuse as a serious crime against the individual and society.
2. A requirement that officers be familiar with the provisions of 15 M.R.S. § 321 (protective orders in crimes between family members), 19-A M.R.S. chap. 103 (protection from abuse), 17-A M.R.S. chap. 9 (offenses against the person), 17-A M.R.S. § 15 (warrantless arrests by a law enforcement officer), and the applicable chapters of the most recent edition of the Maine Law Enforcement Officer’s Manual (LEOM).
3. Emergency Communication Specialist (ECS) procedures regarding the receipt and

response to a call for service. These procedures must address: receipt and prioritization of the call; the information that should be elicited from the caller; the exigency of a situation; excited utterances; providing responding officers with any information of a recorded prior incident of abuse involving the abused party and verifying the effective dates and terms of a recorded order of protection; providing responding officers with any available information concerning either party; and the necessity of a back-up unit. These procedures must include instructions for the receipt and handling of temporary or final protection from abuse orders to ensure that service of the orders are attempted without delay.

4. Complaint response procedures, which must address: receipt of the call; tactical approach to the call; initial contact; situation control process, on-scene investigation, and enforcement action; and post-incident follow-up with the victim with respect to all calls for service of a domestic abuse nature.
5. Agency responsibilities and procedures when a domestic abuse complaint involves a law enforcement officer, a family member of a law enforcement officer, or any employee of a law enforcement agency. These procedures must include an investigative follow-up and review by the administration that is consistent with these standards.
6. Agency responsibilities and procedures when any member of the law enforcement agency shows signs of experiencing or perpetrating domestic abuse. These procedures must include an investigative follow-up and review by the administration that is consistent with these standards.
7. Responsibility of an officer to determine who may be the predominant aggressor and take the appropriate enforcement action against that person.
8. Circumstances under which a warrantless arrest may occur.
9. Procedures for the administration of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, such as the Ontario Domestic Assault Risk Assessment (ODARA), and the conveyance of the results of that assessment to the bail commissioner and the relevant prosecutor.
10. A process to ensure that, when a person files multiple, separate complaints regarding the behavior of another person that may indicate a course of conduct constituting stalking under 17-A M.R.S. § 210-A, those complaints are reviewed together to determine if the other person has engaged in stalking under 17-A M.R.S. § 210-A.
11. Responsibilities of an officer when an arrest is not appropriate.
12. Responsibility of a responding officer to remain at the scene to protect the safety of persons in danger and to obtain medical assistance, if necessary, including in all cases in which a victim has been strangled.

13. Responsibility of an officer to provide written instructions to a victim concerning the victim's right to obtain a protection from abuse order and the procedures involved. This must include a mechanism for professional language access services if the victim's English proficiency is limited.
14. Responsibility of an officer to provide the victim with instructions on how to contact the local domestic violence resource center and a brief description of their services, as well as information about a relevant culturally specific domestic violence organization in appropriate circumstances.
15. Requirement and procedures for an officer to meet with the victim within 48 hours of all domestic violence incidents to check on safety and well-being of the victim and ensure the defendant's adherence with any bail conditions, protection orders, or other court orders.
16. A reporting process for detailed documentation of the incident and any charges. This report must include arrest and count tracking numbers (ATN/CTN).
17. Procedures to ensure expeditious service of both temporary and permanent protection from abuse orders, including a provision that service of a temporary order must be attempted within 48 hours of receiving the order from the court. Such procedures shall include a provision that pre-service notification to the defendant should not be employed as a default approach. This includes entering service information into the METRO system without unnecessary delay.
18. Procedures to ensure that the serving officer make a good faith effort to determine whether the defendant possesses any firearms and to take any firearms that are in the defendant's possession in all cases in which a protection from abuse order requires firearms to be relinquished to law enforcement. Such procedures shall include a provision that the serving officer must not facilitate transfer of firearms to someone other than law enforcement in all cases in which a protection from abuse order requires firearms to be relinquished to law enforcement.
19. Requirement that, in all cases in which a protection from abuse order requires firearms to be relinquished to law enforcement, any law enforcement officer to whom firearms are relinquished file a notice of relinquishment (court form PA-024) with the court that issued the order within one business day of the order being served, and notifies the relevant law enforcement agency in any other jurisdiction where a defendant reports firearms to be located.
20. Recognition that a person who obtains a protection from abuse order cannot violate the order regardless of any action taken by that person; a protection from abuse order only constrains the defendant.
21. A requirement to enforce validated protection from abuse orders from other states and tribal courts pursuant to Article IV, Section 1 of the United States Constitution.

22. Procedures to ensure that a victim receives notification of the defendant's release on bail.
23. Procedures for the collection of information regarding the defendant that includes the defendant's previous history of domestic violence, the relationship between the defendant and the victim, and whether the alleged commission of a crime included strangulation, a sexual assault offense, stalking, current or past suicidality of the defendant, the name of the victim, and a process to relay this information to a bail commissioner before a bail determination is made.
24. Procedures for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a possible neutral location for retrieval, for the presence of at least one law enforcement officer during the retrieval, providing the option of at least 24-hour notice to each party prior to the retrieval, and that a good faith effort shall be made to accommodate all reasonable requests for law enforcement accompaniment in situations involving allegations of domestic abuse .
25. Requirement that an agency conduct a review of its compliance with all applicable provisions of this policy in the event that a victim of domestic abuse who resided in the agency's jurisdiction is killed or seriously injured during the time that any temporary or permanent protection from abuse order was in effect or if there had been past agency involvement related to interactions between the perpetrator and the victim. The review shall be conducted in consultation with an advocate as defined in 16 M.R.S. §53-B(1)(A) from the Maine Coalition to End Domestic Violence, and a sworn law enforcement officer designated or trained as a domestic violence investigator. The agency shall conduct the review and forward the report to the Domestic Violence Homicide Review Panel through the Office of the Attorney General within 6 months of the incident, and maintain a copy on file at its agency.
26. A provision that the agency shall provide a copy of the incident report or intelligence or investigative record information to the local domestic violence resource center for all calls involving domestic abuse, as permitted by 16 M.R.S. §806(4), unless withholding the investigative record information is reasonably necessary to protect against the harms outlined in 16 M.R.S. § 804.
27. A requirement that officers comply with their agency policy.

STATUTORY AUTHORITY: 25 M.R.S. §§ 2803-A(18), 2803-B(1)(D), and 2803-B(2)

EFFECTIVE:

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